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SENATE REAPPORTIONMENT COMMITTEE HEARING  
WEDNESDAY, MARCH 14, 2012  
1:30 P.M.

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 THE CLERK: All unauthorized persons will  
3 please leave the chamber. All Senators, please  
4 indicate your presence. A quorum is present,  
5 Mr. President.

6 PRESIDENT HARIDOPOLOS: The Extraordinary  
7 Apportionment Session is called to order. The  
8 Senators and guests in the galley, please rise  
9 for the opening prayer given this morning by  
10 our Senator from the -- let's go with -- we  
11 will go with Senator Gaetz today. I think we  
12 need -- he is our leader today, and why doesn't  
13 he lead us in prayer this morning. You are  
14 recognized.

15 SENATOR GAETZ: Please bow your heads.  
16 Almighty God, we come to you at a time when we  
17 need your wisdom, we need your grace and we  
18 need your blessing. Be with every member of  
19 the Senate and all of the members of our  
20 professional staff as we work together in these  
21 next days to do your will. We ask all of these  
22 things in your holy name, amen.

23 PRESIDENT HARIDOPOLOS: Amen. Thank you.  
24 Please remain standing for the Pledge of  
25 Allegiance led by our Senator from the 21st,

1 Senator Bennett.

2 SENATOR BENNETT: I pledge allegiance to  
3 the flag of the United States of America and to  
4 the Republic for which it stands, one nation,  
5 under God, indivisible, with liberty and  
6 justice for all.

7 PRESIDENT HARIDOPoulos: Senators, this  
8 Extraordinary Apportionment Session will  
9 operate under Rule 13, as has been the practice  
10 for any other session other than regular  
11 session. The Secretary will please read the  
12 proclamation from the Governor.

13 THE CLERK: "Proclamation, State of  
14 Florida, Executive Office of the Governor,  
15 Tallahassee: To the honorable members of the  
16 Florida Senate and House of Representatives.  
17 Whereas, on February 9th, 2012, pursuant to  
18 Article III, Section 16(a), Florida  
19 Constitution, during the regular session the  
20 Legislature enacted Senate Joint Resolution  
21 1176, which that apportions the state into  
22 Senatorial and Representative districts, and,  
23 whereas, on February 10th, 2012, pursuant to  
24 Article III, Section 16(c), Florida  
25 Constitution, the Attorney General petitioned

1 the Supreme Court for a declaratory judgment  
2 determining the validity of the appointment,  
3 and, whereas, on March 9, 2012, pursuant to  
4 Article III, Section 16(d), Florida  
5 Constitution, the Supreme Court declared the  
6 plan apportioning the districts for the Florida  
7 Senate to be invalid under the Florida  
8 Constitution, and, whereas, pursuant to Article  
9 III, Section 16(d), Florida Constitution,  
10 within five days of the Supreme Court's  
11 determination of invalidity, the Governor must  
12 reconvene the Legislature in Extraordinary  
13 Apportionment Session, which shall not exceed  
14 15 days, during which the Legislature shall  
15 adopt a joint resolution of apportionment  
16 conforming to the judgment of the Supreme  
17 Court.

18 "Now, therefore, I, Rick Scott, Governor  
19 of the State of Florida, by virtue of the power  
20 and authority vested in me by Article III,  
21 Section 16(d), Florida Constitution, do hereby  
22 proclaim as follows: Section 1, the  
23 Legislature is convened in Extraordinary  
24 Apportionment Session commencing at 1:00 p.m.,  
25 Wednesday, March 14th, 2012, and extending

1 through 11:59 p.m., Wednesday, March 28th,  
2 2012, to adopt a joint resolution of  
3 apportionment conforming to the judgment of the  
4 Supreme Court. In testimony whereof, I have  
5 here unto set my hand and caused the Great Seal  
6 of the State of Florida to be affixed to this  
7 proclamation convening the Legislature in  
8 Extraordinary Apportionment Session at the  
9 Capitol this 9th day of March 2012, Governor  
10 Rick Scott."

11 PRESIDENT HARIDOPoulos: The Secretary will  
12 now read SJR-2 by title.

13 THE CLERK: "Senate Joint Resolution 2-B,  
14 a Joint Resolution of Apportionment."

15 PRESIDENT HARIDOPoulos: So the bill  
16 referred to the Committee on Reapportionment.  
17 Senator from the 8th District, Rules Chair  
18 Thrasher, you are recognized for a motion and  
19 announcement.

20 SENATOR THRASHER: Thank you,  
21 Mr. President.

22 Mr. President, I move that Rule 13.5 be  
23 waived to allow the Reapportionment Committee  
24 to report Senate Joint Resolution 2-B no later  
25 than Wednesday, March 21st, and that the

1 Reapportionment Committee today will meet today  
2 after recess -- 15 minutes after recess until  
3 3:30 today.

4 PRESIDENT HARIDOPOLOS: Show the motion  
5 adopted without objection.

6 Senator from the 4th District, Senator  
7 Gaetz, you are recognized for announcement.

8 SENATOR GAETZ: Thank you very much,  
9 Mr. President. With your permission, may I  
10 please review the schedule for the special  
11 session, which has been shared with Leader Rich  
12 and Leader Smith and Leader Gardiner? A  
13 printed schedule has been placed on each  
14 Senator's desk.

15 There are two scheduled meetings of the  
16 Reapportionment Committee. The first, as  
17 Speaker Thrasher just announced, will be held  
18 this afternoon from 15 minutes following our  
19 recess until 3:30 p.m. The purpose of that  
20 meeting is to review with the Committee the  
21 majority opinion of the Supreme Court. No  
22 votes will be taken in this afternoon's  
23 meeting. The Committee will meet again on  
24 Tuesday, March 20th, at 9:00 a.m. to consider  
25 an amendment which responds to and conforms

1 with the Court's ruling.

2 In keeping with the transparent and open  
3 procedures we have followed throughout this  
4 process, as Chairman, I will file the amendment  
5 with notification to all Senators and the press  
6 by Saturday, March 17th, at twelve o'clock  
7 noon, Eastern time. And then, Mr. President,  
8 the amendment deadline would be -- for the  
9 Tuesday, March 20th, meeting, will be Monday,  
10 March 19th, at 12:00 noon. So, in other words,  
11 a Chairman's amendment will be available 48  
12 hours before the amendment deadline to give  
13 other Senators ample time to review the  
14 proposal and to file their own amendments 24  
15 hours prior to the committee meeting next  
16 Tuesday.

17 Assuming the Committee agrees next week on  
18 an amendment, the full Senate will meet  
19 Thursday, March 22nd, at 9:00 a.m. for a second  
20 reading. As is usual on second reading,  
21 amendments to the Committee's plan would be in  
22 order. In a moment, I will offer a motion,  
23 Mr. President, to set the amendment deadline  
24 for the floor so that all Senators will have  
25 advance notice of all floor amendments. If

1 necessary, the Senate would meet again on  
2 Friday, March 23rd, at 9:00 a.m. for the third  
3 reading. The joint resolution would then be  
4 communicated to the House of Representatives.  
5 The House would meet the following week to  
6 consider the Senate message.

7 Mr. President, I move that the amendment  
8 deadline for the special order calendar for  
9 Thursday, March 22nd, be set for Wednesday,  
10 March 21st, at noon.

11 PRESIDENT HARIDOPOLOS: Show the motion  
12 adopted without objection. Senator Gaetz, you  
13 are recognized.

14 SENATOR GAETZ: Thank you, Mr. President.

15 Mr. President, may I please remind all  
16 Senators that amendments must have complete  
17 statewide Senate plans and be drafted to amend  
18 SJR 2-B. In other words, if you are making a  
19 change or proposing a change in one area, to  
20 make sure that we have a compliant Senate map,  
21 then be sure that you show the entire map and  
22 that you amend to SJR 2-B. All the same  
23 procedures for filing amendments that applied  
24 during the regular session still apply in this  
25 Extraordinary Session. Processing your plan,



1 your amendment, posting the maps, download  
2 statistics and the amendment language to the  
3 website, so that the public and press can see  
4 what is being proposed does take time. So we  
5 would respectfully encourage you to communicate  
6 as early and as definitively as possible. If  
7 you choose to offer an amendment, please  
8 communicate as early and definitively as  
9 possible with the professional staff of the  
10 Reapportionment Committee. That way, they can  
11 be helpful to you, and this will help Senators  
12 meet the amendment deadlines.

13 And that concludes the announcements,  
14 Mr. President.

15 PRESIDENT HARIDOPOLOS: Thank you, Senator  
16 Gaetz.

17 Before I recognize the Rules Chair to  
18 close, are there any announcements? Senator  
19 Montford, you are recognized.

20 SENATOR MONTFORD: Thank you,  
21 Mr. President.

22 It is my pleasure to introduce to you,  
23 Mr. President and our colleagues here, the  
24 seventh grade civics class again from Montford  
25 Middle School, and the teacher is Mr. Busman

1 and Mrs. Woods. So, Mr. President, I present  
2 to you another class from Montford Middle  
3 School.

4 PRESIDENT HARIDOPOLOS: Welcome to the  
5 Florida Senate.

6 Other announcements? Senator Storms, you  
7 are recognized.

8 SENATOR STORMS: Thank you, Mr. President,  
9 for a question.

10 PRESIDENT HARIDOPOLOS: You are recognized  
11 for a question.

12 SENATOR STORMS: Thank you.

13 I wonder when during the process we have  
14 had -- during the previous process we had lots  
15 of opportunity for public comments and a way to  
16 receive public information, and I just wonder  
17 how that -- where in the timeline will that be?  
18 Will that be just in the committee process? Is  
19 there an e-mail procedure so that the public is  
20 informed about that?

21 Particularly Senator Gaetz, as having read  
22 the Supreme Court opinion, I was very concerned  
23 about the Panhandle and the Court's opinion  
24 about the east-west lines. It seemed to me  
25 that it was a pretty clear opinion of the

1 people that the rural interests did not want to  
2 be in competition with the population along the  
3 coastal areas, and I just wondered how the  
4 public is going to have an opportunity to  
5 express their opinions on whatever it is that  
6 we do and how are we going to get that  
7 information to them so they can see and then  
8 they can comment on them if they are  
9 interested. Maybe nobody says anything, but if  
10 they want to, we would like to get that  
11 information out there sooner rather than later,  
12 and perhaps the way to do that would be to  
13 contact all the people who contacted us for  
14 whom we have contact information and let them  
15 know what the process is so that they could  
16 enter in.

17 PRESIDENT HARIDOPoulos: Senator Gaetz, you  
18 are recognized to respond.

19 SENATOR GAETZ: Thank you very much,  
20 Mr. President. Thank you, Senator Storms.

21 You anticipated what the professional  
22 staff of the Reapportionment Committee is  
23 planning. That is that additional suggestions,  
24 criticism or comments by the public are still  
25 being received. The website is still open to

1 receive any suggested plans, and we will  
2 provide time as time allows in our committee  
3 meeting today and in our committee meeting next  
4 week for public comment. And your suggestion  
5 is a very good one. We will send an e-mail  
6 today or tomorrow, as soon as we can get one  
7 prepared and sent out, to let all individuals  
8 who came to our 26 public hearings, that was  
9 some 5,000 people, as well as others, over  
10 1,000 who have contacted us since then, to let  
11 them know that we are in Extraordinary Special  
12 Session, what the schedule is, that we welcome  
13 their comments and input, and letting them know  
14 that the committee meetings are available  
15 should they choose to come here in person. So  
16 thank you very much, Senator Storms.

17 PRESIDENT HARIDOPoulos: Further questions?  
18 Senator Braynon, you are recognized for a  
19 question.

20 SENATOR BRAYNON: Thank you,  
21 Mr. President.

22 Senator Gaetz, it says that the House will  
23 do second and third reading on the week of the  
24 26th and 28th. If they don't concur, would  
25 that mean we would have to come back on the

1 29th or 30th?

2 PRESIDENT HARIDOPOLOS: Senator Gaetz.

3 SENATOR GAETZ: Thank you very much,  
4 Mr. President. I would like to ask the Rules  
5 Chair to comment when I am finished.

6 It is our expectation, based on my  
7 conversations with the Speaker Designate, that  
8 the -- and seeing their plans as they publish  
9 them, their schedule, that they plan to go into  
10 session on the 26th of March to take up a  
11 message from the Senate. If they fail to  
12 concur in that message, then we would have two  
13 more days, the 27th and 28th, should it be  
14 necessary for us to come back and respond to a  
15 non-concurring message.

16 And I would yield, with your permission,  
17 to the Rules Chair.

18 PRESIDENT HARIDOPOLOS: Senator Thrasher.

19 SENATOR THRASHER: Nothing really to add,  
20 Senator Braynon, except that time starts today,  
21 15 days, and it ends Wednesday, the 28th. So  
22 with that schedule, we have -- I think we have  
23 built in a little bit of extra time in case for  
24 that contingency.

25 PRESIDENT HARIDOPOLOS: Further questions?

1 Senator Thrasher, you are recognized.

2 SENATOR THRASHER: Thank you, Mr.

3 President.

4 Mr. President, I move that the Senate  
5 stand in recess until Thursday, March 22nd, at  
6 9:00 a.m., or upon the call of the President  
7 for the purpose of holding committee meetings  
8 and conducting other business.

9 PRESIDENT HARIDOPOLOS: Without objection,  
10 the Senate is now in recess.

11 (Whereupon, the proceedings were  
12 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 14 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 March, 2012.

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CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2014

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SENATE REAPPORTIONMENT COMMITTEE HEARING  
WEDNESDAY, MARCH 14, 2012  
3:30 P.M.

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

2 SENATOR GAETZ: Members of the Senate  
3 Reapportionment Committee, please take your  
4 seats so that we can be about our father's  
5 business, and those who are here as visitors,  
6 please take your seats as well.

7 The Senate Committee on Reapportionment is  
8 called to order. The administrative assistant,  
9 please call the roll.

10 THE CLERK: Senator Gaetz?

11 SENATOR GAETZ: Here.

12 THE CLERK: Senator Margolis?

13 SENATOR MARGOLIS: Here.

14 THE CLERK: Senator Altman?

15 SENATOR ALTMAN: Here.

16 THE CLERK: Senator Benacquisto?

17 SENATOR BENACQUISTO: Here.

18 THE CLERK: Senator Braynon?

19 SENATOR BRAYNON: Here.

20 THE CLERK: Senator Bullard?

21 Senator Dean?

22 SENATOR DEAN: Here.

23 THE CLERK: Senator Detert?

24 SENATOR DETERT: Here.

25 THE CLERK: Senator Diaz de la Portilla?

1 Senator Evers?  
2 SENATOR EVERS: Here.  
3 THE CLERK: Senator Flores?  
4 Senator Garcia?  
5 SENATOR GARCIA: Here.  
6 THE CLERK: Senator Gardiner?  
7 SENATOR GARDINER: Here.  
8 THE CLERK: Senator Gibson?  
9 SENATOR GIBSON: Here.  
10 THE CLERK: Senator Hays?  
11 Senator Joyner?  
12 SENATOR JOYNER: Here.  
13 THE CLERK: Senator Latvala?  
14 SENATOR LATVALA: Here.  
15 THE CLERK: Senator Lynn?  
16 SENATOR LYNN: Here.  
17 THE CLERK: Senator Montford?  
18 SENATOR MONTFORD: Here.  
19 THE CLERK: Senator Negrón?  
20 SENATOR NEGRÓN: Here.  
21 THE CLERK: Senator Rich?  
22 SENATOR RICH: Here.  
23 THE CLERK: Senator Sachs?  
24 SENATOR SACHS: Here.  
25 THE CLERK: Senator Simmons?

1 SENATOR SIMMONS: Here.

2 THE CLERK: Senator Siplin?

3 SENATOR SIPLIN: Here.

4 THE CLERK: Senator Smith?

5 SENATOR SMITH: Here.

6 THE CLERK: Senator Sobel?

7 SENATOR SOBEL: Here.

8 THE CLERK: Senator Storms?

9 SENATOR STORMS: Here.

10 THE CLERK: Senator Thrasher?

11 SENATOR THRASHER: Here.

12 THE CLERK: Senator Wise?

13 SENATOR WISE: Here.

14 THE CLERK: Quorum is present.

15 SENATOR GAETZ: Thank you very much, and  
16 good afternoon, Senators. It seems like we  
17 just saw each other, didn't we, on the floor,  
18 like a couple of days ago? Good afternoon, and  
19 I would like to thank you for being with us  
20 today, and I would also like to welcome on  
21 behalf of the Committee our two newest members,  
22 Leader Smith and Senator Wise. So thank you  
23 both for being here, and we appreciate your  
24 contribution to the Committee.

25 Senator Storms on the floor made several

1           recommendations as to communication with the  
2           public, and I know that our professional staff  
3           was paying close attention, and I would ask you  
4           on behalf of the Committee to effectuate the  
5           representations that I made to Senator Storms  
6           on the floor.

7           The purpose of our meeting today is to  
8           hear a professional staff presentation about  
9           the Supreme Court opinion which this special  
10          session responds to. The presentation will  
11          cover where we are in the process and what the  
12          calendar looks like moving forward. We will  
13          also cover the Court's interpretation of Tier 1  
14          and Tier 2 standards in the Constitution, and  
15          the Court's conclusions in the majority opinion  
16          regarding the Senate plan and the districts  
17          which the Court invalidated.

18          Are there any questions about our business  
19          for this day? If not, I will turn to Mr.  
20          Guthrie and ask him to begin our presentation.

21          Mr. Guthrie, you are recognized.

22          MR. GUTHRIE: Thank you, Chairman Gaetz,  
23          and welcome to the Extraordinary Apportionment  
24          Session.

25          You sit where nobody has ever sat before.

1           Since the Constitution was adopted by the  
2           people of Florida in 1968, we have had Article  
3           III, Section 16, which provides the process for  
4           adoption and review of redistricting plans.  
5           Every time before we have followed what is the  
6           normal course of adopting a resolution at the  
7           regular session: The Attorney General  
8           petitioning the Supreme Court, the Supreme  
9           Court entering its judgment that the plans were  
10          valid, and the Joint Resolution then being  
11          binding on all citizens of the state.

12                 This time, for the first time ever, the --  
13          we are taking a detour. The Supreme Court,  
14          during its initial review, determined that  
15          certain elements of the Senate plan were not  
16          valid. So on the chutes and ladders diagram  
17          that we looked at several times early on, we  
18          are taking this detour. And as we all know,  
19          within five days, the Governor has reconvened  
20          the Legislature in a 15-day extraordinary  
21          session. It is our mandatory and sole duty  
22          during this session to come up with a joint  
23          resolution conforming with the judgment of the  
24          Court.

25                 If the Legislature is successful in

1           adopting a -- such a joint resolution  
2           conforming with the judgment of the Court, then  
3           the joint resolution goes back to the Supreme  
4           Court through the Attorney General, and within  
5           30 days, again the Supreme Court will render  
6           its opinion as to whether or not the new  
7           resolution adopted by the Florida Legislature  
8           is valid.

9                     If the Supreme Court determines that it is  
10           valid, then the new plans will take effect  
11           subject to pre-clearance by the U.S. Department  
12           of Justice. If the Supreme Court determines  
13           that the joint resolution again is invalid,  
14           then the job falls to the Supreme Court to come  
15           up with a remedial plan for Senate districts in  
16           the state.

17                    If the Legislature fails to adopt a joint  
18           resolution of apportionment during the 15-day  
19           regular -- extraordinary session, then within  
20           15 days, the Attorney General petitions the  
21           Court to make the apportionment. So that is  
22           where we are in terms of the process that is  
23           set out in the Florida Constitution.

24                    Let's put that schedule on a calendar. So  
25           we had the regular session starting

1           January 10th. The Legislature, within 31 days,  
2           was able to complete its work and put the joint  
3           resolution before the Supreme Court for its  
4           initial review. The Supreme Court took 29 of  
5           the 30 days allotted to the Court by the  
6           Constitution to make its review, and we heard  
7           back last Friday that the Supreme Court found  
8           the House plans to be valid and found certain  
9           elements of the Senate plan to be invalid.

10                   So we find ourselves today at the first  
11           day of a 15-day extraordinary session that will  
12           end on the 28th of March. If -- and after that  
13           adjournment with the adoption of a new joint  
14           resolution, the Attorney General has 15 days to  
15           Petition the Supreme Court to review the second  
16           resolution of apportionment. That time will  
17           run April 12th. The Supreme Court again has 30  
18           days to determine whether the districts are  
19           valid, and the -- so that gets us all the way  
20           to the second week in May of 2012, and then the  
21           U.S. Justice Department still must pre-clear  
22           the plans that come out of the state process.  
23           So rather than the United States Department of  
24           Justice having the 60 days that they prescribe  
25           by rule is required for pre-clearance review,

1           there would only be 19 days left before  
2           candidate qualifying starts on June 4th. So it  
3           is a very, very tight and compressed schedule.  
4           It points to us the importance of the  
5           responsible action that the Florida Legislature  
6           took in starting its session so early, in  
7           moving with unprecedented speed to pass a joint  
8           resolution out of the Senate, and I think we  
9           have put ourselves in a situation where it  
10          still will be possible for us to conduct  
11          orderly elections for 2012.

12                 SENATOR GAETZ: And, Mr. Guthrie, if we  
13           could just stop there. Are there questions  
14           about the schedule? Questions about the  
15           schedule or about what Mr. Guthrie has just  
16           explained? If not, why don't you proceed, sir.

17                 MR. GUTHRIE: As we have at almost all of  
18           our meetings, we start and return again to the  
19           constitutional standards for redistricting.  
20           Article III, Section 16, provides for Senate  
21           Districts 30 to 40 that are contiguous, and the  
22           new Article III, Section 21, provides that --  
23           the Tier 1 and Tier 2 standards that we are  
24           going to be going over in greater detail. We  
25           are going to look at those standards through



1 the lens that the Supreme Court provided us  
2 through the conclusions they enunciated in  
3 their opinion.

4 Let's look at those standards. The first  
5 of those is no plan or district shall be drawn  
6 with the intent to favor a party or an  
7 incumbent. What the Supreme Court concluded in  
8 its opinion is that the effects of the plan,  
9 the shape of district lines and the  
10 demographics of an area are all factors that  
11 serve as objective indicators of intent. So  
12 they believe that you can look at the map and  
13 statistics about the map, and from that  
14 determine what the intent of the map-drawer  
15 was. Lack of compactness, contiguity or  
16 population equality can serve as indicia of  
17 improper intent. So that is -- that is the  
18 conclusions of the Supreme Court regarding the  
19 first of the Tier 1 standards.

20 The second of the Tier 1 standards is  
21 providing minority voting opportunities. The  
22 Supreme Court concluded that the Legislature  
23 cannot eliminate majority-minority districts or  
24 weaken other historically performing minority  
25 districts where doing so would actually

1           diminish a minority group's ability to elect  
2           its preferred candidates. Some opponents to  
3           the Legislature's plan alleged that the plan  
4           was retrogressive, that it caused a  
5           diminishment of minority voting opportunities.  
6           The Supreme Court did not in its facial review  
7           agree with those objections. And they also --  
8           the opponents also alleged that certain of our  
9           districts were packed, and the Supreme Court  
10          did not agree with that conclusion either.

11                 The Supreme Court did add, though, that  
12           functional analysis of these districts to  
13           determine whether or not minority candidates  
14           are going to be successful requires that you  
15           have political data and that you consider how  
16           the minority group has voted in the past. So  
17           they did make a finding that there is a desire  
18           for these functional analyses using political  
19           data.

20                 SENATOR SIPLIN: Mr. Chairman?

21                 SENATOR GAETZ: Senator Siplin for a  
22           question.

23                 SENATOR SIPLIN: Yes, sir. What does  
24           functional analysis mean?

25                 MR. GUTHRIE: Functional analysis -- and

1 we can turn to the Court's opinion, and it is  
2 particularly on page 63 where Justice Pariente  
3 sort of spells out what she is thinking on  
4 that, but it is basically looking at the  
5 registered -- registration figures for minority  
6 voters in the district and how elections turn  
7 out in those districts. So the combination of  
8 looking at registration and how elections are  
9 decided, not simply using the voting age  
10 population of districts to stand for whether  
11 minority candidates will have opportunities or  
12 not.

13 SENATOR GAETZ: Senator Sobel.

14 SENATOR SOBEL: Thank you, Mr. Chair.

15 In breaking out Tier 1 standards, are they  
16 equal, intent to favor a party or incumbent,  
17 and the other Tier 1 standard, minority voting  
18 opportunities, are they equal in weight or  
19 priority according to the Court, or is the main  
20 standard intent to favor party or incumbent?

21 MR. GUTHRIE: Yes, subsection c of the new  
22 constitutional amendment says that the --  
23 within a -- within subsection a and within  
24 subsection b, so within Tier 1, the standards  
25 are of equal weight. Within Tier 2, the

1 standards are of equal weight, but Tier 2  
2 standards are secondary to your Tier 1  
3 standards.

4 SENATOR SOBEL: Thank you.

5 SENATOR GAETZ: Leader Rich.

6 SENATOR RICH: Thank you, Mr. Chair.

7 SENATOR GAETZ: Leader, could you pull  
8 your mike a little closer, please, ma'am?

9 SENATOR RICH: In light of the question  
10 about functional analysis and in light of what  
11 is in the actual opinion talking about the  
12 election history and voting patterns within the  
13 jurisdiction, voter registration and turnout  
14 information and other similar information are  
15 very important to an assessment of the actual  
16 effect of a voting district. So I guess my  
17 question is, is there a plan at this point,  
18 given what is in this opinion, to do some  
19 functional analysis test such as the House did,  
20 and if we are planning that, what -- you know,  
21 what would it look like?

22 SENATOR GAETZ: Mr. Guthrie.

23 SENATOR RICH: Would it be the same as the  
24 one that the House did, or something else?

25 MR. GUTHRIE: We are intending to do a

1 functional analysis similar to what the House  
2 did, and I -- you can presume that it will look  
3 similar to that analysis and kind of follow the  
4 guidance provided by the Supreme Court in the  
5 passage you read as to the relevant factors.

6 SENATOR RICH: Okay. Thank you.

7 SENATOR GAETZ: Other questions or  
8 comments at this point? If not, Mr. Guthrie,  
9 please continue.

10 MR. GUTHRIE: Okay. The third of the Tier  
11 1 standards is contiguity. The Supreme Court  
12 reaffirmed its decision from multiple decades  
13 previous that a district is not contiguous if  
14 part of the district is isolated from the rest  
15 of the district by territory of another  
16 district. So if it is in two pieces, then it  
17 is not contiguous, or if two parts of the  
18 district touch only at a right angle. If they  
19 just meet at a point, but don't have a land or  
20 water corridor between the two pieces, that  
21 would not be contiguous. And there really were  
22 no issues on review about contiguity.  
23 Everybody agreed that the plans being  
24 considered were contiguous in terms of that  
25 definition.

1           So turning to the Tier 2 standards, among  
2           those is that districts shall be as near in  
3           population as practicable. What the Supreme  
4           Court concluded is that the equal population  
5           requirement must give way to Tier 1 standards  
6           and must be balanced with other Tier 2  
7           considerations. What that means is that the --  
8           contrary to the precise mathematical equality  
9           that you achieved with your congressional plan  
10          and that some were arguing ought to also apply  
11          to Senate and House districts, the Supreme  
12          Court found that deviations for state  
13          legislative districts were appropriate and were  
14          constitutional.

15                 The Court did provide guidance, though,  
16                 that any deviation from the goal of  
17                 mathematical precision must be based upon  
18                 compliance with other constitutional standards.  
19                 So if it is necessary to have deviations, and  
20                 the House plan had deviations almost as high as  
21                 four percent total deviation, that is  
22                 permissible if it is being done for the purpose  
23                 of keeping counties whole, keeping cities  
24                 whole, following political and geographic  
25                 boundaries, et cetera.

1           Okay. Tier 2 standards, the second of  
2 those is compactness. The Court determined in  
3 its conclusions that compactness means  
4 geographical, not functional compactness. We  
5 had some discussions of that term in this  
6 meeting. The Senate took a position that  
7 functional compactness was what the  
8 Constitution required. The Supreme Court  
9 concluded that compactness means the shape  
10 needs to be -- well, I will go into the second  
11 bullet here. The shape needs to be logically  
12 drawn and cannot be -- and districts that are  
13 bizarrely-shaped should be avoided, unless  
14 necessary for purposes of achieving a Tier 1  
15 objective.

16           And then finally, that compactness can be  
17 evaluated both visually and by employing  
18 standard mathematical measurements. So the  
19 Court, in its opinion, made reference to Reock  
20 scores and to convex hull scores. In some of  
21 the briefs and other materials that were  
22 submitted to the Court, parties also talked  
23 about a Polsby-Popper ratio. What those three  
24 mathematical formula basically relate to --  
25 Reock is you fit the district inside of a

1 circle, okay. Whatever shape the district is,  
2 you make it fit into the smallest circle that  
3 will contain that district, and then you take  
4 the ratio of the area of the district to the  
5 area of the circle, and the higher the number,  
6 the more compact the district is presumed by  
7 that measure to be. Convex hull is similar,  
8 except instead of putting a circle around the  
9 district, what you do is you put a rubber band  
10 around the district. So you stretch a rubber  
11 band around the outside of the district, you  
12 determine the area of that shape and you  
13 compare it to the area of the district, and  
14 that, again, gives you a number between zero  
15 and one. The closer to one it is, the higher  
16 your compactness. And Polsby-Popper is the  
17 third measure of that type. What it does is  
18 takes the perimeter of the district, it -- so  
19 you measure the boundary of the district all  
20 the way around, you expand that out to make a  
21 circle and then you determine the area of the  
22 circle -- that circle as the divider and the  
23 area of the district. So they are very similar  
24 measures of geometric compactness, and the  
25 Court said that compactness can be evaluated



1 both visually, simply looking at the district,  
2 and by employing standard mathematical  
3 measurements by which they met --

4 SENATOR GARDINER: Mr. Chair?

5 SENATOR GAETZ: Leader Gardiner for a  
6 question, please.

7 SENATOR GARDINER: Sorry, Mr. Chairman, we  
8 have a mechanical malfunction back here. But,  
9 John, to the question of compactness, everybody  
10 has a legal opinion as to what the Supreme  
11 Court said, and for those of us that are not  
12 attorneys, that is kind of dangerous, but there  
13 are some people that have argued that  
14 compactness has now been put essentially to a  
15 Tier 1 level. So I am interested in your  
16 opinion, also the attorney's opinion, regarding  
17 compactness, but the other issue that has come  
18 up is regarding the minority access seats, that  
19 it would appear that the Supreme Court is  
20 looking at not just the number of minorities,  
21 but the political performance of those  
22 minorities. And if that is the case, what  
23 threshold do you have to hit in order to get  
24 that political performance? So if you have a  
25 minority access seat that's say 50 percent or

1           52 percent, if the Court is giving you some  
2           flexibility, can you bring it down to 43 or  
3           46 percent, but it is still going to perform at  
4           the level -- have y'all and the attorneys  
5           looked at compactness compared to minority  
6           seats in that respect?

7           SENATOR GAETZ: Mr. Guthrie, and then we  
8           may want to ask Mr. Bardos to comment as well.

9           MR. GUTHRIE: Yeah, I mean, my first  
10          comment on that is I, too, am not a lawyer and  
11          would seek legal counsel on questions of that  
12          nature.

13          MR. BARDOS: On the first question of the  
14          -- of compactness, I would not say that the  
15          Court elevated it to a Tier 1 priority. I  
16          think the Court recognized, as the language of  
17          the Constitution provides, that it is a Tier 2  
18          priority, but the Court did recognize that  
19          there is an interaction between Tier 1 and Tier  
20          2 priorities. So a district, for example, that  
21          is less compact might be -- might be telling of  
22          whether there was an intent to favor or  
23          disfavor a political party or an incumbent. So  
24          it serves as some indicator of whether there  
25          was compliance with the Tier 1 requirements.

1           Similarly, there is an interaction between  
2           the Tier 2 compactness requirement and the  
3           minority protection provisions in the first  
4           tier, so that if it is possible to comply  
5           with both, then it is our duty to comply with  
6           both. So simply serving a minority protection  
7           provision in Tier 1 does not exempt compliance  
8           from Tier 2 unless it is not possible to comply  
9           with Tier 2 at the same time.

10           SENATOR GARDINER: But they -- and Mr.  
11           Chairman, if I could follow up?

12           SENATOR GAETZ: Leader, please.

13           SENATOR GARDINER: But they allow for  
14           political performance to be considered in  
15           determining the minority access, is that  
16           correct?

17           MR. BARDOS: Right, and I think that is a  
18           separate issue. They do allow that; in fact,  
19           they require it. It requires a functional  
20           analysis, not simply an examination of the  
21           voting age population. So the Court indicated  
22           what measures it would find relevant to whether  
23           minority districts perform and have the ability  
24           to elect. So, for example, it looked at  
25           election results in the gubernatorial elections

1 of 2010 and 2006, the presidential election in  
2 2008, it looked at voter registration data, for  
3 example, the democratic percentage of  
4 registered voters or the percentage of  
5 registered Democrats who are African-American  
6 or the percentage of African-American  
7 registered voters who are Democrats, and then  
8 it also looked at turnout data, the percentage  
9 of general election voters or primary election  
10 voters who are Democrats or African-American,  
11 or the percentage of voters who actually turned  
12 out who are Democrats who are African-American.  
13 So these different combinations of turnout  
14 data, elections -- election results and voter  
15 registration data were all necessary components  
16 of the functional analysis in determining  
17 compliance with the Tier 1 standards.

18 SENATOR GAETZ: Leader Smith and then  
19 Senator Storms. Leader Smith.

20 SENATOR SMITH: Thank you. Going back to  
21 the compactness over here, going back to the  
22 definitions of compactness, you mentioned three  
23 tests. I wasn't on the last committee, as you  
24 know. Did you use any of those tests in the  
25 past in the Senate plan, and also, will you use

1 any or all of those tests in your response to  
2 the Court's decision?

3 SENATOR GAETZ: Mr. Guthrie.

4 MR. GUTHRIE: Thank you.

5 The Senate redistricting system in all of  
6 the plans, all of the plans submitted to the  
7 Senate, we enhanced the program mid-December.  
8 By December 15th, we had this in place where  
9 the -- all of the variables that you need for  
10 calculating all of those measures that I just  
11 discussed are available in the Senate  
12 redistricting system and on the Senate website  
13 for all of the plans submitted by the public or  
14 considered by the Legislature, as they have  
15 been since December 15th.

16 We did not include compactness measures  
17 among the measures that were initially  
18 submitted to the Supreme Court with the  
19 Petition, but I expect that we will be  
20 including such measures when we come back to  
21 this Committee, you know, for consideration of  
22 a proposed plan and when we submit the plan to  
23 the Supreme Court.

24 SENATOR GAETZ: Leader Smith for  
25 follow-up.

1           SENATOR SMITH: Of the three tests that  
2 you mentioned, which one in particular, or will  
3 it be a hybrid of the three that we will be  
4 using?

5           MR. GUTHRIE: We will report the three  
6 numbers, which are just ratios from zero to  
7 one.

8           SENATOR SMITH: So with each -- I'm sorry,  
9 Mr. Chair.

10          SENATOR GAETZ: Go ahead, Leader, please.

11          SENATOR SMITH: So with each district that  
12 you come up with, in your reporting will be  
13 this is their Reock score or this is the other  
14 score, we will do that for each one of them?

15          MR. GUTHRIE: Yes.

16          SENATOR SMITH: Okay, thank you.

17          SENATOR GAETZ: Did that -- do you wish to  
18 follow up, Leader?

19                 Senator Storms, then Senator Gibson,  
20 please. Senator Storms.

21          SENATOR STORMS: Well, I am trying to  
22 understand the Court's analysis on compactness  
23 and as it relates to minority access seats, so  
24 as I would draft my -- if I were drafting a  
25 flow chart of the Court's opinion -- I guess

1           this is directed at the attorney and legal  
2           counsel for it.  As I would draft my flow  
3           chart, my first threshold that I would get over  
4           would be is this a minority access seat -- if I  
5           am not talking about just a non-minority access  
6           seat, first I ask the question, is it a  
7           minority access seat?  Is it a Voting Rights  
8           Act seat?  If yes, then the next order of  
9           business is to analyze it for compactness.  It  
10          seemed to me that the Court has analyzed it for  
11          compactness first according to the software  
12          that it used, that it purchased, and that  
13          seemed to be the mathematical analysis of  
14          compactness, and that is -- what we would call  
15          the functional analysis.  But after they met  
16          that threshold, then the next thing that they  
17          did was they pulled the map back and said,  
18          okay, now, with that analysis, how does the  
19          district look.  And if the district looks -- we  
20          call it geographical in this first bullet, but  
21          if it looks bizarre or it is not shaped in a  
22          compact form, then the Court said, can you  
23          achieve more compactness visually,  
24          geographically, by analyzing the performance of  
25          that district.  And so I just wondered if -- if

1 I have that understanding -- is that the  
2 accurate understanding, and how are we pulling  
3 these pieces together? What are -- what's the  
4 order of thresholds that we should go through  
5 in analyzing it if that is not accurate?

6 SENATOR GAETZ: Mr. Guthrie.

7 MR. GUTHRIE: This is all complicated  
8 stuff, how these standards interrelate to one  
9 another. The answer that Mr. Bardos gave a few  
10 minutes ago was -- touched on the very point  
11 that you are raising, how do we reconcile these  
12 standards. Mr. Bardos, would you want to take  
13 another shot at --

14 MR. BARDOS: I think if we are looking at  
15 the diminishment standard in Tier 1, the first  
16 question is whether, as the Court stated, it is  
17 either a majority-minority district or a  
18 historically performing minority district, and  
19 if it is such a district, then it must remain  
20 such a district; otherwise, it would be  
21 diminishment. But the Court did also look at  
22 the interaction between the Tier 1 and Tier 2  
23 standards and assessed whether it is possible  
24 to preserve the district without diminishment  
25 and at the same time comply with the Tier 2



1 standard. So Tier 1 still comes first, but  
2 there is definitely an interaction between the  
3 two tiers.

4 SENATOR STORMS: What -- Mr. Chair?

5 SENATOR GAETZ: Senator Storms to follow  
6 up.

7 SENATOR STORMS: Well, so then -- so that  
8 my question really goes to what happens after  
9 we deal with how we achieve compactness? It  
10 seems to me that the Court said first you look  
11 at the functional analysis, you look at the  
12 mathematical equation, and then after doing  
13 that, you take a look and see if the tools that  
14 you used to achieve a compact district actually  
15 produced a visually compact district, or did it  
16 produce something that was not  
17 geographically/visually compact. And if your  
18 usage of the functional compactness produced  
19 something that is unshapely or doesn't appear  
20 by visually looking at it to be compact, then  
21 you have to use other tools. Is that how we  
22 should approach it, and is that an accurate  
23 analysis?

24 SENATOR GAETZ: Mr. Bardos.

25 MR. BARDOS: I would just make the

1           distinction that the functional analysis  
2           relates to whether the district has the ability  
3           to perform for minority voters, and then  
4           separately we have the compactness analysis,  
5           which relies primarily on a visual inspection  
6           and then secondarily on mathematical measures.  
7           And so both of those work in harmony with one  
8           another. I don't think there is a -- obviously  
9           the diminishment standard has constitutional  
10          priority, but then the visual inspection and  
11          the mathematical measures come in aid of that.  
12          But the functional analysis is directed at the  
13          separate question of minority voting rights,  
14          and they both must be satisfied if they can be  
15          both be satisfied. I don't know if that  
16          answers the question.

17                 SENATOR GAETZ: Senator Storms, are you --

18                 SENATOR STORMS: The only thing that I  
19                 would add to that, Mr. Chair -- and I do think  
20                 that this issue is important. The only thing  
21                 that I would add to that is I don't think that  
22                 the Court first started with a visual analysis  
23                 of the compactness. It seemed to me in their  
24                 opinion that they started -- that they looked  
25                 at the functional analysis of it, of what we

1           tried to do from compactness, but then they  
2           came to looking at it and saying, "But you used  
3           all of this, but it did not produce a visually  
4           compact or geographically compact."

5           So it would seem to us we would still be  
6           permitted -- it would seem to me that we would  
7           still be able to be permitted to use functional  
8           tools first without just going to say, "Okay,  
9           well, first, we have to draw a square, so first  
10          draw a square, and then let's plug in all the  
11          functional tools." I don't think that the  
12          Court said that. I think what the Court said  
13          is, "You can use your functional tools, but  
14          just make sure at the end when you pull back  
15          the map, that it makes something that is --  
16          that is visually compact, and if it doesn't,  
17          then you have to go back and re-tool."

18          So I just am trying to stress that we  
19          don't have to start first with compactness,  
20          with geographical compactness, because if that  
21          is the case, all we need to do is draw grids on  
22          the map, and that can't be what the Court was  
23          saying.

24                 SENATOR GAETZ: Mr. Guthrie.

25                 MR. GUTHRIE: Yeah, my understanding,

1 Senator Storms, is that you and the Court are  
2 providing us the same direction there.  
3 Compactness is a standard that is -- it is Tier  
4 2. It -- the Court allows -- let's go to the  
5 next slide. We are looking at political and  
6 geographical boundaries. In the third bullet  
7 here, the Court makes a conclusion that  
8 following a municipal boundary will not  
9 necessarily violate compactness. So making all  
10 of the standards work together is going to keep  
11 you from coming up with a plan that is nothing  
12 but circles.

13 SENATOR GAETZ: Let's go to Senator Gibson  
14 and then Senator Braynon. Senator Gibson.

15 SENATOR GIBSON: Thank you, Mr. Chair.

16 I have a two-part question, I think. When  
17 you talk about trying to make the -- I don't  
18 know, get the circumference of the circle or --  
19 from the district, are you speaking in terms of  
20 the way the district currently exists that you  
21 do your functional analysis to get the shapes?  
22 And the second part of that is, since minority  
23 voting opportunities is part of Tier 1, do you  
24 start there and then take your functional  
25 analysis to other areas around that particular

1 district? Where is your starting point?

2 MR. GUTHRIE: Yes, the --

3 SENATOR GAETZ: Mr. Guthrie.

4 MR. GUTHRIE: And Mr. Bardos is trying to  
5 help us make a distinction between functional  
6 analysis, which relates to looking at the  
7 election results and turnout numbers by race  
8 and things beyond voting age population for  
9 determining opportunities of minority voters in  
10 an area to elect a candidate of their own  
11 choosing, that is what the Court refers to as  
12 functional analysis, and these quantitative  
13 geometric compactness measures which are used  
14 to -- as a guide for determining whether or not  
15 shapes are compact. Those can be applied both  
16 to the benchmark districts, the districts that  
17 are currently in place, and to the proposed new  
18 districts. So for any of these measures, we  
19 can run them both against the benchmark plan,  
20 alternative plans and the plan that the  
21 Legislature ultimately adopts.

22 SENATOR GAETZ: Senator, did you want to  
23 follow up, or is that satisfactory for the  
24 moment?

25 SENATOR GIBSON: May I ask a follow-up?

1           SENATOR GAETZ: Of course you may.

2           SENATOR GIBSON: Thank you. Thank you,  
3 Mr. Chair, and I know it is very complicated, I  
4 was not really good in math in school, but if  
5 you already have districts, as we all do, then  
6 why wouldn't you start with what exists to  
7 apply the -- all of the formulas that have to  
8 be applied to then come up with what the new  
9 district lines should look like sort of?

10           SENATOR GAETZ: Well, Mr. Guthrie, I would  
11 like you to respond to that, but my very  
12 layman's reading, and math was not my long suit  
13 either, but my layman's reading of the Court is  
14 that the Court agreed with those who offered  
15 the criticism that the proposed Senate plans  
16 looked too much like the districts that we  
17 started with, that were the 2002 template.  
18 Whether you would agree or disagree with that,  
19 my layman's read is that the Court implied, if  
20 not expressed, agreement with critics who said  
21 this looks like a lot like what you started  
22 with. But, Mr. Guthrie, can I -- yes, of  
23 course, ma'am.

24           SENATOR GIBSON: Just -- but wouldn't that  
25 be because we didn't apply the other -- the

1 functional analysis in the way that it is laid  
2 out? I mean, we started where we started with  
3 the districts that we have, but the Court, I  
4 think, is saying that what we ended up with was  
5 not inclusive enough of the formulas so that  
6 the districts look different.

7 SENATOR GAETZ: Mr. Guthrie.

8 MR. GUTHRIE: I hear what you are saying  
9 there, Senator, that one issue that the Supreme  
10 Court had was that the Senate failed to look at  
11 political data as a justification or  
12 determinate of where -- of minority  
13 opportunities, and -- but then they gave us  
14 some direction, particularly in northeast  
15 Florida where they said that the opponents had  
16 shown a more compact district in Duval County  
17 that the Supreme Court believed did not  
18 diminish opportunities of minority voters, and  
19 so they put the two of those together to reach  
20 a conclusion.

21 Now, I think you are exactly right that  
22 the Senate could perform a functional analysis  
23 of voting and of minority opportunities in  
24 northeast Florida, and if that functional  
25 analysis showed that it was necessary to go to

1 St. Augustine or Palatka or Daytona Beach in  
2 order to create a district that, in fact, would  
3 preserve opportunities for minority voters to  
4 elect candidates of their own choosing, that  
5 would provide the necessary justification for  
6 such a district. But as Mr. Bardos said  
7 earlier, if you can have a performing district  
8 that is also compact, the Supreme Court is  
9 saying one that serves both goals is superior  
10 to one that merely serves one.

11 SENATOR GAETZ: Senator Braynon -- I'm  
12 sorry, Senator Gibson, did that satisfy you for  
13 the moment? Senator Braynon.

14 SENATOR BRAYNON: You hit on a few things  
15 I was about to ask about, so let me ask a very  
16 basic question first before I ask my questions,  
17 which is, are we going to start with what we  
18 have -- what we sent to the Supreme Court, or  
19 are we starting over? And that may be to the  
20 Chair.

21 SENATOR GAETZ: Well, thank you very much  
22 for that question, and, of course, it is the  
23 will of the Committee and the Senate, but I  
24 would defer to counsel, but I am told that a  
25 principle that we should keep in mind is that



1 the remedy should not exceed the problem. We  
2 shouldn't go remedying things that were not  
3 pointed out as problems.

4 Now, having said that, I don't think that  
5 you can only affect eight districts -- and this  
6 may be a good segue after Senator Sobel is  
7 finished and after you are finished, Senator  
8 Braynon, with your questions, may be a good  
9 segue to get into the districts themselves, but  
10 unless the Court is going to let us go out into  
11 the Atlantic Ocean, the Gulf of Mexico, Georgia  
12 and Alabama, we are going to have to stay  
13 inside Florida. So if you make changes to the  
14 eight districts that were found to be invalid,  
15 my guess is it would be impossible to do so  
16 without making some adjustments to contiguous  
17 districts. But if the question is, are we  
18 going to start with a clean sheet of paper,  
19 unless it is the will of this Committee that we  
20 throw out a map which was largely agreed to by  
21 the Courts, I would say that it would be our  
22 direction, again, subject to the will of this  
23 Committee and the will of the Senate, to  
24 correct those problems which were pointed out  
25 and then to deal with any ancillary issues

1 associated with that, because when you move a  
2 line in one district that is next to another  
3 district, you very well may have to make  
4 adjustments. So that is my opinion, but that  
5 is subject to the will of this Committee and  
6 the will of the Senate.

7 And, Senator Braynon, would you yield to  
8 President Margolis, and then we will come back  
9 to you?

10 SENATOR BRAYNON: Okay.

11 SENATOR GAETZ: Madam President.

12 SENATOR MARGOLIS: How are you intending  
13 to deal with the numbering issue, because that  
14 seems to be a very big issue that affects  
15 everybody?

16 SENATOR GAETZ: Well, Madam President, if  
17 you would allows us to, if we could get the  
18 other questions out of the way and then get  
19 into the specifics of the Court's opinion, I  
20 think we will get there. But, Senator Braynon,  
21 you have the floor.

22 SENATOR BRAYNON: Thank you.

23 Okay. So the reason I ask is because I  
24 read quite a bit of this, if not all of it, and  
25 we have -- we have been going over the

1 definitions and things like -- things of that  
2 nature, and a lot of the stuff that you've  
3 mentioned here, the opinion says we just  
4 applied wrong straight across. It says  
5 inconsistent definitions of political and  
6 geogra- -- that the Senate did this because  
7 they operated under an inconsistent definition  
8 of political and geographic boundaries, which  
9 you are clarifying now, or they clarified for  
10 us. It mentioned that we did some things  
11 because we did not perform a functional  
12 analysis. I know many times we said during our  
13 meetings that, well, we drew this district  
14 because this one was a minority district, but  
15 if we didn't do a functional analysis -- which  
16 not to say I told you so, but I mentioned a few  
17 times --

18 SENATOR GAETZ: That's okay, you can.

19 SENATOR BRAYNON: -- that we needed that  
20 information in order to say that this performed  
21 at an XYZ level to be a minority district. So  
22 if we never did the correct functional analysis  
23 to come to that conclusion on many things,  
24 whether it be geographical boundaries,  
25 minorities, then aren't we -- don't we owe it

1 to what the opinion said, that we may need to  
2 go back over -- even if we start with what we  
3 had, there are quite a few definitions of very  
4 basic principles that we might -- may have done  
5 somewhat wrong or may have misunderstood as  
6 the -- or didn't have the -- as it said, we  
7 operated under not having the definitions  
8 properly.

9 SENATOR GAETZ: Well, Senator Braynon, I  
10 would just say this, that I think you make an  
11 excellent point, and as we consider a committee  
12 amendment to the resolution that was introduced  
13 on the floor today, we are going to have to  
14 defend the entire Senate map just like we did  
15 before.

16 SENATOR BRAYNON: Uh-huh.

17 SENATOR GAETZ: And so I think we are  
18 well-served to pay attention to the Court's  
19 opinion as to functional analysis. That may be  
20 something different than what some critics are  
21 saying, and that is we should just start with a  
22 clean sheet of paper and draw a map of Florida  
23 and start over. But I think the points that  
24 you make are very valid points.

25 Yes, sir, you are recognized.

1           SENATOR BRAYNON: So I guess in saying  
2           that, it mentions -- I know that certain  
3           districts were challenged in the court case,  
4           and then -- and those are the ones that they  
5           opined on, but then even if you go to 161, it  
6           says, "While no party challenged District 14,  
7           the Senate likewise should perform the  
8           necessary analysis on that district as well,"  
9           almost as implying that, you know, just because  
10          they didn't challenge it, it doesn't mean that  
11          there are other districts that we may need to  
12          look at. Are we planning to also look at other  
13          districts, I mean, as a result of -- whether it  
14          be the movement that we have because of the  
15          districts that we plan to move, or things that  
16          maybe show out -- maybe show the same  
17          inconsistencies, but they just weren't  
18          challenged?

19          SENATOR GAETZ: Well, I think, Senator  
20          Braynon, subject to the will of the Committee,  
21          it would be our intention to go through the  
22          Supreme Court's opinion with tweezers and to  
23          look for all of the areas where the Court has  
24          made a declaration of one sort or another, and  
25          to follow that declaration as faithful as we

1 can. So if the Court says you should have  
2 performed a functional analysis on a particular  
3 district, then in our defense of how that  
4 district is configured in a revised Senate  
5 joint resolution, we have to be able to say,  
6 "Here is our defense, here is the functional  
7 analysis we did." Again, I would point out  
8 that is different from, you know, declaring  
9 that the whole -- that the whole map is  
10 completely invalid, as some critics would do,  
11 but wherever the Court has indicated that we  
12 need to make a change, I think it is incumbent  
13 on us not to argue with the Court, but to do  
14 what the Court said.

15 And next, Senator Sobel, and then we will  
16 go to you, Leader Rich. Senator Sobel.

17 SENATOR SOBEL: Thank you, Mr. Chair.

18 In the Court's wisdom, they said,  
19 "Following a municipal boundary will not  
20 necessarily violate compactness." Would that  
21 also apply to counties?

22 SENATOR GAETZ: Mr. Guthrie.

23 MR. GUTHRIE: Yes, I believe it would.

24 SENATOR SOBEL: Follow-up, Mr. Chairman?

25 SENATOR GAETZ: Yes, Senator Sobel, of

1 course.

2 SENATOR SOBEL: And then rivers, railways,  
3 Interstates and state roads are geographical  
4 boundaries. I believe in the Court's wisdom  
5 they would include them as well. And my  
6 question here is, how do they rank compared to  
7 other standards?

8 SENATOR GAETZ: Mr. Guthrie.

9 MR. GUTHRIE: The political and  
10 geographical boundaries are in Tier 2. The  
11 Court did make note of the fact that complying  
12 with that standard includes a phrase, "where  
13 feasible," so they -- the Court made a bit of a  
14 distinction based on that, but I think the  
15 Court is expecting, as the people of Florida  
16 who passed this -- these amendments are  
17 expecting, that the Legislature will balance  
18 all of the standards in the precedence set by  
19 the language of the Constitution, with the  
20 guidance provided by the Supreme Court, in  
21 order to come up with effective districts for  
22 representation.

23 SENATOR GAETZ: And I would just say,  
24 Senator Sobel, that, again, I read this as a  
25 layman, but I think in some cases the Courts

1           were impressed by rivers, and in other cases  
2           they were not impressed by rivers. I think it  
3           depends on the river. And we just need to be  
4           mindful of that as we go back through our  
5           analysis.

6           Leader Rich.

7           SENATOR RICH: Thank you, Mr. Chair.

8           This isn't the comment that I was going to  
9           make, but I just want to follow up to what you  
10          just said, and I think what the Court said is  
11          that we need to be consistent with what we do,  
12          and they saw the House as being consistent in  
13          using those boundaries and maybe that we  
14          weren't.

15          But I do want to just mention this issue  
16          about whether or not we are looking at the  
17          whole map, because as you mentioned, if you  
18          have eight districts, then, obviously --  
19          personally, I think, you know, you have to look  
20          at the entire map, because eight districts in  
21          one way or another, once you start to move the  
22          boundaries, the lines affect every other  
23          district. But the Court, to my understanding,  
24          said that the other areas were valid as -- I  
25          guess as it relates to facial review, but I



1 don't think that that means that they are  
2 saying that there might not be something else  
3 wrong with some of the other districts, and I  
4 am just going to throw one out as an example,  
5 because I had used it in my closing remarks  
6 when we, you know, sent the map first out of  
7 here.

8           And if you look at the new District 32,  
9 which was District 34, it was not included in  
10 the list of eight districts that were declared  
11 invalid, but when I look at it, its boundaries  
12 were geographically doubled or more than its  
13 previous boundaries, and it now stretches from  
14 Miramar in the southern end of Broward County  
15 to far north past Pahokee and into Lake  
16 Okeechobee with diverse population centers that  
17 are, you know, drastically geographically  
18 separated over far-reaching ends of two  
19 counties and extending on the west side from --  
20 into a large portion of the Everglades, all the  
21 way over into the center of Boca Raton. So, to  
22 me, when I look at that, I think that there are  
23 real issues with that. And just because it  
24 wasn't mentioned, I would like to throw out  
25 that I think we should be looking at the entire

1 map, and just because facially the Court didn't  
2 say that this district or another district had  
3 some issues doesn't mean that there aren't some  
4 issues there that, you know, we could not  
5 possibly address. So I just wanted to put that  
6 out there.

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

9 Senator Latvala, and then unless we have  
10 some really compelling questions, we might want  
11 to get into specific comments that the Court  
12 made about particular districts and leave time  
13 for public comment. Senator Latvala, you are  
14 recognized.

15 SENATOR LATVALA: Thank you, Mr. Chairman.

16 Of course, I am not a lawyer and I am not  
17 a legal expert, but common sense would tell me  
18 that where specific districts were mentioned by  
19 the Court and upheld by the Court, my common  
20 sense would tell me that we're -- it is a very  
21 risky proposition to go changing those  
22 boundaries. And I for one member -- as one  
23 member of the Committee, believe that we should  
24 concentrate on the issues that were  
25 specifically pointed out to us by the Court and

1 not -- and minimize the changes we make to  
2 neighboring districts just based on what we  
3 have to do, and when there are districts that  
4 are specifically validated by the  
5 interpretation of the Court, that we shouldn't  
6 touch them at all. That is my opinion.

7 SENATOR GAETZ: Thank you, Senator  
8 Latvala, and let me turn to Mr. Bardos, who can  
9 cite us the specific Court -- the section of  
10 the Court's opinion that might be instructive  
11 here. And I would just say that that is why we  
12 have amendments. If there are individual  
13 Senators who believe that whatever comes out of  
14 this Committee is insufficient and there needs  
15 to be a wider swath cut, that is why we have an  
16 amendatory process and that is why the  
17 Chairman's amendment will be published well in  
18 advance of the amendment deadline, so that if  
19 you feel you need to cut a wider swath, that  
20 you have every opportunity to do so.

21 Mr. Bardos.

22 MR. BARDOS: Thank you.

23 So in the conclusion of the Court's  
24 opinion, it notes that it was asked to give  
25 very specific instructions on how the

1           Legislature can remedy the plan, and the Court  
2           stated that its duty is not to dictate the  
3           apportionment plan, but to provide the Senate  
4           with sufficient guidance in our interpretation  
5           of the standards, and then it identified four  
6           things that the Legislature should do.

7                     One was that it should "remedy the  
8           constitutional problems with respect to these  
9           districts," and there it was referring to  
10          Senate Districts 1, 3, 6, 9, 10, 29, 30 and 34.  
11          So "remedy the constitutional problems with  
12          respect to these districts, redrawing these  
13          districts and any affected districts in  
14          accordance with the standards as defined by  
15          this Court." So that would be the eight  
16          districts and any districts that are impacted  
17          when the eight are redrawn.

18                    It also said that the Legislature should  
19          conduct the functional analysis, which Mr.  
20          Guthrie has said that we will do, and that the  
21          Legislature should determine whether it was  
22          feasible to utilize municipal boundaries -- the  
23          municipal boundaries of Lakeland, and finally  
24          to adopt an incumbent-neutral numbering scheme.

25                    So the Court was quite specific about the

1 four things that -- in its guidance that the  
2 Legislature should do, and so it provided --  
3 did provide some road map there for what our  
4 task is.

5 SENATOR GAETZ: Thank you very much. If  
6 there's no other comment or question at this  
7 point, Mr. Guthrie, what I would like to do,  
8 with the Committee's indulgence, is to provide  
9 a few minutes at the end for public comment.  
10 We always want to do that at all of our  
11 committee meetings. So if you can get to the  
12 specifics that Mr. Bardos just mentioned and  
13 walk us through that, I'd be grateful.

14 MR. GUTHRIE: And for later review, the  
15 conclusions that Mr. Bardos just spoke of are  
16 on page six and seven in your meeting packet,  
17 so you can reread those there, but let's turn  
18 now to the specific issues that the Supreme  
19 Court asked the Legislature to address.

20 The first is that the Court found that  
21 the -- or that the Legislature is prohibited  
22 from numbering districts with the intent to  
23 favor or disfavor an incumbent, and they  
24 further concluded that a system that  
25 significantly advantages incumbents by

1 increasing the length of time that they may  
2 serve by two years most assuredly favors  
3 incumbents. The Court went on to say the  
4 purpose --

5 SENATOR GAETZ: Excuse me, Mr. Guthrie.  
6 Senator Detert.

7 SENATOR DETERT: Thanks.

8 If you would back up to the other slide.  
9 Aren't those two things right there on that  
10 page contradictions? You are not supposed to  
11 favor or disfavor an incumbent, but then the  
12 second paragraph says that incumbents shouldn't  
13 have, you know, a ten-year seat, they should  
14 only have an eight-year seat basically.

15 SENATOR GAETZ: Mr. Guthrie.

16 MR. GUTHRIE: I believe the key words in  
17 the second bullet here -- it is a -- it is the  
18 fact that the Senate provided a system, a rule,  
19 that consistently -- what the rule did is those  
20 who had two-year terms before redistricting got  
21 four-year terms after redistricting. Those who  
22 had four-year terms before redistricting got  
23 two-year terms after redistricting. Two plus  
24 four or four plus two both add up to six, so a  
25 consequence of that --

1 SENATOR DETERT: The criticism is that --

2 SENATOR GAETZ: Senator Detert.

3 SENATOR DETERT: Thank you, Chair.

4 So the criticism then is that there was a  
5 system?

6 SENATOR GAETZ: Yes, Senator Detert.

7 SENATOR DETERT: Got it.

8 SENATOR GAETZ: Senator Lynn.

9 SENATOR LYNN: Thank you, Mr. Chairman.

10 And that criticism, that happened late in  
11 the process, which seemed, you know, all of a  
12 sudden, the numbers changed, and I know I had a  
13 question about that myself. So if we have to  
14 address that, we are addressing the entire map,  
15 is that correct?

16 SENATOR GAETZ: Senator Lynn, as to the  
17 numbering system?

18 SENATOR LYNN: Yes.

19 SENATOR GAETZ: Absolutely.

20 SENATOR LYNN: Uh-huh.

21 SENATOR GAETZ: Mr. Guthrie, go ahead.

22 MR. GUTHRIE: And so with numbering, I and  
23 my staff have been giving some thought as to  
24 what options the Senate might want to consider  
25 as a way of resolving this, and this is really

1 something for the Committee to consider as we  
2 meet here today and again next week. One  
3 possibility would be to apply a different rule  
4 that -- one that limits incumbents to the  
5 minimum term in office, so one that said that  
6 we are going to try to enforce the eight is  
7 enough campaign slogan through redistricting.  
8 So people that had a two-year term prior to  
9 redistricting would get a two-year term after  
10 redistricting so that they then would get one  
11 four-year term and then be done serving in the  
12 Senate. Persons who had four-year terms prior  
13 to redistricting would get a four-year term  
14 after redistricting and again would be termed  
15 out of the Senate. So that -- you could apply  
16 a rule like that.

17 The criticism of such a rule is, as was  
18 mentioned, that seems to disfavor incumbents,  
19 and it particularly is going to disfavor those  
20 incumbents who have a two-year term, a two-year  
21 term and a four-year term, they are running for  
22 election three times in order to get two terms  
23 in the Senate when the normal Senate term as  
24 provided by the State Constitution is four  
25 years.



1           A VOICE: Mr. Chairman?

2           SENATOR GAETZ: Okay, we will take a few  
3 questions. Senator Sachs.

4           SENATOR SACHS: Thank you very much, Mr.  
5 Chairman. My question is this --

6           SENATOR GAETZ: I think your mike may not  
7 be on, ma'am. It is possible it is --

8           SENATOR SACHS: It has a Band-Aid.

9           SENATOR GAETZ: It has a Band-Aid? So it  
10 is a sick little mike.

11          SENATOR SACHS: I will move over here.  
12 Thank you very much, Mr. Chairman.

13          My question is this: How is -- what was  
14 the pattern, what was the rule for the last  
15 number of terms in which we have done  
16 redistricting? In other words, it seems like  
17 we have a number of choices here, none of which  
18 seems to be necessarily good for us to choose  
19 at this time. What has been the norm in the  
20 State of Florida for a numbering of these  
21 geographic districts for the Senate?

22          SENATOR GAETZ: Mr. Guthrie.

23          MR. GUTHRIE: Well, all those prior  
24 re-numberings, as the Court notes in its  
25 opinion, were before Amendment 21 became part

1 of the State Constitution. The method that was  
2 used is the Senate chose which numbers went  
3 with which districts, and what the Senate set,  
4 that's what was.

5 SENATOR SACHS: If I may follow up?

6 SENATOR GAETZ: Yes, of course, Senator  
7 Sachs.

8 SENATOR SACHS: Thank you very much, Mr.  
9 Chairman.

10 Was the same pattern used by the Senate  
11 for the last number of years before we had  
12 these two amendments, sir?

13 SENATOR GAETZ: Mr. Guthrie.

14 MR. GUTHRIE: In every redistricting of  
15 which I am aware since the Constitution took  
16 effect in 1968, the Senate chose to assign  
17 numbers to districts, and that has been  
18 something -- you know, it was an issue that was  
19 considered on the Senate floor, but it was not  
20 anything that the Supreme Court looked at.

21 SENATOR GAETZ: Senator Montford, and then  
22 Senator Garcia.

23 SENATOR MONTFORD: Thank you, Mr. Chair.

24 A question, and maybe it is -- I suggest  
25 we may look at it a little differently. We are

1 focusing on the incumbent, but I suggest we may  
2 want to focus on the voters, and that -- is the  
3 question is whether or not it would be fair for  
4 a particular set of voters, citizens, if you  
5 will, that would have to go through three  
6 elections in six years. It is not just the  
7 incumbent that I think we should focus on, but  
8 it is the question of the community and the  
9 citizens themselves, how many elections should  
10 they have to endure. Has that thought ever  
11 occurred to anybody, Mr. --

12 SENATOR GAETZ: I can tell you, Senator  
13 Montford, that a number of individuals who have  
14 talked with me over the course of time from --  
15 people from the public have said the same  
16 thing, but Mr. Guthrie?

17 MR. GUTHRIE: Yes, that is something that  
18 we have considered along the way. We are  
19 taking our guidance, though, from the Supreme  
20 Court opinion, and the opinion says that a  
21 system that increases the time that they may  
22 serve most assuredly favors incumbents. So  
23 because of the way the two plus four, four plus  
24 two, works, a system that gives that due  
25 consideration to the hardship cause to voters

1 is going to have an effect of having many  
2 Senators get a lengthened period of service in  
3 the Senate.

4 SENATOR GAETZ: Senator Garcia and then  
5 Leader Rich and then Latvala and then Lynn.  
6 Away we go.

7 SENATOR GARCIA: Thank you, Mr. Chairman.

8 And I understand the Supreme Court has  
9 this opinion, but in the fact that we are not  
10 supposed to favor or disfavor any incumbent, in  
11 the amendments that were passed, does it  
12 mention anything about the numbering of the  
13 districts? From my -- can you help me  
14 understand that part, as I -- I don't think it  
15 does, but --

16 MR. GUTHRIE: A question that was briefed  
17 to the Supreme Court and discussed at oral  
18 argument was whether the scope of Amendment 5  
19 went to renumbering of districts, and the  
20 Court's opinion was that it does.

21 SENATOR GAETZ: Leader Rich.

22 SENATOR RICH: Thank you, Mr. Chair.

23 I just kind of wanted to make a comment  
24 about -- I mean, the voters also voted that  
25 they wanted us only to serve eight years. So I

1 think -- and I don't know, correct me if I am  
2 wrong, but I think that basically what the  
3 Court said is that they wanted as few people to  
4 serve more than eight years as possible, and  
5 that whatever -- however we number, that that  
6 is the direction we should be going, not in a  
7 system that creates as many as possible  
8 incumbents to serve ten years.

9 SENATOR GAETZ: Let's look at the law and  
10 see what it says. Mr. Bardos, could you give  
11 us a little bit of legal framework here in  
12 understanding Leader Rich's point?

13 MR. BARDOS: Right. Well, the Court was  
14 not -- it did not give us a specific direction  
15 as to how we can remedy the defect in the  
16 numbering system. Obviously, as stated, that  
17 if there is a systematic effort to favor  
18 incumbents, that would violate the  
19 Constitution, but it did also recognize that  
20 the eight-year term limit provision is not an  
21 eight-year cap, it is not that members cannot  
22 serve beyond eight years, it simply provides  
23 that a candidate running for reelection who by  
24 that time has served eight years may not run  
25 again. So the Court recognized that the -- it

1 is not a violation of the Constitution for  
2 somebody who has been in office for, say, seven  
3 years, to run again for a four-year term. That  
4 would be consistent with the Constitution.

5 So I -- while the Court didn't say it, I  
6 think that what it was wary of was a systematic  
7 effort to favor incumbents, but it did not read  
8 the term limits provision as a hard-and-fast  
9 eight-year limitation.

10 SENATOR GAETZ: Senator Latvala.

11 SENATOR LATVALA: Thank you, Mr. Chairman,  
12 a couple of questions.

13 First of all, let's get back to Senator  
14 Sachs's original question, because I really  
15 don't think you answered that question in its  
16 -- in its totality. When she asked you how the  
17 Legislature numbered districts prior to term  
18 limits, you said, well, it was numbered by the  
19 Senate, but you didn't say how they were  
20 numbered by the Senate. As I recall, and  
21 correct me if I am wrong, in the '60s and '70s  
22 and '80s and for the most part in the '90s, we  
23 started with District No. 1 in the Panhandle,  
24 in Pensacola, the First District, and we came  
25 all the way down through the state sequentially

1 and ended up with No. 40 somewhere in the  
2 vicinity of Miami and Key West, is that not  
3 correct?

4 SENATOR GAETZ: Mr. Guthrie.

5 MR. GUTHRIE: It is generally true that  
6 the numbering went from the northeast to the  
7 south, but -- or, excuse me, from the northwest  
8 to the south, but there was not a hard-and-fast  
9 rule to determine that districts are always  
10 numbered next to each other. Senator Gibson in  
11 Jacksonville today represents Senate District  
12 1, for instance.

13 SENATOR LATVALA: What I said, Mr. -- I'm  
14 sorry.

15 SENATOR GAETZ: No, go ahead, please,  
16 Senator Latvala.

17 SENATOR LATVALA: What I said, Mr.  
18 Guthrie, was prior to term limits and prior to  
19 the last redistricting --

20 MR. GUTHRIE: Oh, okay.

21 SENATOR LATVALA: -- in 2002. In other  
22 words, when I was in the Senate before, all the  
23 Dade -- Miami-Dade Senators sat on the back row  
24 because they all were numbers in the 30s, okay.  
25 The odd-numbered people sat on one side of the

1 room and the even-numbered people sat on the  
2 other side of the room. Is that not correct?

3 SENATOR GAETZ: Mr. Guthrie.

4 MR. GUTHRIE: I remember the tradition of  
5 having the Senate split by, you know, by odds  
6 and evens, yes, but the provision that --  
7 well -- and I misspoke earlier that the  
8 question of numbering was some -- a question  
9 that very much was before the Florida Supreme  
10 Court in its 1982 in re apportionment case  
11 where the Senate took the position that  
12 Senators who were elected two years prior had  
13 been elected to four-year terms and should be  
14 allowed to serve out those terms, as happens in  
15 some other states, but the Supreme Court  
16 determined in 1982 that terms must be  
17 truncated. So the issue with numbers in 1972  
18 and 1982 and 1992 was mostly who was going to  
19 get a two-year term and who was going to get a  
20 four-year term after redistricting.

21 SENATOR GAETZ: Senator Latvala.

22 SENATOR LATVALA: But for the most part,  
23 the numbers started with No. 1 in the Panhandle  
24 and ended up with No. 40 somewhere in south  
25 Florida, is that not correct?



1           MR. GUTHRIE: I believe that is right,  
2           yes.

3           SENATOR LATVALA: Okay.

4           SENATOR GAETZ: Senator Latvala.

5           SENATOR LATVALA: The decision that was  
6           made on the numbering this year was not made  
7           based on any kind of sequential numbering, it  
8           was based -- and maybe you could explain how we  
9           decided to do that, you know, it was made  
10          purposely to advantage everyone who got elected  
11          and only had a two-year term, to let them  
12          finish out their term and then run again, is  
13          that not correct? I mean, in other words, we  
14          had even a piece in the analysis that explained  
15          it. I think Senator Negrón might have been the  
16          one that thought the scenario up, but it was --  
17          it was explicitly to advantage every member of  
18          the Senate, Democrat or Republican, and give  
19          them a maximum amount of time. And maybe you  
20          could explain that to us now, what that -- what  
21          that theory was.

22          SENATOR GAETZ: Mr. Guthrie.

23          MR. GUTHRIE: I would not state it quite  
24          that way, Senator. I believe what the -- the  
25          tone of the staff analysis was to avoid causing

1 undue hardship or extra hardship to some  
2 Senators, and to try to treat Senators the same  
3 with respect to renumbering. So persons who  
4 had a shortened term prior to redistricting  
5 were first in line to get a longer term after  
6 redistricting. Persons who had a full term  
7 prior to redistricting were last in line to get  
8 a four-year term after redistricting.

9 SENATOR GAETZ: We will take a question,  
10 yes, Senator Latvala, for a final follow-up.

11 SENATOR LATVALA: The -- and I guess that  
12 is one way of explaining it. The -- but the  
13 point I am trying to make is that the -- that  
14 the decision and the reading of the Court was  
15 based on everyone getting that advantage, and  
16 not just an incidental, accidental situation of  
17 a sequential numbering throughout the state and  
18 certain people got the advantage because their  
19 district happened to be at a place where a  
20 certain number was -- you know, was arrived at;  
21 in other words, that's the distinguishing thing  
22 I am trying to get at here is it was because  
23 everyone was treated that way, not because some  
24 people accidentally in the way that the  
25 numbering was done were treated that way. Is

1 that not correct?

2 SENATOR GAETZ: Mr. Guthrie.

3 MR. GUTHRIE: Mr. Bardos, would you point  
4 to --

5 SENATOR GAETZ: Mr. Bardos.

6 MR. BARDOS: Sure. I think that is pretty  
7 accurate. The Court somewhere referred to the  
8 purposeful manipulation, in its words, of the  
9 district numbers --

10 SENATOR GAETZ: Here it is.

11 MR. BARDOS: -- and I think that it was  
12 the fact -- there it is, "purposefully  
13 manipulating the numbering of the districts in  
14 order to allow incumbents to serve in excess of  
15 eight years." So I think that was at the heart  
16 of it, and the fact that it was systematic,  
17 that there was a rule by which that was  
18 accomplished. I don't think it was the fact  
19 that there happened to be one or more  
20 incumbents who received the opportunity to  
21 serve for more than eight years.

22 SENATOR GAETZ: Senator Lynn.

23 SENATOR LYNN: I guess my question is very  
24 similar to Senator Latvala's, because I was --  
25 when we left with having seen maps and so forth

1 and we saw -- not when we left. We had seen  
2 the maps and we saw numbers on those maps, and  
3 in my mind, those were the numbers. And the  
4 next time we looked at something, suddenly all  
5 of the numbers were different, and there was an  
6 explanation given, such as has been explained,  
7 which appears to be very kind and understanding  
8 to members, but I guess I have a concern, for  
9 instance, what was my District 7 -- and, to me,  
10 it doesn't matter, I won't even be here, but it  
11 is so totally different. So anybody who  
12 planned to run and did plan to run for District  
13 7, in fact, has a whole different world now and  
14 a totally different numbered district, which  
15 can effect, you know, the two years, the four  
16 years and so forth. And I am just wondering  
17 why we didn't -- why we weren't more arbitrary  
18 in just tossing it to the gods, because I think  
19 that is what exactly the Courts are saying  
20 right now.

21 SENATOR GAETZ: Well, if we could  
22 possibly, just because we do have a time limit  
23 today, maybe in answer to Senator Lynn's  
24 question, why don't we move to the potential  
25 options on a going-forward basis and then move

1           into the individual districts that were  
2           specifically cited by the Court and leave time  
3           for the public comment.

4           MR. GUTHRIE: So another rule that the  
5           Senate maybe could apply for determining which  
6           districts are odd or which are even is some  
7           sort of a geographic rule where starting from  
8           the west -- so, again, a mechanical system, but  
9           we would just say which district has the  
10          highest longitude number, and give that  
11          district number one, and then which has the  
12          second highest and on through the 40 districts.  
13          The difficulty with that -- such a rule is A,  
14          explaining it, and B, it may have a consequence  
15          that somebody infers intent from.

16          The Senate could -- the third bullet here,  
17          Senator Latvala, is numbering the districts in  
18          an orderly pattern, which is exactly the model  
19          you talked about, but that will involve making  
20          choices along the way of which -- you know,  
21          whether the next district is odd or the next is  
22          even, which I think will cause questions.

23          And so the fourth possibility for coming  
24          up with a standard that -- and here is what the  
25          Supreme Court in its opinion concluded the

1           Legislature should do. The Legislature should  
2           renumber the districts in an incumbent-neutral  
3           manner, and a way that I believe would be  
4           assuredly incumbent-neutral would be to simply,  
5           as Senator Lynn said, randomly assign odd or  
6           even numbers by chance to the districts.

7           So those are the four options that I and  
8           my staff were able to come up with for  
9           numbering districts.

10           SENATOR GAETZ: Okay. Senator Storms, but  
11           let's try to be respectful of the fact that we  
12           may have public comment.

13           SENATOR STORMS: Okay. So be short then.

14           SENATOR GAETZ: Yes, ma'am, if you could.

15           SENATOR STORMS: So I guess my issue with  
16           the randomly assigning odd and even numbers is  
17           if we did that and say, for instance, all of  
18           the minority seats were the ones that came out  
19           -- just by random you did that and they are the  
20           ones who came up short, there isn't anything we  
21           are going to be able to do to convince anybody  
22           that that wasn't -- that the fix wasn't in. Or  
23           just say, for instance, that all of them came  
24           out so that one geographic location all had the  
25           same number. I don't know how you are going to

1           convince anybody that it didn't work -- that  
2           that wasn't intentional. And it seems to me  
3           that you really open yourself up to an outcome  
4           that can really jeopardize, you know, what we  
5           are trying to do. So I just want to put that  
6           out there.

7           SENATOR GAETZ: Okay.

8           SENATOR STORMS: That would be a serious  
9           problem. I don't know how we would overcome  
10          that if everybody -- all the minority seats got  
11          the least number of years. What would you do  
12          with that?

13          SENATOR GAETZ: Well, Senator Storms,  
14          particularly since the Court -- and, again,  
15          this is my layman's view -- the Court says that  
16          effect proves intent, it certainly is a  
17          consideration we need to keep in mind.

18          President Margolis.

19          SENATOR MARGOLIS: Mr. Chairman, it seems  
20          to me that people voted for eight is enough,  
21          and that is probably what we should be looking  
22          at. And so everybody is going to run this  
23          year, and if they have -- you know, if they  
24          have served four years, then they have a  
25          four-year seat. If they served six years, they

1           have a two-year seat. I mean, you started with  
2           two years -- some of them -- some started with  
3           two-year terms, some started with four-year  
4           terms. Why don't we just say eight is enough  
5           and figure out at the end of the eight years  
6           whether people are going -- can run again or  
7           not run again?

8                     SENATOR GAETZ: Excellent point.

9                     SENATOR MARGOLIS: Why don't we have an  
10           implementing legislation to do just that?

11                    SENATOR GAETZ: Excellent point,  
12           absolutely.

13                    Senator, go ahead, please.

14                    SENATOR WISE: The -- Mr. Chair, what do  
15           you do with a person who gets a one-year term  
16           because of a resignation or whatever from a  
17           Senator, and then we are into reapportionment  
18           and then you get a two-year term, do you get  
19           then two more four-year terms? Because that's  
20           what I got. That is what Senator Gibson could  
21           have. So it really -- it's logically doesn't  
22           happen the way we think it is going to be. Is  
23           it fair to have somebody with less than eight  
24           years? Now, that is the question, and, you  
25           know, I just pose that to you.



1           SENATOR GAETZ: Good point, Senator Wise.

2           Why don't you proceed?

3           MR. GUTHRIE: That is it then on numbering  
4 options.

5           SENATOR GAETZ: And let me just say that  
6 individual Senators who have suggestions,  
7 concerns, criticisms, proposals, we invite you  
8 to make them to professional staff or convey  
9 them to President Margolis as our Vice-Chair or  
10 to me or to the Majority or Minority Leaders,  
11 because this is an issue we will have to  
12 address in the amendment that the Committee  
13 considers, absolutely.

14           Yes, Senator Lynn.

15           SENATOR LYNN: I just feel compelled to  
16 say, all through the years, people -- Senator  
17 Thrasher had three years, he had -- each time  
18 -- some people had to run every few years.  
19 Senator Wise had to run, I don't know how many  
20 times he has run, it just happens, somebody  
21 dies --

22           SENATOR GAETZ: He's run nine times.

23           SENATOR LYNN: -- somebody quits, you  
24 know, or somebody stays -- something happens,  
25 and you cannot plan for all those incidents,

1           you just can't. You do the maps according to  
2           the best you can, you number in the fairest way  
3           you can and let the chips fall where they may.  
4           If someone is going to end up running more than  
5           somebody else, that is just a luck of the draw,  
6           and people do that. It's always been that way.  
7           So I don't think that is a great big worry.

8                     SENATOR GAETZ: Good observation. And,  
9           Senator Detert, we will let you give the  
10          benediction to this portion of the program.

11                    SENATOR DETERT: That is because I am  
12          generally brief, and I will be again, but I  
13          disagree, Chair, with the staff's conclusion  
14          about numbering them in an orderly way from  
15          west to east, starting in the Panhandle, going  
16          1, 2, 3, 4, 5, 6. Yes, along the way, some  
17          decisions are going to have to be made, but I  
18          don't think it would involve gerrymandering  
19          decisions. But if you are going to throw darts  
20          at a board or have lottery balls pop up and you  
21          are going to start with the first district at  
22          the top of the Panhandle being No. 37, I think  
23          a rational person is going to look at that and  
24          go, "How the heck did they come up with this,  
25          did they just throw darts at a board," which we

1           could probably legally do. I just think it  
2           makes more sense to have it sequentially and  
3           just have a pattern and, once again, let the  
4           chips fall where they may, or do whatever  
5           Senator Latvala says, you start No. 1 at the  
6           Panhandle, No. 40 is Key West and you fill in  
7           the middle, and that is pretty random.

8           SENATOR GAETZ: Thank you. Thank you for  
9           that suggestion.

10          Okay, Mr. Guthrie --

11          MR. GUTHRIE: One point of clarification  
12          on that, if I may, Mr. Chairman?

13          SENATOR GAETZ: Sure.

14          MR. GUTHRIE: The -- I believe with  
15          whatever scenario we use or option the Senate  
16          chooses to use for numbering its district, we  
17          will follow some sort of an orderly pattern  
18          from the -- you know, one end of the state to  
19          the other, so that voters won't be confused by  
20          having Senate Districts 2, 18 and 37 in their  
21          -- in their area. But you could accomplish  
22          that by determining through a game of chance  
23          which districts get odd and which get even, and  
24          then coming back and manually numbering the  
25          districts systematically, as you discussed,

1           which is kind of what we have in the -- in the  
2           current map. So we have Districts 1, 3 and 5  
3           in the Panhandle, for instance, in the plan  
4           that the Senate passed during regular session.

5           SENATOR GAETZ: Okay.

6           MR. GUTHRIE: The next several slides are  
7           all in your meeting packet. We don't have to  
8           go into a whole lot of detail, but what we are  
9           going to do is focus briefly on the districts  
10          where the Supreme Court did express issues.

11          The first was in the Panhandle where the  
12          Senate followed political and geographic  
13          boundaries to create a coastal district and  
14          also to create a rural district. The Supreme  
15          Court said that the horizontal orientation of  
16          Panhandle districts violates compactness and  
17          utilization of political and geographic  
18          boundaries, and it sacrificed compactness,  
19          which is a constitutional imperative, to keep  
20          coastal communities together. So the Court  
21          took issue with Districts 1 and 3, and that is  
22          one area that we will be looking at to modify  
23          the plan.

24          The next is in northeast Florida where the  
25          Court expressed issues with Districts 6 and 9.

1 As Senator Gibson mentioned earlier, part of  
2 the issue there was that there was not a  
3 regression study or a functional analysis  
4 performed on the districts, but the Court also  
5 found that District 6 sacrifices compactness  
6 when not necessary to avoid a conflict with the  
7 minority voting protection provision, okay, and  
8 further found that a district based solely in  
9 Duval County would be much more compact and  
10 would likely afford black voters the  
11 opportunity to elect candidates of choice.

12 SENATOR GAETZ: Let's stop here for a  
13 second. Any questions about what the Court  
14 found as to northwest and northeast Florida?  
15 Any questions as to the Court's findings?

16 Okay. Please move on.

17 MR. GUTHRIE: Okay. And the Court also  
18 mentioned that District 9, which is to the east  
19 of District 6, likely will be impacted also  
20 when -- if District 6 is made into a Duval-only  
21 district.

22 The next area that the Court looked at was  
23 Senate District 10 in the Orlando area. The  
24 territory east of Orlando, and this territory  
25 represents about 160,000 persons, the Court

1 referred to that as a -- an appendage and could  
2 not understand the basis for the district being  
3 that shape. They mentioned that Districts 12  
4 and 14, the adjacent minority districts, also  
5 should be considered as part of reviewing  
6 District 10. So District 10 is visually  
7 non-compact as a result of what they called the  
8 bizarrely-shaped appendage between Districts 12  
9 and 14, the area east of Orlando, and that it  
10 does not consistently follow any political or  
11 geographic boundary, and they -- the Court  
12 believed that it was an attempt to reach out to  
13 clearly encompass an incumbent, and, therefore,  
14 was constitutionally invalid.

15 SENATOR GAETZ: Any comments on the  
16 Court's findings as to central Florida, the  
17 central Florida district? Any comments or  
18 questions? If not, please go on.

19 MR. GUTHRIE: The next area where the  
20 Court took issue was Senate District 30 in  
21 southwest Florida. The Court recognizes that  
22 Senate District 30 is adjacent to the Section 5  
23 minority opportunity district, 40, that comes  
24 out of Miami-Dade County and includes Monroe,  
25 Collier and Hendry Counties, which are all

1 three Section 5-covered jurisdictions, but the  
2 Court noticed that the district connects to  
3 Cape Coral along Ft. Myers Beach and Sanibel,  
4 and determined that a more compact shape could  
5 have been drawn in that -- in that area.

6 SENATOR GAETZ: Okay. Southwest Florida,  
7 the southwest Florida finding by the Court, any  
8 comments or questions? Any comments or  
9 questions? Okay.

10 MR. GUTHRIE: A conclusion of the Court  
11 here is that intending to tie coastal  
12 communities together, something that this  
13 Committee considered extensively in its  
14 deliberations, is not a constitutional  
15 justification for departure from Tier 2  
16 standards.

17 The next area where the Court found an  
18 objection was with Districts 34 and 29 in  
19 Broward and Palm Beach Counties. What the  
20 Court concluded was that the districts were  
21 drawn to favor an incumbent and a political  
22 party by keeping District 29 essentially the  
23 same as its predecessor district. So they saw  
24 that District 34 goes from Ft. Lauderdale to  
25 West Palm Beach, and that creates an area of

1 population to the east which is -- cannot be in  
2 another district and, therefore, is in District  
3 29, and that the Court found was a problem  
4 because District 29 leans Republican and is in  
5 an area of the state that is largely  
6 Democratic. So the Court believed that it  
7 would be possible to create a -- new  
8 configurations of districts in Broward and Palm  
9 Beach County where overall the districts would  
10 be more compact and more neutral.

11 SENATOR GAETZ: Comments or questions on  
12 the southeast portion of the map? Any  
13 questions or comments as to the Court's  
14 findings, any observations? If not --

15 MR. GUTHRIE: And --

16 SENATOR GAETZ: Go ahead.

17 MR. GUTHRIE: And the last area was the  
18 City of Lakeland. The City of Lakeland is  
19 outlined in red on the screen here. A part of  
20 the City of Lakeland is in District 24, part of  
21 the City of Lakeland is in District 16. What  
22 the Court concluded, as Mr. Bardos stated  
23 earlier, was the Senate failed to adhere to any  
24 consistent definition of political and  
25 geographic boundary. This is especially



1           evident because, in the case of District 24,  
2           the Senate placed inland Lakeland with coastal  
3           communities of Manatee County. And so the  
4           Court did not find District 24 to be invalid,  
5           but they suggested that the Senate look at that  
6           area in its review of the new map.

7           SENATOR GAETZ: Any comments or questions  
8           on the Lakeland issue? Is Senator Dockery  
9           here?

10          SENATOR DOCKERY: Yes.

11          SENATOR GAETZ: Senator Dockery, I know  
12          that you had had some -- you had wanted to  
13          share some ideas about that area. You are  
14          recognized even though you are not on the  
15          Committee. We are delighted that you are here.

16          SENATOR DOCKERY: Thank you, Mr. Chairman.

17          I would just say to the extent that we  
18          could put the City of Lakeland in one district,  
19          Polk County has six hundred -- over 600,000  
20          individuals, it is cut into four Senate  
21          districts, if we can get that down to two or  
22          three Senate districts and keep Lakeland  
23          together, I think that that makes a lot more  
24          sense and leads to less spread-out districts  
25          for Polk. But I am certainly -- I certainly

1 understand that that will create a domino  
2 effect, so I am going to sit down and meet with  
3 staff afterwards to see how we can address that  
4 issue.

5 SENATOR GAETZ: Good. Thank you very  
6 much.

7 Any other comments from any Senators on  
8 the Lakeland matter?

9 Mr. Guthrie.

10 MR. GUTHRIE: So that is the conclusion of  
11 our overview of the prescriptions and  
12 conclusions from the opinion that I included in  
13 this presentation.

14 The next steps for the Committee, as the  
15 Chairman noted on the floor, by 12:00 noon on  
16 Saturday, the Chairman plans to have an  
17 amendment addressing or conforming to the  
18 judgment of the Court on the Senate  
19 redistricting website. By 12:00 noon Monday,  
20 the Senate determined timely amendments will be  
21 offered by other members of the Senate. This  
22 Committee will meet again next Tuesday from  
23 nine o'clock until six o'clock for a  
24 Reapportionment Committee meeting. We will  
25 consider a plan conforming to the judgment of

1 the Court. We will also need to consider at  
2 that meeting and you will need to determine at  
3 that meeting a method for numbering the  
4 districts consistent with the opinion of the  
5 Court. Then on -- so we will have a committee  
6 report coming out on Tuesday night. We would  
7 like -- and the Senate voted on the floor this  
8 afternoon that floor amendments will be filed  
9 by noon on Wednesday, March 21st, and then the  
10 Senate will convene and take up as a special  
11 order Senate Joint Resolution 2-B on Thursday,  
12 March 22nd. That session will start at  
13 nine o'clock in the morning and continue until  
14 completion. If necessary, the Senate will  
15 convene again on Friday, March 23rd, for the  
16 third reading and final passage of Senate Joint  
17 Resolution 2-B.

18 SENATOR GAETZ: Mr. Guthrie, would you go  
19 back to the slide just previous to that? I  
20 would like to just take a moment so that we all  
21 have the same understanding. The Senate this  
22 morning decided that amendments would be filed  
23 by twelve o'clock noon Monday, and that is an  
24 amendment to, in effect, the resolution that we  
25 placed in play this morning on the Senate

1 floor.

2 I want to make sure that we give everyone  
3 an opportunity to review, comment and offer  
4 their suggestions. So between now and the time  
5 that a Chairman's amendment is put forth in  
6 this Committee, you all have an open invitation  
7 to contact professional staff, to contact your  
8 Majority and Minority Leaders, to contact the  
9 Vice-Chair of the Committee, myself, with any  
10 input that you have. We will govern those  
11 conversations by the same rule that we have  
12 governed other conversations with members of  
13 the Senate and House, and that is that we will  
14 not take any discussion -- and none has been  
15 offered, and I have been very proud of  
16 Democrats and Republicans in this regard -- we  
17 will not take any discussion about what is good  
18 for me or what is bad for me, or what is good  
19 for somebody who might run or what is bad for  
20 somebody who might run. Instead, our  
21 conversation will be limited to how can we  
22 approach the Supreme Court's ruling with a  
23 remedy that will be compliant with the Supreme  
24 Court's opinion, how can we approach the facts  
25 of the matter, not to argue with the Court, not

1 to talk about what is good or bad for anybody,  
2 challenger or incumbent, or any political  
3 party, but how can we approach this problem in  
4 a way that will bring us a compliant response  
5 to the Supreme Court. But we invite, request  
6 and solicit your opinions and your input in  
7 that regard.

8 Now, in an abundance of what I hope the  
9 Committee will agree is openness to suggestion,  
10 even though the amendment deadline is noon on  
11 Monday for the Reapportionment Committee  
12 meeting the next day, I will supply the -- a  
13 Chairman's amendment -- and it is called that  
14 even though it will be a committee amendment --  
15 a Chairman's amendment at noon on Saturday so  
16 that everyone has a chance to review it. If  
17 you don't like it, you have a chance to post  
18 amendments to it. So my suggestions or the  
19 Committee's suggestions taken together will be  
20 posted 48 hours before the amendment deadline,  
21 and then you have an amendment deadline that  
22 relates to the Committee's meeting the next  
23 day. Is everybody clear on what our time frame  
24 is? Because if you have ideas, suggestions or  
25 counter-proposals, we want to give everyone an

1 opportunity to make those available to the  
2 Committee and to the public and to the press.  
3 Any -- anything that we get in the nature of a  
4 proposal, as we mentioned on the floor this  
5 morning, has to show the consequences  
6 statewide, if there are any, and then we also  
7 want to make it available so that the public  
8 can comment on it.

9 Senator Gibson, you had a question, ma'am,  
10 or an observation?

11 SENATOR GIBSON: Thank you, Mr. Chair.

12 Just for clarification, the Chairman's  
13 amendment, which is you, Mr. Chair, will go --  
14 come out on Saturday, and I wasn't sure if you  
15 said we have until then to give input to you  
16 and our various leaders and the Committee to be  
17 included in the Chair's amendment? I mean, if  
18 that is the case, one time says the amendment  
19 will be posted noon or earlier, and then the  
20 other says -- on our paper it says no later  
21 than noon. So I am trying to figure out if  
22 there is, in fact, opportunity for input before  
23 it is posted, what is the deadline for that  
24 input. And then the second part of my question  
25 is, since this is a Chairman's amendment on

1 Saturday, on Monday for the committee amendment  
2 deadline, is that to the Chairman's amendment,  
3 which will then become the committee amendment?

4 I am a little confused.

5 SENATOR GAETZ: I apologize, Senator  
6 Gibson. You know, this happens once every ten  
7 years, so we don't have -- we don't have a lot  
8 of people except Mr. Guthrie and Senator  
9 Latvala who can -- and President Margolis who  
10 can give us the history lesson here, but let me  
11 see if I can explain it.

12 It is called a Chairman's amendment  
13 because somebody has to offer it, and the  
14 Committee can't offer it until the Committee  
15 votes on it, and the Committee may vote it down  
16 or may change it or may accept it. So you make  
17 an excellent point. If you -- I would love to  
18 have input, broadly speaking, from anyone who  
19 cares to provide it to what we are calling a  
20 Chairman's amendment.

21 Now, if you have input, I wouldn't wait  
22 until eleven o'clock a.m. Saturday to provide  
23 it, just for logistical reasons. So I would  
24 ask that if you have input, please give it to  
25 us today, tomorrow, Friday, let us know what

1 your thinking is, and if we can incorporate it,  
2 we will.

3 Just one second, Leader, and I will get to  
4 you as soon as I answer the second part of  
5 Senator Gibson's question, if I can.

6 Then at noon on Monday, that is an  
7 opportunity -- people may look at the  
8 Chairman's amendment and say, you know, "I  
9 don't like it very much, they didn't take my  
10 input, I've got a better idea, I would like to  
11 amend the Chairman's amendment." And so file  
12 that amendment by noon on Monday, and then at  
13 our committee meeting on Tuesday, we will have  
14 a series of votes. We will explain what we are  
15 calling a Chairman's amendment, which will  
16 certainly have more authors than one, and then  
17 we will take up any amendments to the  
18 Chairman's amendment and then develop, in  
19 effect, a melded proposal that the Committee  
20 hopefully would agree to, and we will take that  
21 to the floor as a committee substitute. Does  
22 that make sense?

23 Okay. And I apologize, Leader Gardiner,  
24 please, you are recognized.

25 SENATOR GARDINER: Thank you, Mr.



1 Chairman, and along those same lines, is it  
2 possible after the Chairman's amendment is  
3 filed if staff would make themselves available  
4 over the weekend to help the members if they  
5 need help in preparing an amendment to that  
6 particular amendment? And the second part of  
7 that, Mr. Chairman, is I think one thing that  
8 would be helpful, too, is I think everybody has  
9 a different opinion regarding what the Florida  
10 Supreme Court has told us, and for those of us  
11 that may want to draft something, having access  
12 to all of the legal team as a member of the  
13 Committee would also be helpful, just to make  
14 sure that we are staying within the confines  
15 that you, Mr. Chairman, and the Florida Supreme  
16 Court has provided us. I think that would be  
17 very helpful, too. So if that were available  
18 to us over the weekend, I think it would make  
19 it a much -- a very smooth process.

20 SENATOR GAETZ: Thank you, Leader  
21 Gardiner. The answer to the first part of the  
22 question is yes, and that is that you certainly  
23 would have access to professional staff to help  
24 in the crafting of amendments to the amendment.  
25 In fact, we would strongly encourage -- it is

1 not required. If you don't want to deal with  
2 professional staff, that is fine, but we would  
3 certainly encourage it, because that way your  
4 amendment can be -- can be technically correct  
5 and won't be discarded because of some  
6 technical imperfection. So for your own  
7 reasons and your own purposes, I would urge you  
8 to do that.

9           Secondly, we are operating on a short  
10 leash here, and so if we have 40 Senators who  
11 all want to meet with John Guthrie, then we are  
12 going to have a problem, because, you know, we  
13 can keep him awake, we can pump him full of  
14 coffee, but we can't -- each Senator can't have  
15 a three-hour meeting with John Guthrie and meet  
16 the timeline that the Constitution lays down.  
17 But within reason, we certainly want to  
18 accommodate you. Mr. Bardos is internal  
19 counsel to the Committee. He is available  
20 starting now. I know that members -- some  
21 members have already talked with Mr. Guthrie  
22 and with committee staff, that is great. We  
23 will be as available as possible.

24           At some point, we will have to -- we will  
25 have to actually take pen to paper, and I think

1 Senator Gibson was getting to that earlier, and  
2 that was, you know, when do we quit taking  
3 input and start drafting a Chairman's  
4 amendment. I would say that we will start  
5 drafting a Chairman's amendment today, but we  
6 will take input as we go along. We will  
7 probably -- Mr. Guthrie, from a -- just from a  
8 technical standpoint to make sure we get things  
9 up on the website and we have all the technical  
10 issues dealt with, when would you say you are  
11 not going to take anymore phone calls from me?

12 MR. GUTHRIE: It is -- depending on how  
13 close we want to cut it, it is somewhere  
14 between ten and eleven o'clock on Saturday  
15 morning.

16 SENATOR GAETZ: Well, let's say -- let's  
17 say if you could please get to Mr. Guthrie over  
18 the weekend, as Leader Gardiner has indicated,  
19 today, tomorrow, the next day, over the  
20 weekend, that would be very helpful and allow  
21 Mr. Guthrie time to make sure that we have a  
22 technically perfected proposal to lay before  
23 you. So if you have ideas now, now is a good  
24 time, if you have ideas this afternoon, this  
25 afternoon is a good time, but if you wait until

1 late Saturday morning, you may have to file an  
2 amendment to the amendment, which is entirely  
3 permissible as well.

4 Senator Montford.

5 SENATOR MONTFORD: Thank you, Mr. Chair.  
6 It is on another subject, not this one.

7 SENATOR GAETZ: Sure. Before we get to  
8 any other subjects, are we clear on the  
9 scheduling? Are we clear on the scheduling?  
10 Does anybody have any questions about the  
11 scheduling?

12 If not, Senator Montford, you are  
13 recognized.

14 SENATOR MONTFORD: Thank you, Mr. Chair.

15 Senator Storms this morning on the floor  
16 brought up an excellent point, and that was  
17 this Committee, under your leadership, has gone  
18 to extraordinary length receiving public input  
19 and all, and I think you said this morning the  
20 staff had already thought about that. Have you  
21 shared that today and I missed it or -- in  
22 terms of how do you -- how do you respond to  
23 that?

24 SENATOR GAETZ: Before midnight tonight,  
25 we will send an e-mail to every single person

1           who gave us their e-mail address, and that is  
2           approaching 5,000 people, saying we are in  
3           extraordinary special session, here is a link  
4           to the Supreme Court's opinion, here are the  
5           issues that the Supreme Court -- we'll provide  
6           a link to this presentation that you have seen  
7           today, all of the slides, and we will -- we  
8           will indicate that we are open for business in  
9           terms of public input. All the way through the  
10          process, all the way until the last vote by the  
11          last member of the House is recorded, we are  
12          open for business for public input. We will  
13          take public input today in our last few minutes  
14          of this meeting, and I would hope that next  
15          week when the Committee meets, if there are  
16          individuals from interest groups or political  
17          parties or just private citizens who would like  
18          to share their thoughts in person, we will take  
19          that as well.

20                 SENATOR MONTFORD: Thank you, Mr. Chair.

21                 SENATOR GAETZ: Other comments about the  
22          process? Yes, sir, Senator Latvala.

23                 SENATOR LATVALA: Let's get back to  
24          numbering for a minute, Mr. Chairman. The  
25          Chairman's amendment that comes out on

1           Saturday, I think I understood you to say we  
2           weren't going to decide how we were going to  
3           number until the meeting on Tuesday. So how  
4           are we going to number the Chairman's amendment  
5           that comes out on Saturday?

6           SENATOR GAETZ: We are not going to decide  
7           anything until the meeting of the Committee,  
8           but the Chairman's amendment will have a  
9           proposed numbering system.

10          SENATOR LATVALA: Okay. So the Chairman's  
11          amendment will be whatever the Chairman  
12          decides -- will reflect the decision that you  
13          are proposing for how the numbering is to be  
14          done?

15          SENATOR GAETZ: We are going to take --  
16          we've gotten a great deal of input today. It's  
17          been varied. Some of the input has been  
18          inconsistent, as is expected, we have had  
19          different opinions today on the numbering  
20          system. We will take more input as long as  
21          that input is provided by members of the  
22          Committee, by the public. At some point, as  
23          Chairman, I have to propose an amendment, and  
24          so my amendment will include a proposal for a  
25          numbering system, which the Committee then can

1 accept, change, throw over its shoulder, and  
2 hence the need for an amendatory process in the  
3 Committee.

4 SENATOR LATVALA: Thank you.

5 SENATOR GAETZ: Senator Gibson, of course.

6 SENATOR GIBSON: Thank you, Mr. Chair.

7 And in terms of all of the tiers and the  
8 functional analysis as the Chairman's amendment  
9 comes together, are we going to have the data  
10 that backs up the changes included in the  
11 amendment or is sent to us or -- I think that  
12 probably helps us to be a little more  
13 deliberative in suggestions we may make. How  
14 is that particular part going to be handled?

15 SENATOR GAETZ: Mr. Guthrie.

16 MR. GUTHRIE: The data that the House used  
17 for conducting its functional analysis and that  
18 the Supreme Court referred to in its opinion is  
19 all publicly available on the House website, so  
20 it is available to everyone now, and we will be  
21 using that data and perhaps some other data to  
22 conform with the judgment of the Court.

23 SENATOR GAETZ: Other comments or  
24 questions? Other comments or questions? Any  
25 other comments or questions having to do with

1 the work of this Committee, with the substance  
2 of the reapportionment issues that are before  
3 us before we turn to public comment?

4 Leader Rich, may I turn to you for any  
5 concluding comments you might want to make?

6 SENATOR RICH: Thank you, Mr. Chair.

7 I really don't have, you know, much to  
8 add. I just -- I just feel, you know, we have  
9 been given direction by the Supreme Court, and  
10 it is our responsibility now to create a plan  
11 that complies with the Constitution and with  
12 the will of the voters, and I hope that we will  
13 in the end do that.

14 SENATOR GAETZ: Thank you very much.

15 Leader Smith, any comments?

16 SENATOR SMITH: No.

17 SENATOR GAETZ: Leader Gardiner. I am  
18 afraid you have a bad mike, Leader.

19 SENATOR GARDINER: I was just commenting  
20 I've been gone for a week and I've already  
21 forgotten how to work the microphone.

22 Thank you, Mr. Chairman, and I appreciate  
23 your leadership on this and the openness to the  
24 members. And, you know, obviously I am not an  
25 attorney. When I read the opinion, there is --



1 I have a little bit different opinion on some  
2 others, but the only thing I would just add on  
3 the numbering, I know the Florida Supreme Court  
4 believes that we all want to serve additional  
5 years, but please keep in mind that there are  
6 some that are more than content just serving  
7 another term and finishing out. So don't  
8 everybody assume that everybody wants to be  
9 away from their family even longer amount of  
10 time, so just keep that in mind. But thank  
11 you, Mr. Chairman, for all your hard work, and  
12 we look forward to seeing the Chairman's  
13 amendment.

14 SENATOR GAETZ: Thank you very much,  
15 Leader.

16 Madam President, may I turn to you for any  
17 comments you might wish to make as our  
18 Vice-Chair?

19 SENATOR MARGOLIS: I thought this was an  
20 excellent meeting, it gave us an incredible  
21 amount of information, and I have to tell you  
22 that it happens really with every  
23 reapportionment, there's issues that have to be  
24 taken care of. I think it is a rare  
25 opportunity to take care of the issues that the

1 Supreme Court has sent us, and I will be  
2 delighted if we can get this done in the 15  
3 days. Thank you.

4 SENATOR GAETZ: As will I. Thank you very  
5 much, Madam President.

6 Are there members of the public who wish  
7 to speak to the Committee? Any members of the  
8 public wish to provide testimony as to the work  
9 of this Committee? Third call, any members of  
10 the public?

11 If not, President Margolis moves we 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 91 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 March, 2012.

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CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2014

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SENATE REAPPORTIONMENT COMMITTEE HEARING  
TUESDAY, MARCH 20, 2012  
VOLUME I  
PAGES 1-153

Transcribed by:  
CLARA C. ROTRUCK  
Court Reporter

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

2 SENATOR GAETZ: Good morning, everyone.  
3 Welcome back to paradise. If the committee  
4 members will please take their seats, and  
5 members of the public and the press who are  
6 here, we are delighted you've decided to join  
7 us, and if you will settle in, we will get  
8 started.

9 This is the Senate Committee on  
10 Reapportionment, and I would ask the  
11 administrative assistant to call the roll.

12 THE CLERK: Senator Gaetz?

13 SENATOR GAETZ: Here.

14 THE CLERK: Senator Margolis?

15 SENATOR MARGOLIS: Here.

16 THE CLERK: Senator Altman?

17 SENATOR ALTMAN: Here.

18 THE CLERK: Senator Benacquisto?

19 SENATOR BENACQUISTO: Here.

20 THE CLERK: Senator Braynon?

21 SENATOR BRAYNON: Here.

22 THE CLERK: Senator Bullard?

23 Senator Dean?

24 SENATOR DEAN: Here.

25 THE CLERK: Senator Detert?

1 SENATOR DETERT: Here.

2 THE CLERK: Senator Diaz de la Portilla?

3 SENATOR DIAZ DE LA PORTILLA: Here.

4 THE CLERK: Senator Evers?

5 SENATOR EVERS: Here.

6 THE CLERK: Senator Flores?

7 SENATOR FLORES: Here.

8 THE CLERK: Senator Garcia?

9 SENATOR GARCIA: Here.

10 THE CLERK: Senator Gardiner?

11 SENATOR GARDINER: Here.

12 THE CLERK: Senator Gibson?

13 SENATOR GIBSON: Here.

14 THE CLERK: Senator Hays?

15 SENATOR HAYS: Here.

16 THE CLERK: Senator Joyner?

17 SENATOR JOYNER: Here.

18 THE CLERK: Senator Latvala?

19 SENATOR LATVALA: Here.

20 THE CLERK: Senator Lynn?

21 SENATOR LYNN: Here.

22 THE CLERK: Senator Montford?

23 SENATOR MONTFORD: Here.

24 THE CLERK: Senator Negrón?

25 SENATOR NEGRON: Here.

1 THE CLERK: Senator Rich?

2 SENATOR RICH: Here.

3 THE CLERK: Senator Sachs?

4 SENATOR SACHS: Here.

5 THE CLERK: Senator Simmons?

6 SENATOR SIMMONS: Here.

7 THE CLERK: Senator Siplin?

8 SENATOR SIPLIN: Here.

9 THE CLERK: Senator Smith?

10 SENATOR SMITH: Here.

11 THE CLERK: Senator Sobel?

12 SENATOR SOBEL: Here.

13 THE CLERK: Senator Storms?

14 SENATOR STORMS: Here.

15 THE CLERK: Senator Thrasher?

16 SENATOR THRASHER: Here.

17 THE CLERK: Senator Wise?

18 SENATOR WISE: Here.

19 THE CLERK: Quorum present.

20 SENATOR GAETZ: Thank you very much. A  
21 quorum being present, the Committee is called  
22 to order, and I would like to start out with a  
23 few housekeeping details, if we may.

24 First I want to thank our professional  
25 staff, and especially John Guthrie. Since you

1 saw them last, they have been working virtually  
2 and literally around the clock to flesh out a  
3 proposal for your purview and your  
4 consideration today, and I deeply appreciate,  
5 Mr. Guthrie, your commitment and that of your  
6 staff. Thank you very, very much.

7 Senator Storms made a very good point the  
8 other day when we were last together, and that  
9 is to what extent can the public still have an  
10 opportunity to make their voice heard. And so  
11 at my suggestion and at Senator Storms'  
12 request, the committee staff sent e-mails to  
13 the thousands of individuals who had given us  
14 their e-mail address through the course of  
15 public hearings, testimony here in Tallahassee  
16 and them being in touch with us through e-mail,  
17 advising them that we were in extraordinary  
18 special session, inviting them to continue to  
19 provide any suggestions or criticisms,  
20 proposals they might have, pointing them toward  
21 the Supreme Court's opinion, and also pointing  
22 them toward other relevant information that  
23 they might want to use to review where we are.

24 I would just mention to Senators that all  
25 of the input that we have received, and we are



1 still gathering input as we speak, is found on  
2 the redistricting website, and I know that  
3 Senators have been consulting that site and  
4 checking the information that has come in, and  
5 we would encourage you to continue to do so.

6 Also I want to thank The Florida Channel.  
7 Over the weekend, they aired a program on the  
8 extraordinary special session, and then The  
9 Florida Channel cut some spots that were shown  
10 over the weekend to let people know about this  
11 meeting and about their opportunities for  
12 further input. So we thank The Florida Channel  
13 for that.

14 Today, just as in all of our meetings of  
15 this Committee all over the state and here in  
16 Tallahassee, we intend to provide an  
17 opportunity for public input, and I realize  
18 that -- that there are some people who live and  
19 work here in Tallahassee and may intend to  
20 spend the day with us. There may be others who  
21 have come from far, or might come at some point  
22 during the day, having driven in from somewhere  
23 else in the state, and if there are individuals  
24 who wish to testify who have driven in from out  
25 of town, if you'll simply contact one of the

1 committee staff, let us know that you are here,  
2 we will make sure that you don't have to wait  
3 until the very end of the day in order to share  
4 your public testimony. We will -- with the  
5 Committee's approval, we will probably take a  
6 point during the day where if there is public  
7 testimony, that we get the benefit of receiving  
8 it if there are people who have driven from out  
9 of town.

10 Today we have before us a proposed  
11 committee substitute that is bar code 977956.  
12 The maps, downloads and statistics for the  
13 proposed committee substitute were published on  
14 Saturday morning, I think at about 10:20,  
15 March 16th. We did that 48 hours ahead of the  
16 amendment deadline in order to give the public,  
17 the press and members of this Committee and  
18 other Senators and interested parties a chance  
19 to review the proposed committee substitute so  
20 that if they had their own amendments, they  
21 could offer some. And, indeed, some have been  
22 offered. There are five amendments that have  
23 been filed to the proposed committee  
24 substitute, and those amendments are on the  
25 agenda today.

1           The two plans that were received before  
2           the twelve o'clock deadline on Monday contained  
3           some deficiencies, and we could have taken the  
4           position that they were incomplete plans and  
5           therefore did not meet the timely filing  
6           deadline, but, instead, our professional staff  
7           worked with its sponsors to correct the issues,  
8           and so you have before you the amendments today  
9           in what the sponsors have identified as proper  
10          posture. I will recommend that the Committee  
11          allow those amendments to be introduced and  
12          heard, even though they came in pretty late in  
13          the game.

14           We have one more amendment deadline that  
15          was unanimously agreed to on the floor of the  
16          Senate last week. Tomorrow at 12:00 noon,  
17          tomorrow at 12:00 noon is the deadline for  
18          filing floor amendments for Thursday's special  
19          order.

20           Now, you know, I was one of those students  
21          in college who if you told me that the paper  
22          was due on Tuesday at 4:00, Tuesday at 3:00,  
23          you know, the first piece of paper was slipping  
24          into the old Remington Rand typewriter, and so  
25          I am -- I am guilty of living close to

1 deadlines myself, but let me -- let me just  
2 share with you that the two substantive -- two  
3 of the three substantive amendments that were  
4 filed on this bill today, on this PCS today,  
5 came in ten minutes -- one came in ten minutes  
6 before the noon deadline, one came in two  
7 minutes before the noon deadline.  
8 Technically -- and both amendments were faulty.  
9 But as I said, we -- we encouraged professional  
10 staff and they were very willing to work with  
11 the sponsors so you have good amendments before  
12 you today. But I would just ask you to be  
13 mindful that if you want your amendments to be  
14 timely filed and considered for the floor,  
15 please, let's remember that if you bring in an  
16 amendment, it may have to be burnished or  
17 worked on or de-burred to be technically  
18 correct, and then it has to be loaded up on the  
19 website so everyone can see it.

20 So there are three steps members should  
21 follow when filing an amendment for the floor  
22 for Thursday's special order. First, after  
23 completing a complete statewide map in District  
24 Builder, then Senators would use the "Submit  
25 Plan" feature to publish the plan to the Web.

1           And we would encourage you to alert  
2           redistricting staff that a plan is in the  
3           hopper so they can give it priority attention.  
4           We want our professional staff to work with  
5           you, but please bear in mind that if you can  
6           give them a little bit of advance notice, you  
7           are going have a better chance of meeting the  
8           amendment deadline. Once staff starts formal  
9           processing, it can take an hour or more to  
10          generate all of the maps, statistics and  
11          downloads and post them to the Web. So what I  
12          am saying is if you want to meet a noon  
13          deadline, please, please, please try to get the  
14          amendment in by 10:00 or 11:00 in the morning.

15                 Ones the plan appears on the Web, Senators  
16          will request that the Senate bill drafting  
17          office prepare an amendment using the full  
18          legal description which is published on the  
19          Web. And then finally, Senators would file the  
20          bar coded amendment with the Secretary's office  
21          when the bill reaches the floor. And, again,  
22          as I say, it takes time to complete these  
23          tasks, so if a Senator it is going to offer an  
24          amendment for the floor, the complete statewide  
25          plan should be delivered to our staff by 10:00

1 a.m. tomorrow. If it is not, then we can't  
2 give you a guarantee that the amendment will be  
3 timely for the floor. And early on this  
4 Committee said, and we represent a majority of  
5 the Senate, we said early on that we would  
6 resist last-minute amendments, we would resist  
7 ambushes, surprises, gotchas, and in order to  
8 maintain that integrity for all of us and for  
9 the full Senate, we would ask you, please, if  
10 you have floor amendments, get them in by 10:00  
11 tomorrow so that we can help you make sure they  
12 are technically correct so they are not  
13 discarded on the floor just for technical  
14 reasons.

15 Today, Senators, we will begin with a  
16 presentation of the PCS, then we will take up  
17 the two amendments by Senator Diaz de la  
18 Portilla, and then we will take up the two  
19 amendments sponsored by Senator Latvala. And  
20 before voting on the underlying PCS, we will  
21 take up Senator Altman's amendment. After  
22 considering all the amendments, we will debate  
23 the proposed committee substitute, which is  
24 plan S000S9016. S000S9016. And once we have  
25 concluded debate, then the Committee will vote

1 on the plan.

2 We have been given by the President and  
3 the Rules Chairman an ample amount of time  
4 today, going from 9:00 until 6:00. We may use  
5 every minute of that, or we may use less than  
6 that, but we're on a constitutional schedule  
7 now that we really can't extend, and so,  
8 therefore, my hope would be that at some point  
9 today we would consider a motion to vote at a  
10 time certain to give all of our amendment  
11 proposers an ample opportunity to be heard and  
12 then to have an opportunity to vote up or down  
13 on the PCS.

14 So if there are no questions about  
15 business for the day -- and let me stop there.  
16 Are there any procedural questions, any  
17 questions about how we are going forward?

18 Leader Rich, are you satisfied that we are  
19 all right? Leader Smith, are we okay? Leader  
20 Gardiner? Okay.

21 Then please move to tab one, and Senator  
22 Negron moves that the Committee take up the  
23 proposed committee substitute for Senate Joint  
24 Resolution 2-B. Show that motion adopted  
25 without objection. We are now on the proposed

1 committee substitute. And, Mr. Guthrie, our  
2 professional staff director, you are recognized  
3 to explain the PCS.

4 Oh, one other quick thing, and that is  
5 I -- there are one or two things that I can do  
6 pretty well. One of them is stop at the bagel  
7 shop. So there are bagels in the back and  
8 there is cream cheese in the back. We will  
9 later take up the question of what we want to  
10 do at lunch, but, please, feel free to go back  
11 and help yourself. No lox. Sobel -- Sobel has  
12 to criticize, always criticize, but there's  
13 bagels and cream cheese, and I think one of the  
14 cream cheese has lox in it, Senator Sobel,  
15 geez.

16 Mr. Guthrie, you are recognized.

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

18 What I would like to do in the next  
19 several minutes here this morning is walk the  
20 Committee through, Mr. Chairman, the life that  
21 you and I have lived over the past week as we  
22 have taken the direction that we got from the  
23 Constitution, and let's turn back to the  
24 Constitution, that is always where we start  
25 these deliberations, the input and insights we



1 got from our 24 public hearings and our many  
2 public meetings here in Tallahassee, and also  
3 now we have the order or opinion of the Florida  
4 Supreme Court, a very detailed order telling  
5 the Senate what must be done in order to create  
6 a redistricting plan for the State Senate that  
7 conforms with the judgment of the Court.

8 At our last meeting, we traced through  
9 what the Court found and then how it applied in  
10 certain areas of the state. Let's start with  
11 that again today.

12 First off, the Court acknowledges that it  
13 is the Legislature's constitutional duty to  
14 adopt a Joint Resolution of Apportionment  
15 conforming to the judgment of the Supreme  
16 Court. The Court held that eight Senate  
17 districts are constitutionally invalid, and the  
18 Court said that the Legislature should remedy  
19 the constitutional problems with respect to  
20 these districts, redrawing these districts and  
21 any affected districts in accordance with the  
22 standards as defined by this Court. So the  
23 Court identified eight districts that needed  
24 addressment in order to conform. The plan that  
25 is before you in the proposed committee

1 substitute actually impacts 24 districts.  
2 Three-fifths of the state is affected by the  
3 ripple effect of modifying the eight districts  
4 identified by the Court in order to conform  
5 with the Court's guidance and judgment.

6 Let's take a second here to look at the  
7 areas that were not affected by the -- by the  
8 proposed committee substitute. We have a  
9 district in the Panhandle -- actually, it  
10 includes the City of Tallahassee -- that is  
11 made up of 11 whole counties. The Court found  
12 that there was nothing wrong with that  
13 district, and so this plan does not modify that  
14 district.

15 Similarly, in the remainder of the Big  
16 Bend area, we have District 2 with nine whole  
17 counties and one partial county. The Court did  
18 not level any concerns or objections to  
19 District 2, or to the adjacent District 7,  
20 which is made up of three whole counties.

21 Going down the -- through the Tampa Bay  
22 area, Pasco County, Hernando County, Pinellas  
23 and Hillsborough County, with the exception of  
24 the district that extended into Lakeland, none  
25 of those districts were modified by the Court's

1 judgment.

2 The district in Sarasota, a compact  
3 district in all of Sarasota and a part of  
4 Charlotte County, the Court had no concerns  
5 with that district in the initial opinion, and  
6 this plan does not change it.

7 In Miami-Dade County, including the  
8 Section 5 counties of Monroe, Collier and  
9 Hendry, the Court did not have any -- or  
10 express any concerns with invalidity of the  
11 districts in all of Miami-Dade County or in the  
12 nearby Section 5 counties.

13 Every other part of the state, however,  
14 and so the western Panhandle, the eastern  
15 seaboard from Jacksonville through Orlando down  
16 to the Broward/Miami-Dade line, and the one  
17 district in southwest Florida, so Lee and  
18 Collier Counties are the -- those are the areas  
19 that were impacted by the remedy that is before  
20 the Committee here today.

21 SENATOR LATVALA: May I ask a question,  
22 Mr. Chairman?

23 SENATOR GAETZ: Senator Latvala for a  
24 question.

25 SENATOR LATVALA: While you are going

1 through the districts that were not impacted by  
2 the decision and thus we didn't change, it  
3 brings to mind a question. There were a number  
4 of the districts which were invalidated by the  
5 Court because of extra tentacles, so to speak,  
6 that in their judgment weren't required for the  
7 district to be functionally performing, I think  
8 the district in Jacksonville, maybe the  
9 district in Broward and Palm Beach County and  
10 so forth. District 40 in Miami has probably  
11 more of those tentacles than anywhere else.  
12 What would be the rationale that that district  
13 shouldn't be treated the same as the other  
14 districts that were invalidated for that same  
15 kind of situation?

16 SENATOR GAETZ: Mr. Guthrie?

17 MR. GUTHRIE: The Court was very explicit  
18 on what districts the Court believed that the  
19 Legislature needed to address in order to  
20 conform with the judgment of the Court. As to  
21 the particular district that you asked about,  
22 District 40, I believe that that district is  
23 considerably more compact than the Section  
24 5-covered district that it is replacing. The  
25 district that it is replacing also is in

1           Broward and Palm Beach Counties, and it has a  
2           tentacle, if you will, or an appendage  
3           extending up U.S. 1 to downtown Miami through  
4           some significantly populated areas. With the  
5           new district, the connection between the  
6           downtown communities and the Section 5 areas of  
7           Monroe, Hendry and Collier Counties is made  
8           through the areas east and west of the airport,  
9           which are not very heavily populated. It is a  
10          very straight line, it is a wider corridor than  
11          what was there before, and I -- I was pleased  
12          to recommend to this Committee that alignment  
13          for that district initially, and the Court  
14          found nothing wrong with it in its opinion. I  
15          don't see an imperative for the Committee to  
16          address it today.

17                 SENATOR GAETZ: Senator Latvala?

18                 SENATOR LATVALA: Do we have assurances --  
19                 you know, I've heard different things with  
20                 regard to -- I forget the -- is it called res  
21                 judicata or something like that that is the  
22                 legal term that says if you didn't bring an  
23                 argument, you can't bring it up later? I mean,  
24                 is there anything to prevent a group now that  
25                 they have seen the Supreme Court's decision on

1 other districts from challenging one of the  
2 districts that was not mentioned in the  
3 decision on the same grounds that they used to  
4 throw out another one? I mean, do we know --  
5 do we know that we are past that point in this  
6 process where that issue could be raised about  
7 District 40?

8 SENATOR GAETZ: Well, since you are  
9 speaking Latin, we will defer to competent  
10 counsel. Mr. Bardos.

11 MR. BARDOS: So the doctrine of res  
12 judicata ordinarily precludes claims from being  
13 litigated a second time after they have been  
14 decided once. The Court at oral argument, or  
15 some justices at least suggested that the Court  
16 is conducting a review that is not necessarily  
17 limited to those that the objectors are -- the  
18 claims that the objectors are bringing, but the  
19 Court's opinion doesn't speak to that issue, so  
20 -- and this is a very different proceeding from  
21 those that ordinarily go through the court  
22 system, so we don't have that sort of  
23 assurance.

24 Now, there were specific districts that --  
25 which the Court did uphold against specific

1 challenges, and there would be a certain  
2 assurance that -- that the Court wouldn't  
3 decide it a different way if the district  
4 hasn't changed. But where no challenge was  
5 brought, it is not clear really one way or  
6 another from the Court's opinion whether it  
7 would consider that as res judicata.

8 SENATOR LATVALA: Thank you.

9 SENATOR GAETZ: Thank you. Mr. Guthrie,  
10 please continue.

11 SENATOR BRAYNON: Mr. Chairman, I am down  
12 here in the back, the other way.

13 SENATOR GAETZ: Senator Braynon.

14 SENATOR BRAYNON: Yes.

15 SENATOR GAETZ: There you are. Just got  
16 off the airplane, looking good.

17 SENATOR BRAYNON: Thank you. On the same  
18 topic, the Court mentioned functional analysis  
19 of all the minority districts, and some of them  
20 are not numbered in 1 through -- in the, you  
21 know, 1, 3, 6, 9, 10, 29, 30, 34, and I would  
22 assume they asked, and I think they mentioned  
23 it, they wanted us to do a functional analysis  
24 to see if those districts would be valid as a  
25 result of, and if we did so, and if one was not

1           valid, then wouldn't it make the list of ones  
2           that we would have to change, and did we do a  
3           functional analysis of all of those minority  
4           districts that the Court specifically said we  
5           needed to do of all minority-majority  
6           districts?

7           SENATOR GAETZ: A good question, Senator  
8           Braynon, and I think -- if you wouldn't mind  
9           holding that question, I think there will be a  
10          presentation that will refer to functional  
11          analysis today, and if you don't believe that  
12          the presentation is responsive to your  
13          question, I promise you we will come back to  
14          it. Is that okay?

15          Go ahead, Mr. Guthrie.

16          MR. GUTHRIE: And I wasn't going to  
17          formally go through the functional analyses,  
18          but what I can assure Senator Braynon is what I  
19          assured the Committee when we met last week.  
20          Indeed, the Senate realized that the Supreme  
21          Court was directing that we conduct a  
22          functional analysis of the sort that the  
23          Supreme Court conducted and laid out in its  
24          opinion. So that is exactly what we did, we  
25          did it for all of the districts, all of the



1 minority districts in the state, and we did it  
2 for multiple plans. So -- so we have done it  
3 for all of the amendments that are before you  
4 today, we did it for the plan that passed the  
5 Legislature, we did it for this remedy plan.  
6 So, yes, the functional analyses have been  
7 done.

8 SENATOR GAETZ: And during the discussion  
9 of the specific plans, Senator Braynon, it  
10 would be entirely in order for you to ask about  
11 functional analysis as applied to any of those  
12 districts. Anything else at this point?

13 Okay. John, go ahead, please.

14 MR. GUTHRIE: The Supreme Court also  
15 addressed the City of Lakeland, we will recall.  
16 They said that the Legislature should determine  
17 whether it is feasible to utilize the municipal  
18 boundaries of Lakeland after applying the  
19 standards as defined by this Court. And  
20 finally, the Supreme Court directed that the  
21 Legislature should renumber the districts in an  
22 incumbent-neutral manner.

23 So that is the -- the guidelines or the  
24 conclusions from the Supreme Court order that  
25 this Committee received, that this Legislature

1 received, for coming up with a plan that will  
2 conform to the judgment of the Court.

3 SENATOR STORMS: Excuse me, a question, a  
4 question.

5 SENATOR GAETZ: Senator Storms?

6 SENATOR STORMS: Thank you, Mr. Chair. I  
7 have a question, a legal question, please.

8 SENATOR GAETZ: Yes, ma'am, go ahead,  
9 please.

10 SENATOR STORMS: On the issue of the  
11 numbering, is the issue of numbering severable?

12 SENATOR GAETZ: Well, that is an  
13 interesting question. Severable from what?

14 SENATOR STORMS: Well, if everything else  
15 -- I think -- Counsel, do you understand what I  
16 am asking?

17 SENATOR GAETZ: Severable -- well, let me  
18 just make sure that we are all on the same  
19 page, Senator, and then I will defer to  
20 counsel. Do you mean severable from our action  
21 today, or severable in the legal sense?

22 SENATOR STORMS: No, severable in the  
23 legal sense.

24 SENATOR GAETZ: All right.

25 SENATOR STORMS: For the benefit of the

1 non-attorneys, I am asking whether or not if  
2 all things are found to be constitutional and  
3 solely the numbering is found to be  
4 unconstitutional, is that -- does that  
5 necessarily require that the entire maps be  
6 redrawn, does that provide an impetus for the  
7 entire maps to be drawn, or is it severable, or  
8 four, do we not know?

9 SENATOR GAETZ: Mr. Bardos?

10 MR. BARDOS: So if we were to pass a plan  
11 now and all of the districts in their designs  
12 were upheld, but the numbering system were  
13 invalidated, then under the Constitution, the  
14 Court would have the ultimate responsibility to  
15 enact a valid redistricting plan. And we would  
16 certainly argue, and I think with a great deal  
17 of reason at that point, that the district  
18 designs, having been upheld, should stay in  
19 place and that the Court should simply impose a  
20 different numbering scheme on those districts.  
21 So we would certainly make that argument.  
22 There is no precedent here, so we don't have  
23 any definitive answers, but I think the better  
24 opinion probably is that if the district  
25 designs were upheld as valid and the district

1 numbering scheme were not, that it would be  
2 only the numbers that -- that would be  
3 substituted by the Court, and we would  
4 certainly make that argument.

5 SENATOR STORMS: Follow-up, please, Mr. --

6 SENATOR GAETZ: Of course, Senator Storms.

7 SENATOR STORMS: So as I understand -- so  
8 as I understand what you are saying, Counsel,  
9 because this has not ever been litigated before  
10 and this has not ever been the issue before the  
11 Supreme Court and the bottom line is we don't  
12 know, it would be our argument that it would be  
13 severable, but we don't know. And, in fact,  
14 that is the minority opinion of Justice Canady  
15 that the Court should not have intruded into  
16 the issue of numbering the districts anyway,  
17 but it would seem to me, since that is the  
18 minority position, that we are on a less solid  
19 ground on that point, because it has not been  
20 litigated in the past and the Court clearly  
21 appears to believe that this is -- that this is  
22 a major item within their purview and goes to  
23 Amendment 5 and 6. The minority opinion was  
24 that it was not applicable.

25 SENATOR GAETZ: And, Senator Storms, that

1 is a -- I think you make an excellent point,  
2 and let me -- let me just tell you that having  
3 spent many, many hours over the last few days  
4 on the telephone and face-to-face with our --  
5 members of our legal team, I think it is fair  
6 to say that -- that there is a smell test that  
7 is applied to our work, and if on its face --  
8 and I am not giving you a legal opinion, but I  
9 am telling you what the lawyers have advised me  
10 in language that even I can understand, and  
11 that is that if the numbering scheme appeared  
12 to be a clever methodology that had a  
13 predetermined result so that we would know in  
14 advance how it would affect people, that that  
15 could -- that could certainly put an aroma in  
16 the room, which then would affect the rest of  
17 our -- of our arguments. So I think you make a  
18 very good point, Senator Storms.

19 Anything else at this point? Yes, Leader  
20 Rich.

21 SENATOR RICH: Thank you, Mr. Chair.

22 Mr. Guthrie, I just want to check, it  
23 appears to me that there are -- just correct me  
24 if I am wrong -- 16 districts that were not  
25 touched by the revision. Is that correct?

1 SENATOR GAETZ: Mr. Guthrie.

2 MR. GUTHRIE: That is correct, yes.

3 SENATOR RICH: Okay.

4 MR. GUTHRIE: Twenty-four were affected,  
5 16 were not.

6 SENATOR RICH: Very good, thank you.

7 SENATOR GAETZ: Other questions at this  
8 point. If not, Mr. Guthrie, you are back in  
9 the center ring.

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

11 Last week we looked in some detail at the  
12 area that -- areas that the Supreme Court had  
13 focused on when they invalidated the eight  
14 Senate districts. The first area of concern to  
15 the Supreme Court was the western Panhandle  
16 where they -- and let's look at their findings  
17 exactly. They said the horizontal orientation  
18 of Panhandle districts violates compactness and  
19 utilization of political and geographical  
20 boundaries. The drawing of the districts  
21 sacrificed compactness, a constitutional  
22 imperative, in order to keep coastal  
23 communities together. Further, although the  
24 Senate followed numerous different boundaries  
25 when drawing District 1 and 3, often switching

1           between different types of boundaries within  
2           the space of a few miles, it sacrificed  
3           compactness to create a coastal district and an  
4           inland rural district.

5           So the districts that were included in the  
6           joint resolution, Joint Resolution 1176 that  
7           passed during the regular session, were --  
8           split five counties between Escambia and Bay.  
9           It put the coastal communities in those five  
10          counties in District 1. It put the inland  
11          rural communities in District 3. The Court  
12          invalidated that approach. The proposed  
13          committee substitute radically reforms those --  
14          those districts. Escambia County is now  
15          entirely contained in a single district. Santa  
16          Rosa County is entirely contained also in  
17          District 1. Going to the other side of the  
18          western Panhandle, Jackson County is now  
19          entirely in District 3, as is Washington,  
20          Holmes, all of Bay County, all of Walton  
21          County, and with Okaloosa County, the county  
22          needs to be divided in order for Districts 1  
23          and 3 to both have equal population. So what  
24          the remedial plan does -- we used as our  
25          guideline the suggestion that was made by

1 several of the citizen-submitted plans,  
2 including that of the League of Women Voters,  
3 and put the northern part of Okaloosa County  
4 with Escambia and Santa Rosa County. We used  
5 as the boundary line between these two  
6 districts, probably the cleanest line and most  
7 consonant with the language of the Constitution  
8 that we could possibly have found. What -- we  
9 used Interstate 10, which was sanctioned by the  
10 Supreme Court as an appropriate geographic  
11 boundary, we used the city boundary of the City  
12 of Crestview, traced around the city boundary  
13 of the City of Crestview. Now, we didn't  
14 follow every single knit and turn of that  
15 boundary, because that would create inholdings  
16 and discontinuities that were not desirable.  
17 And also in this process, we were equalizing  
18 the population. But after we left the City of  
19 Crestview, we came out on I-10, and so the  
20 boundary for these districts is almost entirely  
21 political and geographic boundaries. If we  
22 look at District -- District 1 and District 2  
23 in the remedial plan, 99 percent of the  
24 boundary of -- or one in three, 99 percent of  
25 the boundary of those two districts is



1 political or geographic boundaries.

2 SENATOR SACHS: Mr. Chair?

3 SENATOR GAETZ: Yes, Senator Sachs for a  
4 question.

5 SENATOR SACHS: Thank you very much.  
6 Thank you very much, Mr. Chairman, and this is  
7 really to Mr. Guthrie. In the Court's decision  
8 to find that this area of northwest Florida,  
9 the Panhandle, was not consistent with  
10 constitutional requirements in Tier 1 and Tier  
11 2, was one of the arguments that the  
12 compactness of this area, which is one of the  
13 factors that they look at, was not consistent  
14 with county lines?

15 SENATOR GAETZ: Mr. Guthrie.

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

17 The -- you will recall, Senator Sachs,  
18 from the months of public hearings and  
19 deliberations that we had in this Committee,  
20 the Senate took a view that compactness in the  
21 Constitution was not limited to making  
22 districts circular or making shapes that were  
23 geometrically compact. I believe it was the  
24 guidance that staff got from this Committee to  
25 use a functional definition of compactness and

1 try to recommend to the Committee in the maps  
2 that I drew, recommend districts that held  
3 together communities that made sense in terms  
4 of providing those communities political  
5 representation in the halls of Tallahassee and  
6 in the halls of Washington.

7 The -- in this particular case, the --  
8 what the majority opinion of the Supreme Court  
9 says is that compactness is a visual standard  
10 and it is a geometric standard. So the  
11 direction that this Committee was going before  
12 we had the benefit of the Court's order was one  
13 that the Court took issue with, and so they  
14 asked us to come up with districts that are  
15 geometrically compact, and that is what we have  
16 done here.

17 SENATOR SACHS: If I have a  
18 follow-through, sir?

19 SENATOR GAETZ: Of course, Senator Sachs.

20 SENATOR SACHS: Thank you, sir.

21 Mr. Guthrie, I believe that the Court  
22 referred to some of our many public hearings,  
23 that the folks wanted more of a horizontal  
24 separation in this area in the northwest, but  
25 that -- so some people thought that the coastal

1 areas and the inner areas would be more  
2 consistent. However, the Court found that the  
3 way to determine compactness in the northwest  
4 area would be more aligned county lines. And I  
5 think that what you have done very well, you  
6 and this staff have now separated these  
7 districts in the northwest area to follow a  
8 geographic designation that is county line, and  
9 I think the Court even referred to they -- all  
10 by county line except for Okaloosa, and so that  
11 that has been cured, that one argument that  
12 they had against communities of interest  
13 showing that a county line would be more in  
14 tune with the constitutional requirement of  
15 compactness. Is that -- is that your idea of  
16 curing the -- you know, the alleged defects  
17 that the Court found in this northwest area,  
18 sir?

19 SENATOR GAETZ: Mr. Guthrie.

20 MR. GUTHRIE: I think that it is fair to  
21 say that most Florida counties themselves are  
22 relatively compact, unlike city boundaries in  
23 the state where cities tend to be non-compact,  
24 but county boundaries are more normal and more  
25 regular. So if it works out as it does in many

1 cases that by putting whole counties together  
2 you can create districts of the appropriate  
3 population, I think the Court is saying that  
4 that is a desire -- or a good approach for one  
5 to consider.

6 SENATOR GAETZ: Leader Smith?

7 SENATOR SMITH: Another thing that came up  
8 in the court case, I just want to know,  
9 incumbents, are there any incumbents running  
10 against each other with the way you have split  
11 Okaloosa?

12 SENATOR GAETZ: Mr. Guthrie.

13 MR. GUTHRIE: The answer is I still do not  
14 know. I have an idea, but I do not know. At  
15 Chairman Gaetz' direction, I and my staff have  
16 insulated ourselves from learning where  
17 incumbents live, we have insulated ourselves  
18 from using political demographics in order to  
19 try to engineer outcomes, we have -- we did not  
20 do that at the start, we did not do that along  
21 the way and we still have not done that. So I  
22 do -- I happen to have visited Senator Gaetz,  
23 you know, one of his homes in the past year. I  
24 can tell you where that one is.

25 SENATOR GAETZ: Unlike Senator McCain, I

1 know how many I have.

2 MR. GUTHRIE: I have sent him Fed Ex  
3 packages to another of his homes, so if I  
4 wanted to look up on the map where he lived, I  
5 could do that, but I haven't done that.

6 SENATOR GAETZ: Senator Smith.

7 SENATOR SMITH: And I understand that and  
8 can appreciate that, Mr. Guthrie. The concern  
9 is, I mean, when the Court looked at it, they  
10 looked and they specifically mentioned, you  
11 know, incumbent protection, and so at some  
12 level and at some point, I think that is  
13 something that we should look at so we don't  
14 have a prima facie case of no incumbents  
15 running against each other.

16 I think you did a pretty good job up here,  
17 but as we go down the map -- and I understand  
18 your standpoint of not wanting to know so you  
19 can not be looked at incumbent protection, but  
20 on the other side, if we don't know, we can  
21 still be charged with that. So that is  
22 something that we should look into as we go  
23 down this map.

24 SENATOR GAETZ: And that -- good point,  
25 Senator Smith. And let me just say, because

1           this -- the question is, in effect, about me, I  
2           live at 24 Bluewater Point in Niceville, and if  
3           you look at that map, Niceville is in the  
4           southeast corner of Okaloosa County.

5                     SENATOR SMITH:   Okay.

6                     SENATOR GAETZ:   My good friend and  
7           colleague, Senator Evers, lives in Baker.  
8           Baker is in northwest Okaloosa County.  The  
9           configuration -- and let me ask Mr. Guthrie to  
10          either confirm or deny this.  The configuration  
11          of Okaloosa County which is in the PCS is one  
12          that was recommended by the League of Women  
13          Voters, is that not correct?

14                    MR. GUTHRIE:   That is correct.

15                    SENATOR GAETZ:   Okay.  For the record, and  
16          the records are public, you can see where I own  
17          property, and my wife was actually looking at  
18          some redoing of some property that we own in  
19          Escambia County last night, so I have the  
20          advantage of having a wife who does pretty well  
21          with real estate, so I could -- I can probably  
22          -- unfortunately, Senator Montford has not  
23          allowed me up until now to own anything in  
24          Jackson, Washington or Holmes County, but that  
25          is always a possibility.

1 Leader Rich.

2 SENATOR RICH: Thank you, Mr. Chair.

3 So I just want to clarify. So are you  
4 saying, Mr. Guthrie -- or Senator Gaetz, you  
5 can answer this as well -- so we don't know --  
6 the official position is we don't know in this  
7 map if there are any incumbents running against  
8 each other, that is the official position?

9 SENATOR GAETZ: Well, Leader Rich, we know  
10 what we read in the papers, and, of course, the  
11 papers are always correct, and so we know that  
12 there are incumbents that are pitted against  
13 each other based on what the media has told us  
14 and that there are well-known challengers who  
15 are pitted against each other, but I -- if this  
16 Committee directs that -- that the professional  
17 staff identify on the maps where incumbents and  
18 challengers live, we will take this Committee's  
19 instructions and do that. Up until now, we've  
20 -- we've not felt it appropriate to do that  
21 because we thought that it might suggest  
22 intent, but we will be happy to take whatever  
23 instructions this Committee gives us.

24 Senator Siplin.

25 SENATOR SIPLIN: Thank you, Mr. Chair.

1           What is the -- what is the law on  
2           residency? Say, for instance, it has been  
3           declared constitutional, the current map that  
4           we are looking at right now, and then Senator  
5           Gaetz moves to District 1, would he be  
6           prevented from running from office there?

7           SENATOR GAETZ: Since that is a legal  
8           question, we will defer to Mr. Bardos.

9           MR. BARDOS: My understanding is that the  
10          candidate must reside in the district as of the  
11          general election day.

12          SENATOR SIPLIN: Okay. Mr. Chair?

13          SENATOR GAETZ: Yes, Senator Siplin.

14          SENATOR SIPLIN: So since I am allegedly  
15          termed out and I am in District 19 or District  
16          12, if I were to move to the so-called Hispanic  
17          seat, would I be allowed to run for that seat?

18          SENATOR GAETZ: I don't think so, but we  
19          will ask Mr. Bardos.

20          MR. BARDOS: Right, the answer would be  
21          no. The term limits provision is different  
22          from the residency provision, and that would  
23          prevent someone who has already served eight  
24          years in the Senate from running for any Senate  
25          seat.



1           SENATOR GAETZ: But, Senator Siplin, if  
2           Senator Evers were to move to Niceville and if  
3           Senator Evers were to teach me how to operate  
4           his tractor and I were to move to Baker, that  
5           would be permissible, because neither of us are  
6           termed out at this point.

7           SENATOR SIPLIN: I mean -- may I follow  
8           up?

9           SENATOR GAETZ: Of course you can.

10          SENATOR SIPLIN: I am not clear on this.  
11          So I am in District 12 right now, and there is  
12          also District 14. So if I were to move from  
13          District 12, that is constitutional by the  
14          Supreme Court as of qualifying date, and move  
15          to District 14, you are saying I wouldn't be  
16          able to run for that seat?

17          SENATOR GAETZ: Mr. Bardos.

18          MR. BARDOS: The term limits provision  
19          really does not take notice of which district  
20          you are running in, but what office you are  
21          running for. So if one is term limited from  
22          the Senate, then simply changing districts  
23          wouldn't -- wouldn't relieve one from that  
24          encumbrance.

25          SENATOR GAETZ: Senator Latvala.

1           SENATOR LATVALA: Thank you, Mr. Chairman.

2           Three quick things. First of all, to  
3           Senator Siplin, in 2002 when I was looking at  
4           trying to stay here, I looked at every scheme  
5           you could possibly think of and then some to  
6           how to get around term limits, and there's not  
7           any.

8           The second thing, Mr. Chairman, I own a  
9           house in Steinhatchee in Senator Montford's  
10          district, and for the right price, if you'd  
11          like it, we could make that happen, but the --

12          SENATOR GAETZ: My wife is watching right  
13          now.

14          SENATOR LATVALA: The third thing, the  
15          serious question is, it appears that from  
16          Senator Smith's question, the inference is that  
17          perhaps we should like make a situation happen  
18          that we have incumbents running together, and  
19          in the same district, and what I would like to  
20          ask our counsel is that if we -- if we set upon  
21          ourselves to do that, would we not in fact be  
22          violating the Constitution if we set upon  
23          ourselves to -- we established a goal that we are  
24          going to have six incumbents have to run  
25          against each other, would we not on the face of

1           it be violating the Constitution by -- by  
2           making decisions based on where incumbents  
3           live?

4           SENATOR GAETZ:  Mr. Bardos, did you get  
5           that question?

6           MR. BARDOS:  Yes, I did.

7           SENATOR GAETZ:  Could you respond, please?

8           MR. BARDOS:  Sure.  Right, the -- I think  
9           if we were deliberately to pair incumbents  
10          to -- then we would be intentionally  
11          disfavoring.  So it is a two-way street.  The  
12          Constitution prohibits an intent to favor, but  
13          it also prohibits an intent to disfavor, and I  
14          think the Court's opinion is quite clear that  
15          the purpose of the provision was to ensure  
16          neutrality and drawing districts that don't  
17          have the intent to favor or disfavor  
18          incumbents.

19          SENATOR GAETZ:  Anything else?  Yes, I'm  
20          sorry, Senator Sachs, and then we will move  
21          down the line.

22          SENATOR SACHS:  Thank you very much, Mr.  
23          Chairman.

24                 I think that what we are looking at is we  
25          need to go back to the Supreme Court's decision

1           when it looked at -- when it advised us,  
2           recommended to us, that we look at every area  
3           of the eight that they referred to in the light  
4           that they gave us the constitutional two-tier  
5           structure. And when I asked the questions  
6           about compactness and county lines, the Court  
7           specifically said for this northwest area. The  
8           way it review this is in -- is using the prism  
9           of compactness that they define as that  
10          constitutional requirement. And they referred  
11          to this area that each of -- that this district  
12          that is -- which is in blue, is defined by the  
13          county lines, except for Okaloosa, which they  
14          found to be fine.

15                 So I think it is interesting as we go  
16          through the map to use the constitutional basis  
17          that the Supreme Court referred to in its very  
18          first part of its decision, which is we look at  
19          everything not in relation to incumbent or  
20          non-incumbent or other factors such as  
21          communities of interest, but we look at the  
22          prism, through the prism of that first tier,  
23          which is compactness, which is defined by, in  
24          their eyes, geographical designations of -- of  
25          county lines. So I think that as we go through

1 the whole map, Mr. Chairman, we need to make  
2 sure that we follow that Supreme Court -- we  
3 should follow the Supreme Court decision in  
4 looking at this in terms of compactness, which  
5 is beautifully expressed in this first part of  
6 the Panhandle, which is now we are looking at  
7 it in terms of county lines. And I just wanted  
8 to remind us that that is what we need to look  
9 at, every area of the map, specifically those  
10 eight sections that they referred to.

11 SENATOR GAETZ: Thank you, Senator Sachs.  
12 I would just point out, just so we are all on  
13 the same page, if you look at Escambia County  
14 by itself, it looks a lot like New Jersey and  
15 hardly compact by any mathematical formula, but  
16 when taken together with Santa Rosa, now it  
17 starts looking compact.

18 Senator Gibson and then Senator Montford.

19 SENATOR GIBSON: Thank you, Mr. Chair.

20 My question kind of went to the whole  
21 compactness thing, too, because it seems  
22 that the -- well, first of all, there is no  
23 constitutional definition for compact, but it  
24 seems that the Court talks about visually  
25 compact. I am not sure what that is either.

1           So my question goes to how have you determined  
2           what number or distance or something is fitting  
3           whatever we are using as compact, not only in  
4           this area, but throughout the state? So are  
5           there differences in terms of where the lines  
6           from a district start and end, and if it is not  
7           a straight line, if it is more like a circle,  
8           is there a certain circumference where  
9           districts are circular as opposed to elongated?  
10          How are we using that not only in this area  
11          again -- sorry to be repetitive -- in this area  
12          of the state, but in the rest of the state,  
13          because when you look at it, none of it looks  
14          the same?

15                 SENATOR GAETZ: Great question, and it  
16                 leads -- there are actually three measurements  
17                 of compactness, all of which we have used, all  
18                 of which we will report to you, but, Mr.  
19                 Guthrie, can you articulate those three methods  
20                 and what they mean and maybe give Senator  
21                 Gibson an example?

22                 MR. GUTHRIE: I will get to that, and  
23                 actually, there are five numbers that I and my  
24                 staff have been looking at in terms of metrics  
25                 on the compactness of districts, but before I

1 go there, let's talk about the visual test that  
2 the Supreme Court's opinion talks about and how  
3 that applies.

4           These formulas that are used for measuring  
5 compactness as a geometric property of  
6 geography is -- are really pretty arcane and  
7 not much use to people who are drawing maps.  
8 So as we are in the business of trying to draw  
9 districts or make maps that will conform with  
10 the judgment of the Court, the geometric  
11 compactness matters, we really used our eyes as  
12 the -- as the initial guide of how -- how to  
13 create something that looked like it was  
14 compact and looked like it would function as a  
15 compact district. Then when we were finished  
16 drawing the plan, we would go through and look  
17 at the entire plan, and in terms of, as I said,  
18 five metrics that I considered, those five are  
19 what is the outer perimeter of the district.  
20 If you had to walk the boundary of that  
21 district every step of the way, how far would  
22 you go, what is the outer perimeter? That is a  
23 general measure of how far-flung the district  
24 is and also of how irregular the boundary is.  
25 So just as a simple measure that we all can

1 understand, how far would you have to walk to  
2 trace the border of that district every step of  
3 the way?

4 The next factor that we like to look at is  
5 -- and you alluded to it, Senator Gibson -- is  
6 the end-to-end distance or -- of the border.  
7 So you take the two furthest most points of the  
8 district and just measure as the crow flies how  
9 far apart are they. So a district that is in  
10 an urban area is going to have a very short  
11 end-to-end distance. A district that is in a  
12 rural area, such as Senator Montford's, no  
13 matter how compact it is, it is going to have a  
14 lengthy end-to-end distance.

15 And then we get to the three most common  
16 geometric measures of compactness, two of which  
17 were referred to by the Supreme Court in its  
18 opinion, a third which is of equal weight among  
19 the political scientists and mathematicians who  
20 like to look at geometric compactness, and  
21 let's go through those.

22 We will start with the two that were --  
23 were alluded to in the Supreme Court's opinion.  
24 The first is what they called the Reock score  
25 or the Reock ratio. How we compute the Reock



1 ratio for a district is we -- I wish I had some  
2 toys here to show you how this works, but you  
3 squeeze down a circle until the circle won't  
4 squeeze anymore, fitting the district inside of  
5 it, okay, you squeeze a circle around the  
6 district. And then the Reock ratio is simply  
7 the ratio of the area of the district, what is  
8 the square mileage of the district, versus the  
9 square mileage,  $\pi$  equals  $2R$  square, the square  
10 mileage of the circumscribing circle. A lot of  
11 political scientists call that the dispersion  
12 ratio instead of the Reock score. A lot of  
13 people have trouble pronouncing the term Reock.  
14 Dispersion is a little bit easier. So that is  
15 the Reock score. It is basically a measure of  
16 how circular is the district. If the district  
17 is circle -- is a circle, it will have a score  
18 of one. If the district is very, very  
19 irregular -- excuse me, not irregular. If the  
20 district is very long and very narrow, it will  
21 have a very low Reock score. So Reock is a  
22 measure of how circular is the district.

23 The second measure that the Supreme Court  
24 alluded to in its opinion is called the convex  
25 hull ratio. It is similar to the dispersion

1 ratio or the Reock score, but there is a  
2 difference. Instead of saying we are going to  
3 squeeze a circle to fit around the district,  
4 the convex hull wraps a string around the outer  
5 edge, or imagine putting a rubber band around  
6 the outer edge of your district, okay. That  
7 creates a geometric shape which mathematicians  
8 call a convex hull, and what convex hull simply  
9 means is it doesn't have any intrusions into  
10 it. All of the angles of that shape are convex  
11 angles. Taking you back to elementary school  
12 geometry here, I know. That is the convex  
13 hull. The convex hull ratio is computed very  
14 similarly to the Reock score or the dispersion  
15 ratio. It simply is the area of the circle --  
16 or, excuse me, the area of the district, again,  
17 divided by the area of this convex hull shape.  
18 So, again, the -- a score of one is as high as  
19 you can get. That is a perfectly convex  
20 district. A score of zero means that the  
21 district has a lot of protrusions. So if you  
22 had a district that was shaped like a C, okay,  
23 that is -- that is an example of a district  
24 that would have a very low convex hull score,  
25 because the circle that surrounds it would be

1 large -- and can you visualize what I am  
2 talking about? So a C-shaped district or a  
3 state -- well, no, a C-shaped district would be  
4 the best example of where the convex hull will  
5 penalize you with a low -- a low score.

6 The third common -- it is really one of  
7 the two most common measures used by  
8 mathematicians and political scientists who are  
9 writing all of the academic articles about  
10 geometric compactness, it is pretty easy to  
11 calculate as well, and ease of calculation is  
12 another reason why some of these measures are  
13 popular. The third measure is what they call  
14 the perimeter score, perimeter ratio, or it is  
15 also called the Polsby-Popper score of a  
16 district. And what that measures -- again, I  
17 will give you a sort of geometric explanation.  
18 Remember in the -- with the perimeter, we were  
19 tracing the boundary of the district and  
20 measuring how -- how long that boundary is.  
21 What the Polsby-Popper score wants you to do is  
22 you measure that distance, you wrap the string  
23 around every nook and cranny of the district,  
24 but then we are going to blow it up, we are  
25 going to blow up that string, the length of

1           that string, to make the largest circle that we  
2           can with a circumference the same as the length  
3           of that string. And then the ratio is the same  
4           as before, you take the area of the district,  
5           divided by the area of that circle, we call it  
6           the perimeter circle, and that is your  
7           Polsby-Popper score. So what that penalizes  
8           you for is a district that has a lot of  
9           irregularities in the border.

10                   And it is probably useful, particularly in  
11           a state like Florida, to look at all of these  
12           scores in order to get an assessment of whether  
13           districts are geometrically compact or not.  
14           There are some areas of the state where --  
15           where try as you might, you are not going to  
16           make circular districts. There are areas where  
17           creating circular districts would lead to  
18           bazaar outcomes. You could draw a circular  
19           district that put Ft. Myers and West Palm Beach  
20           together into the same district and had a very  
21           good Reock score, but nobody would say that  
22           that is a compact district.

23                   So those are your geometric measures. We  
24           have been calculating them since December. I  
25           have never bored -- I was kind, I have never

1           bored this Committee with that explanation, but  
2           now that we know that the Supreme Court, like  
3           us, is looking at geometric compactness, and  
4           that our plans will be evaluated in terms of  
5           how it scores on geometric compactness, I think  
6           it is appropriate for the Committee to hear the  
7           full -- the full-fledge explanation, and that  
8           was a lot of geometry. Would you all like to  
9           pose some questions on that?

10           SENATOR GAETZ: No, I got -- I got a C in  
11           geometry. It was my worst grade. But we  
12           also -- it is fair to say, I think, Mr.  
13           Guthrie, that we have those scores for each  
14           district, and that will be remarked to.

15           Senator Gibson to follow up, and then we  
16           will go to Senator Montford.

17           SENATOR GIBSON: Thank you, Mr. Chair. I  
18           just have two follow-ups.

19           One is, do you apply all of these formulas  
20           to the districts as they are currently drawn?  
21           And the second question then goes to whether  
22           you use all of them in every district, or you  
23           decide to use -- does one work one place and  
24           not the other, and how do you decide which one  
25           you are going to use in what area of the --

1           SENATOR GAETZ: Mr. Guthrie.

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

3           We perform the calculations on every  
4           district in every plan. So anytime since  
5           December -- that is when we enhanced our data  
6           reports that we post on-line, in mid-December.  
7           I know that date because you remember Bruce  
8           King? Bruce King was the one who liked to draw  
9           square districts, he was one of our public  
10          submitters, and we had some correspondence  
11          going back and forth with Bruce King over the  
12          years -- or over the months, and I found an  
13          e-mail that I sent to him on December 15th that  
14          said, okay, you've been asking us to put our  
15          geometric measures on-line, let me tell you  
16          where you can go to find them.

17          Now, we do not calculate the ratios, okay.  
18          What we do is provide in the shape files that  
19          are available as downloads on the Senate  
20          redistricting site, all of the geometric  
21          shapes: The circumscribing circle, the  
22          perimeter circle, the area of the district,  
23          everything that you need in order to calculate  
24          the ratios yourself.

25          I am a bit offended, I must say, by folks

1           who throw out these scores and talk about what  
2           you need and what you don't need and couldn't  
3           explain for the life of them what the -- what  
4           the basis of those scores is, and so I didn't  
5           want to confuse the issue. I knew that someday  
6           in court I would have an opportunity to talk  
7           about Reock scores and Polsby-Popper scores and  
8           all of the other measures of compactness, and  
9           just left it out of the legislative debate, but  
10          all of the raw data that are required for  
11          calculating those have been in the shape files  
12          that are on the Senate website. They are  
13          packaged in a DBF file that is part of the  
14          shape file, and our documentation says -- tells  
15          folks who are -- who understand what these  
16          measures mean, how they can get them, how they  
17          can apply them.

18                 SENATOR GAETZ: But in answer to it  
19                 Senator Gibson's question, and I don't mean to  
20                 put words in your mouth, Senator Gibson, but I  
21                 think one of your points was in describing and  
22                 then ultimately before the Supreme Court in  
23                 defending those districts, we are making a  
24                 consistent use of these methodologies. We are  
25                 not saying that we are going to use one

1 methodology one place, and another one in  
2 another place, and have an inconsistent defense  
3 of our plan. We are able to describe and  
4 defend the plan in a consistent manner. Is  
5 that not the case?

6 MR. GUTHRIE: That is correct.

7 SENATOR GAETZ: Okay. And now we will go  
8 to Senator Montford and then Senator Diaz de la  
9 Portilla and then we will go back to Senator  
10 Sobel. Senator Montford.

11 SENATOR MONTFORD: Thank you, Mr. Chair.  
12 A question to Mr. Guthrie.

13 Mr. Guthrie, when -- throughout this  
14 process for the last nine months, I think we  
15 have off and on had discussion of which of the  
16 criteria that we are using is most important,  
17 is this one the most important, this one,  
18 obviously -- and some may be in conflict. Did  
19 the Court in either directly or indirectly rank  
20 the criteria, if you will; in other words, one  
21 might be more important than the other?

22 SENATOR GAETZ: Mr. Guthrie.

23 MR. GUTHRIE: I believe that the Court did  
24 do that. Perhaps we could refer to Mr. Bardos  
25 for explaining how, but, yes, I believe that



1 the Court gave us good direction on how they  
2 thought these standards should be defined and  
3 how they could be applied in unison in drawing  
4 and evaluating districts.

5 SENATOR GAETZ: Mr. Guthrie. I'm sorry,  
6 Mr. Bardos.

7 MR. BARDOS: The Court followed the  
8 hierarchy established by the Constitution,  
9 which shows two tiers. So in the first tier,  
10 we have the prohibition against political  
11 favoritism and the protection for minority  
12 voters and the requirement of contiguity, and  
13 in the second tier, we have compactness and  
14 equal populations and political and  
15 geographical boundaries. So the Court followed  
16 the constitutional -- constitutional hierarchy.

17 It did note in the second tier that the  
18 population requirement and the requirement to  
19 follow political and geographical boundaries  
20 are qualified by the words "practicable" and  
21 "feasible," and the compactness requirement is  
22 not. So it recognized that where there are  
23 those qualifications, there is -- there is  
24 perhaps more -- more flexibility, or at least a  
25 recognition that it is not possible in the case

1 of political and geographical boundaries, for  
2 example, to follow every political and  
3 geographical boundary; whereas, the compactness  
4 requirement was stated far more categorically.  
5 So to that extent, there are those differences,  
6 but the Court followed the hierarchy  
7 established in the Constitution using the  
8 two-tier system.

9 SENATOR GAETZ: Senator Diaz de la  
10 Portilla.

11 SENATOR MONTFORD: Mr. Chair, I got --

12 SENATOR GAETZ: I apologize, Senator  
13 Montford. Did you wish to follow up?

14 SENATOR MONTFORD: Yes, thank you.

15 SENATOR GAETZ: Please.

16 SENATOR MONTFORD: If you look at the  
17 districts that the Court identified, was there  
18 a consistency in the concerns brought by the  
19 Court? In other words, was there one  
20 consistent concern, or was it, you know, we  
21 don't like this one about this one and that  
22 one?

23 SENATOR GAETZ: Mr. Guthrie.

24 MR. GUTHRIE: I am sure that question was  
25 not directed at me. I -- the Court gave us

1 direction with each of the eight areas of  
2 concern, and in coming up with this proposed  
3 committee substitute, what I and my staff have  
4 prepared for you is our best recommendation as  
5 to how to address the Court's concerns with  
6 those individual areas.

7 SENATOR GAETZ: I think, Senator Montford,  
8 that a layman's reading would suggest that  
9 while the Court had a series of consistent  
10 concerns, that there were specific concerns  
11 addressed to specific districts. So there was  
12 not one cookie-cutter answer that could have  
13 answered all of the concerns that the Court  
14 articulated for all of the districts. Is that  
15 fair, Mr. Bardos?

16 MR. BARDOS: I think that is fair, yes.

17 SENATOR GAETZ: Did you have something  
18 else, Senator Montford?

19 SENATOR MONTFORD: Yeah, I guess -- I  
20 mean, for example, compactness, I mean, was  
21 that the overriding concern across all the  
22 districts, or was -- I gather it was -- each  
23 individual district had its own concern  
24 expressed by the Court, that is a better way to  
25 say it, is that right?

1           SENATOR GAETZ: Mr. Bardos, could you  
2 respond to that?

3           MR. BARDOS: I didn't hear.

4           SENATOR MONTFORD: Each of the districts  
5 had their own individual concerns as expressed  
6 by the Court, so we looked at these  
7 individually district by district?

8           MR. BARDOS: Right, sir.

9           SENATOR MONTFORD: Okay. Thank you.

10          SENATOR GAETZ: Okay. Senator Diaz de la  
11 Portilla.

12          SENATOR DIAZ DE LA PORTILLA: Thank you,  
13 Mr. Chairman. I am going to have to use  
14 Senator Benacquisto's mike.

15          SENATOR GAETZ: It will cost you.

16          SENATOR DIAZ DE LA PORTILLA: By the way,  
17 I would like to compliment you on your haircut.  
18 It is very Brian Pitts, high and tight, very  
19 nice.

20          SENATOR GAETZ: It was \$12 and worth every  
21 penny of it.

22          SENATOR DIAZ DE LA PORTILLA: Worth every  
23 penny. Thank you, Mr. Chairman.

24                 My question is to -- just to follow up on  
25 a question asked previously by Senator Latvala,

1           it's to Mr. Bardos. While the Court did give  
2           us specific direction on eight districts that  
3           it found deficient, and I guess ostensibly by  
4           not really commenting on any of the other  
5           districts, kind of said those were okay, my  
6           understanding of Mr. Bardos' answer to Senator  
7           Latvala's question was that nothing would  
8           prevent the Court from taking a new look or a  
9           re-look at every district once the PCB --  
10          assuming the PCB is passed and moves forward.  
11          I just want to get some clarification from Mr.  
12          Bardos on that. Is that correct, is my  
13          understanding --

14                 SENATOR GAETZ: Mr. Bardos, are you  
15          prepared to psychoanalyze the Supreme Court?

16                 MR. BARDOS: Well, we are in uncharted  
17          waters, so I think the best answer is we don't  
18          know the answer. I do think though that there  
19          are -- there are some observations that the  
20          Court made in its opinion that give us some  
21          assurance that it did look at all of the  
22          districts. So, for example, it says generally  
23          statewide that there -- that the minority  
24          voting rights provisions were complied with.  
25          It goes through and it identifies those

1 districts which are visually non-compact or  
2 which have low compactness measurements. So I  
3 think the Court does make some statewide  
4 conclusions in its opinion, and it also gives  
5 specific instructions which were on one of the  
6 slides shown earlier, as to what the  
7 Legislature should do when it reconvenes. So  
8 while nothing -- while we don't know the answer  
9 to the question, we do know that the Court gave  
10 at least some indications that it did take a  
11 statewide view with respect to at least some of  
12 the standards.

13 SENATOR DIAZ DE LA PORTILLA: Follow-up,  
14 Mr. Chair?

15 SENATOR GAETZ: Yes, of course.

16 SENATOR DIAZ DE LA PORTILLA: My question  
17 is -- is a legal one, not a psychoanalysis one.  
18 My legal question is, is there any legal  
19 impediment to the Court taking a look at all  
20 the districts de novo once the new map goes  
21 back?

22 SENATOR GAETZ: Mr. Bardos.

23 MR. BARDOS: There is no clear legal  
24 impediment. There will be arguments made on  
25 both sides, I am sure, but there is no clear

1 legal impediment.

2 SENATOR GAETZ: Senator Sobel, you are  
3 recognized.

4 SENATOR SOBEL: Thank you, Mr. Chair. I  
5 want to go back to the residency requirement  
6 that Mr. --

7 SENATOR GAETZ: Senator Sobel, could you  
8 speak a little closer to the mike, please,  
9 ma'am?

10 SENATOR SOBEL: Yes. I want to go back to  
11 the residency requirement that we were talking  
12 about, and I am looking at Article III of the  
13 Constitution of Florida about qualifications.  
14 It says, "Each legislator shall be at least 21  
15 years of age, an elector and resident of the  
16 district from which elected, and shall have  
17 resided in the state for a period of two years  
18 prior to election."

19 So for clarification for Mr. Bardos, the  
20 person, while they are running, does not have  
21 to live in the district that they are seeking  
22 to be elected in, is that correct?

23 SENATOR GAETZ: Mr. Bardos?

24 MR. BARDOS: That is my understanding. I  
25 haven't looked at that provision in a long

1 time, but that is my understanding.

2 SENATOR SOBEL: He said yes?

3 SENATOR GAETZ: Did you wish to follow up,  
4 ma'am?

5 SENATOR SOBEL: I couldn't hear what he  
6 said. He said yes?

7 SENATOR GAETZ: Mr. Bardos, could you  
8 articulate that again, please?

9 MR. BARDOS: Yes, I haven't looked at that  
10 provision in a long time, but that is my  
11 recollection that that is correct.

12 SENATOR SOBEL: Okay, thank you.

13 SENATOR GAETZ: And just so you are aware,  
14 Cynthia Tunnickliff is part of our legal team,  
15 and she is the young lady sitting next to Mr.  
16 Guthrie, so would you care to comment on that  
17 for Senator Sobel? Into the mike, please.

18 MS. TUNNICLIFF: I agree with Mr. Bardos.  
19 I think you have to be there -- you have to be  
20 a resident on the date of the election --

21 SENATOR GAETZ: I'm sorry, ma'am, we can't  
22 hear you. Into the mike, please.

23 MS. TUNNICLIFF: Yes, I think -- I agree  
24 with Mr. Bardos, you have to be a resident of  
25 the district at the time of the -- you are



1 elected.

2 SENATOR GAETZ: One more time,

3 Ms. Tunnicliff. Into the mike loudly.

4 MS. TUNNICLIFF: Mike doesn't work  
5 apparently. I agree with Mr. Bardos.

6 SENATOR SOBEL: She concurs.

7 SENATOR GAETZ: All right. We will do  
8 this. Let's -- okay, everybody, you know, calm  
9 down. Mr. Bardos is going to articulate the  
10 answer -- first he is going to articulate the  
11 question and then he is going to give the  
12 answer, and then Ms. Tunnicliff will have an  
13 opportunity to say whether she agrees or not.  
14 Go ahead, Mr. Bardos.

15 MR. BARDOS: So my understanding --

16 SENATOR GAETZ: Excuse me. May we have  
17 order in the back, because there are Senators  
18 who cannot seem to hear the questions and the  
19 answers.

20 MR. BARDOS: My understanding of the  
21 question is when must a candidate reside in the  
22 district, and my recollection is that the  
23 candidate must reside in the district as of the  
24 general election day, and not necessarily  
25 during the campaign before the general

1 election.

2 SENATOR GAETZ: Ms. Tunnickliff, into the  
3 mike, do you concur?

4 MS. TUNNICLIFF: I concur with that, yes.

5 SENATOR GAETZ: All right.

6 SENATOR SOBEL: I --

7 SENATOR GAETZ: Okay, Senator Sobel, did  
8 you wish to follow up? Senator Sobel, could  
9 your turn on your mike?

10 SENATOR SOBEL: Okay, my mike is on now.  
11 I think that what the general practice is, and  
12 I am not an attorney, and what the  
13 interpretation is is that if you are running  
14 for a seat, that when you are elected, when you  
15 are elected or when you are sworn in, you must  
16 live in the district.

17 SENATOR GAETZ: That is exactly what Mr.  
18 Bardos and Ms. Tunnickliff have said.

19 SENATOR SOBEL: He is saying it a little  
20 bit differently. Thank you.

21 SENATOR GAETZ: We are all together on  
22 that issue, I think.

23 Is there -- let's see. We had Senator  
24 Thrasher and then Senator Simmons. Senator  
25 Thrasher?

1           SENATOR THRASHER: Thank you,  
2 Mr. Chairman.

3           I kind of want to get back to what we  
4 originally started talking about, and that is  
5 the Senate Joint Resolution 2-B, and basically  
6 get into where we started, which were Districts  
7 1 and 3 as numbered in that joint resolution.  
8 And, you know, I appreciate Mr. Guthrie's  
9 incredible analysis of the different kinds of  
10 formulas and all that go into all that, and  
11 that is good, but I want to emphasize one  
12 thing, and it kind of goes along with what  
13 Senator Sachs said, for me, anyway, and I would  
14 like to do this as we move through the Senate  
15 joint resolution, particularly in the eight  
16 districts that the Court said that we must look  
17 at.

18           Now, granted, as Senator Diaz de la  
19 Portilla said, I think the Court can do  
20 whatever they want to. We could send -- we  
21 could send maps to them until the cows come  
22 home, and they are going to still look at the  
23 entire map and decide whatever they want to  
24 decide. It seems to me, though, the best  
25 evidence of what we ought to be doing is what

1           they said in their opinion, and that is to look  
2           at the eight districts that they had some  
3           serious objections to. So as we go through  
4           these -- and it is a rhetorical question to  
5           some extent. Senator Sachs raised it. We have  
6           what the Court said in the eight districts in  
7           their opinion, we have your new proposed Senate  
8           joint resolution, and I just want -- from a --  
9           as a Senator sitting here, one of which 40 will  
10          vote on ultimately, but you all are our  
11          professional staff, Mr. Bardos is our legal  
12          counsel, Ms. Tunnickliff is there, too, I want  
13          just as we go through this your assurance that  
14          based upon what the Court gave us to look at in  
15          these eight districts, that you are satisfied  
16          that this Senate joint resolution complies to  
17          the best of our ability with what they  
18          suggested we needed to correct. And as we go  
19          through the map, I would like to have your  
20          opinion on that so -- because I just think that  
21          is ultimately what we are here to do. And it  
22          is really not a question so much, Mr. Chairman,  
23          but an observation. And it seems to me that,  
24          you know, as we go through this map, as you  
25          start in Senate Districts 1 and 2, I have read

1 the opinion, they had some problems with  
2 compactness, they had some problems with --  
3 there were eight counties, you basically now  
4 have one county that is split among those eight  
5 counties in two districts. Seems to me we are  
6 complying. But I want, as a Senator sit here  
7 as we evaluate this, for you to be able to tell  
8 me that best -- on the best efforts, best  
9 information we have, legally and otherwise, we  
10 have complied with what the Supreme Court said.

11 SENATOR GAETZ: So, Mr. Guthrie, let's put  
12 the question in a pointed sense. As to the --  
13 as to the northwest Florida districts that are  
14 on the map in the overhead, in the application  
15 of the compactness scores, in the application  
16 of the other constitutional standards, bearing  
17 in mind what the Supreme Court has written in  
18 its opinion, is it your professional judgment  
19 that the proposed committee substitute is a  
20 faithful approach to our responsibilities and  
21 complies with the law?

22 MR. GUTHRIE: I believe that Districts 1  
23 and 3 as reconfigured in the -- in the proposed  
24 committee substitute conform to the judgment of  
25 the Court, comply with the standards set in the

1 State Constitution and therefore are valid.

2 SENATOR GAETZ: And just, again, to put a  
3 fine point on it for the record, as to the one  
4 county that is split, it is my recollection,  
5 and correct me if I am wrong, that it is  
6 generally split along the lines that the League  
7 of Women Voters recommended it be split. Is  
8 that true?

9 MR. GUTHRIE: It is true that the League  
10 of Women Voters had the Escambia and Santa Rosa  
11 put together with northern Okaloosa County, and  
12 that they had southern Okaloosa County  
13 connecting to a district that went toward the  
14 east --

15 SENATOR GAETZ: Okay.

16 MR. GUTHRIE: -- that the exact alignment  
17 of the boundary in the vicinity of Interstate  
18 10 was different. I believe they might have  
19 used the Yellow River rather than Interstate  
20 10, but the general orientation of the  
21 districts, the fact that they went around the  
22 City of Crestview, that was similar between the  
23 two maps.

24 SENATOR GAETZ: Okay. Are there further  
25 questions here before we go to Senator Simmons?

1           Senator Simmons, and then we will go back  
2 to Senator Storms.

3           SENATOR SIMMONS: Thank you, Mr. Chair,  
4 and what I would like to do is ask legal  
5 counsel a couple of questions, because I have  
6 reviewed the Florida Supreme Court decision. I  
7 have reviewed the Constitution, and I believe  
8 that we do have significant direction out of  
9 this 234-page opinion. And I am looking at  
10 page 188 where the Florida Supreme Court tells  
11 us the scope of the review that we are supposed  
12 to engage in here in the Legislature, and, of  
13 course, having lived with the courts, I know  
14 how difficult it is to sometimes divine what  
15 they have said, but I think that they have  
16 tried very hard and I think very well to give  
17 us a road map as to what we are supposed to do  
18 here today and this week and for the next  
19 several days, but they specifically say on page  
20 188, "Because we have now defined Florida's new  
21 constitutional standards through this opinion,  
22 this Court has provided the Legislature with  
23 parameters for the application of the standards  
24 to the apportionment plan. Through our  
25 interpretation and review, we have attempted to

1 provide the Legislature with direction as to  
2 the specific constitutional problems that we  
3 conclude have been proven and to the general  
4 problems with the entire Senate plan, including  
5 the renumbering of the districts."

6 So they have told us that, in fact, they  
7 have reviewed the entire plan, and, of course,  
8 there were three categories that we have within  
9 the Supreme Court's decision: Those that the  
10 coalition objected to that the Court overruled  
11 and found specifically to be valid, those that  
12 no one challenged, and then those that were  
13 challenged and the Court found problems with  
14 and directed us to do something about.

15 But reading on, on page 188, it says, "As  
16 the next phase of this apportionment process  
17 begins, we are confident the Legislature will  
18 apply these standards in a manner consistent  
19 with the interpretation we have heretofore  
20 provided, keeping as its goal a Senate plan  
21 that would pass constitutional muster. The  
22 Court views its constitutional obligation of  
23 drawing a plan to be the course of last  
24 resort."

25 Then turning to page 189, they are very



1 clear as to what we are supposed to be doing.  
2 They say at the bottom paragraph, "We have held  
3 that Senate Districts 1, 3, 6, 9, 10, 29, 30  
4 and 34 are constitutionally invalid. The  
5 Legislature should remedy the constitutional  
6 problems with respect to these districts,  
7 redrawing these districts and any affected  
8 districts in accordance with the standards as  
9 defined by this Court, and should conduct the  
10 appropriate functional analysis to ensure  
11 compliance with the Florida minority voting  
12 protection provisions, as well as the two-tier  
13 standards of equal population, compactness and  
14 utilization of existing political and  
15 geographic boundaries." Goes on to talk about  
16 the City of Lakeland.

17 Then it says, "In redrawing the  
18 apportionment plan, the Legislature is by no  
19 means required to adopt the coalition's  
20 alternative Senate plan. Finally, we have held  
21 that the numbering scheme of the Senate plan is  
22 invalid. Accordingly, the Legislature should  
23 renumber the districts in an incumbent-neutral  
24 manner."

25 So what they have done is in accordance

1 with the Constitution, which says they shall  
2 enter judgment, they go ahead and they enter a  
3 judgment, and that judgment is one we are  
4 supposed to comply with, and I think they have  
5 made it pretty clear that we are supposed to  
6 deal with these districts that they have found  
7 to be invalid and anything that is affected  
8 once we correct the problems that they have  
9 found. And I think that is the scope, because  
10 that comports with what I would believe is  
11 common sense, and also with judicial economy  
12 and the economy of -- and the efficacy of the  
13 process itself; that is, we send something over  
14 to the Florida Supreme Court, they find out  
15 what is wrong with it, and then they tell us  
16 what is wrong with it in a judgment, and we are  
17 supposed to -- using the constitutional  
18 language -- we are supposed to conform to the  
19 judgment of the Supreme Court. So that means  
20 we are supposed to follow what they have told  
21 us to do. They have given us a road map, there  
22 are eight districts, and then anything that  
23 touches those eight districts that need to be  
24 cleaned up, and also -- they also said we need  
25 to do the functional analysis with respect to

1 several of the minority districts, we need to  
2 do that functional analysis, we need to put all  
3 of this in a bill that we send back to them  
4 that shows the rational basis with findings of  
5 fact, and if you read this opinion, you find  
6 numerous places where they say they don't have  
7 anything in the record. Well, we need to put  
8 something in the record explaining a rational  
9 basis for why we are doing what we are doing,  
10 why we are complying and how we are complying  
11 with the determinations and the final judgment  
12 of this Court.

13 So I really believe that they have given  
14 us the road map. I applaud them for the detail  
15 that they have engaged in and the analysis  
16 here, and I think it is incumbent upon us to  
17 limit ourselves to what they have said, which  
18 are these districts.

19 SENATOR GAETZ: Thank you, Senator  
20 Simmons.

21 Senator Storms.

22 SENATOR STORMS: Thank you. Thank you,  
23 Mr. Chair.

24 I am -- I want to reiterate some of my  
25 conversation that we had at our last meeting,

1           because I think that it is dispositive in the  
2           direction that I believe that we should be  
3           going. And while I agree to some extent with  
4           some of my colleagues' analysis, I disagree  
5           that -- and perhaps I am just not understanding  
6           it, but I disagree as to what we are doing here  
7           today. Our job today is not just to consider  
8           compactness, because I -- and I understood that  
9           while we get to the first --

10                    SENATOR GAETZ: I apologize. We are in a  
11           committee room here that has its own acoustical  
12           challenges, so I realize that the conversations  
13           are important to have, but if you do have a  
14           conversation you'd like to have with another  
15           member, perhaps take it to one of the alcoves.  
16           We had a couple of Senators who could not hear  
17           Senator Storms. So, Senator Storms, you are  
18           recognized.

19                    SENATOR STORMS: I don't think anybody has  
20           ever said that to me before, Mr. Chair, they  
21           couldn't hear me.

22                    SENATOR GAETZ: It is --

23                    SENATOR STORMS: Do you need me to talk  
24           louder or more?

25                    SENATOR GAETZ: Mark this day down. Mark

1 this day down.

2 SENATOR STORMS: I will put it in my  
3 diary. Thank you, Mr. Chair. Okay. Senator  
4 Latvala says it is not more, it is just louder,  
5 so then I will be louder, okay.

6 Here is -- here is what the issue is: It  
7 isn't just compactness, although I understand  
8 that when you get into the Panhandle, when we  
9 begin there, the issue -- since there are no  
10 minority seats, the issue is an issue of  
11 compactness, but I think that we would do well  
12 to start first with the Tier 1 analysis.

13 The Tier 1 analysis, if -- you know, if  
14 people have difficulty in understanding a tier,  
15 the way I look at it is the first hurdle or the  
16 first threshold. So the Court was very clear,  
17 and I would turn folks' attention to page 187,  
18 beginning in 187 and 188, the paragraph starts,  
19 "In the second tier analysis," so I am going to  
20 back into the analysis this way. Some members  
21 have argued in dealing with the compactness.  
22 Well, the compactness is the second tier  
23 analysis. You cannot get to, and we cannot get  
24 to a second tier analysis until we first -- in  
25 the race that we are running, we first get over

1 the first hurdles. The first hurdles that we  
2 have to leap over are the Tier -- those are the  
3 Tier 1 analysis. We can't get down and run our  
4 race at the end of the race. We have to start  
5 here at the Tier 1 analysis. Tier 1 analysis  
6 gets us first to the minority access seat, and  
7 so -- to the question of the Voting Rights Act.  
8 So we say is this a majority-minority seat, or  
9 is this a minority access seat? And I think  
10 this goes into the question as to what Senator  
11 Simmons was saying, that we need to put this  
12 analysis in the record. It is very important  
13 that at every turn we are providing the Court  
14 with the road map for how we followed their  
15 check list.

16 In any constitutional analysis, anytime  
17 any jurisdiction wants to follow a  
18 constitutional analysis, it is a multi-step  
19 process. It is almost like a check list. And  
20 so in our first order of business, what we  
21 ought to do is get over that first hurdle. We  
22 look at each district and we say is this a  
23 minority access seat, is this a  
24 majority-minority seat. If yes to any of those  
25 questions, then you must do the functional

1 analysis, that is the next step. The  
2 functional analysis includes a variety of  
3 factors. We should check them off if it is a  
4 minority access seat or if it is a  
5 majority-minority seat.

6 You look at voting age population.  
7 According to the Court, this isn't according to  
8 Senator Storms, this is according to the Court,  
9 the second thing that you look at is you look  
10 at their -- what the Court did, which is their  
11 performance. The Court looked at their  
12 performance in primaries, and the Court looked  
13 at their performance in -- as a number of  
14 turn-out, as a number of turn-out.

15 And then once you have come up with the  
16 answers to that question, then you can go into  
17 the compactness, but I turn your attention to  
18 page 188, and the Court does an outstanding --  
19 an outstanding job of just numbering the issue  
20 of compactness. If you look over on 187, the  
21 first paragraph beginning with the line, "The  
22 second tier contained in 21-B," lists the three  
23 requirements. From my taste and from my  
24 understanding of the Supreme Court's decision,  
25 the Court isn't -- these are in order of

1 importance, and I don't know if that is an  
2 appropriate reading of it, but that is my  
3 reading of it, that these are in order of  
4 importance, the second tier. So after we have  
5 dealt with the minority access, then we get to  
6 the issue of compactness and we say districts  
7 shall be nearly as equal in population as  
8 practicable. So that is our first order of  
9 business when we get to compactness. We don't  
10 start with the way it looks. The Court called  
11 that geographical compactness, I would just say  
12 a visual compactness, because I think people  
13 understand what that -- does it look compact,  
14 but we are wanting to start with that, but that  
15 is not the appropriate starting point for it.  
16 We have to first deal with and put on the  
17 record the issue that the Court outlined, which  
18 is equal in population. What's the second  
19 thing? Districts shall be compact. How did  
20 the Court look at compactness? The Court  
21 looked at compactness in all of the discussions  
22 that you described. We should put that on the  
23 record. We should use the same tools that the  
24 Court used and put that on the record anytime  
25 we are dealing with a compactness. And then



1 three, "Districts shall utilize existing  
2 political and geographical boundaries where  
3 feasible."

4 Now, if you take this information, the  
5 reason why I think that this is the correct  
6 reading of the Supreme Court's decision,  
7 because if you go over to 188, the first  
8 paragraph there, it is not a complete  
9 paragraph, but it begins with the word  
10 "ascertainable and commonly understood," the  
11 key line in that paragraph is the sentence that  
12 says, "Strict adherence to these standards must  
13 yield if there is a conflict between compliance  
14 with them and the one-tier standard." What  
15 that means to me is that you need to get it as  
16 compact as possible, every minority seat should  
17 be as compact as possible. But if you can't  
18 get it compact, then what you need to do is  
19 give way to the protection, the preferences to  
20 Tier 1. And so because that is what the --  
21 that is what the case -- that is what the Court  
22 is saying applies to minority access seats and  
23 majority-minority seats, it should also  
24 apply -- that compactness analysis should also  
25 apply to this.

1           So I have a couple questions.

2           SENATOR GAETZ: That was a long build-up.

3           You are recognized for your questions.

4           SENATOR STORMS: Thank you. Thank you,  
5           Mr. Chair.

6           I do think that it is important, because I  
7           am hearing some members say we just need to get  
8           to the point of compactness, but we cannot get  
9           to the point of compactness, and it is very  
10          important that we -- that we deal with that.

11          We -- so on that district right there that  
12          you have, go through the compactness analysis  
13          as outlined by the Court. Why did you put --  
14          why does it -- why does it -- instead of going  
15          east to west, that green that is written right  
16          above Okaloosa, it is the "oosa" part. So why  
17          is that a square there instead of a strip that  
18          runs parallel? That is perpendicular to the  
19          district. Why is that parallel? Why is that  
20          perpendicular and not parallel?

21          SENATOR GAETZ: Mr. Guthrie.

22          SENATOR STORMS: What is the rationale?

23          MR. GUTHRIE: Okay. So let's look -- you  
24          asked for the compactness scores for these two  
25          particular districts, I believe that was your

1 request? So let me provide those. For -- and  
2 by the way, all of these numbers are in your  
3 meeting packet. If you look at the statistical  
4 work-up for SJR 2-B, plan number S9016, on  
5 pages six and seven, you will see the geometric  
6 compactness scores that I referred to earlier.  
7 So we have the area of the district, the  
8 perimeter of the district, the end-to-end  
9 distance or what we call here the cord of the  
10 district, the convex hull of the district, the  
11 Reock ratio for the district and the  
12 Polsby-Popper score for each of the districts,  
13 and then we calculate that as a mean for all of  
14 the districts and we report the standard  
15 deviation, the minimum and the maximum. So all  
16 of that data is in your meeting packet. I  
17 believe that gets it into our official record  
18 today. But you asked about districts in  
19 particular, so let's look at those -- those  
20 districts.

21 For District 1 -- and somebody get my --  
22 SENATOR STORMS: Well, Mr. Chair, really  
23 the question I am asking of Mr. Guthrie before  
24 he does that is why -- why aren't we starting  
25 today with the Tier 1 analysis? Why aren't we

1 starting today with the minority seats first --

2 SENATOR GAETZ: Senator Storms, if you  
3 would permit us, it is because the Supreme  
4 Court didn't find any Tier 1 problems in  
5 Districts 1 and 3. So in order -- you know, we  
6 only have from 9:00 till 6:00 today. We  
7 thought we would start with those things that  
8 the Supreme Court did point out about Districts  
9 1 and 3, but we certainly can go back and talk  
10 about the number of African-Americans and  
11 Hispanics who live in Districts 1 and 3 and do  
12 that kind of analysis for you, or you can refer  
13 to the meeting packet where the information is  
14 already printed, but, Mr. Guthrie, please go  
15 ahead.

16 SENATOR STORMS: Mr. Chair, that wasn't my  
17 question.

18 SENATOR GAETZ: Well, okay, why don't you  
19 try one more time, and I apologize if I didn't  
20 understand the question.

21 SENATOR STORMS: My question isn't as to  
22 -- as to -- as it relates to the minority  
23 access seat, as to whether or not Districts 1  
24 and 3 are minority access seats. My question  
25 is, why aren't we starting with the minority

1 access seats? Since those are the Tier 1  
2 issues that we have to deal with first, since  
3 the courts clearly says we deal with Tier 1  
4 analysis first, we should start with the  
5 minority access seats, because everything else  
6 falls from there. That is the first domino  
7 that knocks over every other domino is what the  
8 minority access seats -- what we are doing with  
9 that. Why start -- why start at 1 and 3? Why  
10 not start with -- pick a minority access seat,  
11 I don't care which one, but start there and  
12 let's start answering those questions first.

13 SENATOR GAETZ: Well, let's take a sense  
14 of the Committee. Shall we start in northwest  
15 Florida and work our way through the issues, or  
16 would you like to start in someplace else in  
17 the state with an area where there is a Tier 1  
18 issue? Let me just do a -- let me do a show of  
19 hands, and I apologize if this is too informal.  
20 Those who believe that we should proceed on the  
21 course that we are on now, please raise your  
22 hand. Those who believe that you would like to  
23 go into some other place in the state and  
24 start, raise your hand.

25 A VOICE: Mr. Chairman? Mr. Chairman?

1           SENATOR GAETZ: Yes, Leader.

2           A VOICE: I think we are about to get  
3 there, because I think if you stay on your  
4 present course, the next stop is northeast  
5 Jacksonville, which will be a minority access  
6 seat, so I think we are getting to that point.  
7 So if we could maybe finish quickly where we  
8 are here, I think we go straight to where --  
9 and Senator Storms is absolutely right, we  
10 should look at the performance and we should  
11 look at the functional analysis, but you are  
12 going to have that in northeast Florida here in  
13 about five minutes.

14          SENATOR GAETZ: Senator Storms, is that  
15 satisfactory to you, or would you like us to do  
16 a nose count?

17          SENATOR STORMS: Well, you know, I think  
18 that --

19          SENATOR GAETZ: Whatever you'd prefer,  
20 ma'am.

21          SENATOR STORMS: Well, I think it was my  
22 question, why -- the question was the  
23 rationale, why we started here.

24          SENATOR GAETZ: Well, no, I think your  
25 question is properly addressed to the Chair,

1           why are we taking these issues in the order in  
2           which we are, and would you like to have the  
3           Committee vote on whether we should continue  
4           with this or move to northeast Florida?

5                    SENATOR SIPLIN:  Mr. Chair?

6                    SENATOR GAETZ:  Senator Storms has the  
7           floor, and she has the right to indicate her  
8           preference.

9                    SENATOR STORMS:  Thank you, Mr. Chair.  I  
10          yield to Senator Siplin.

11                   SENATOR GAETZ:  Senator Siplin.

12                   SENATOR SIPLIN:  Thank you, Mr. Chair.

13                   Throughout these meetings, I made it a  
14          point that we follow the Supreme Court and the  
15          federal law in making sure that we protect the  
16          seven black Senate seats that we had, as well  
17          as the Hispanic Senate seats, as well as the  
18          House black seats and the House Hispanic seats.  
19          And I think what Senator Storms is trying to do  
20          is make sure that our final product does,  
21          indeed, follow the law and make sure that we  
22          have protected the federally-mandated Hispanic  
23          seat and black seats.  So we can do that  
24          between the time now and before we vote.  I  
25          know she would appreciate that, and I would

1 appreciate that also.

2 SENATOR GAETZ: Well, because there's been  
3 these concerns raised, you know, it's simply a  
4 question of how you want the meeting to  
5 proceed. I want to do what the Committee would  
6 like, and so let me try again.

7 Those who would like to proceed to a  
8 minority access district now instead of --  
9 excuse me -- instead of finishing with where we  
10 are, northwest Florida, please raise your hand,  
11 those who would like to proceed to a minority  
12 access district now. One, two, three, four.

13 A VOICE: I will raise my hand, five.

14 SENATOR GAETZ: Five. Those who would  
15 like to finish with northwest Florida and then  
16 go to northeast Florida, please raise your  
17 hands.

18 We will proceed on the current basis, and  
19 now Senator Storms has asked a question as to  
20 the -- as to the criteria that are used and  
21 whether or not they are compliant with the  
22 Supreme Court's order, and, Mr. Guthrie, you  
23 are recognized to answer that question.

24 A VOICE: What are we fighting --

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



1           So, yes, the order of precedence that Senator  
2           Storms --

3           SENATOR GAETZ: You may want to check to  
4           make sure your mike is on.

5           MR. GUTHRIE: The order of precedence,  
6           Senator Storms, that you just suggested was  
7           exactly the order of precedence that I and my  
8           staff took as we analyzed the Court's opinion  
9           and as we sought for a solution to recommend to  
10          this -- to this Committee.

11          In terms of your particular question about  
12          the compactness of Districts 1 and 3 -- and  
13          let's don't bother with the perimeter and the  
14          core, those data are all in your meeting  
15          packet. As to the convex hull, the convex hull  
16          score for District 1 is .80. The convex hull  
17          score for District 3 is .79. The Reock ratio,  
18          that is how circular is it, for the District 1  
19          is .43, the Reock score for District 3 is .45.  
20          And the Polsby-Popper score, or the perimeter  
21          ratio, for District 1 is .33, and the perimeter  
22          ratio for District 3 is .42.

23          SENATOR GAETZ: And, Mr. Guthrie, without  
24          going back to the whole geometry lesson, what's  
25          -- you know, just tell us, as to each of those

1 three categories, is a low score good, is a  
2 high score good? Just give us a framework  
3 there.

4 MR. GUTHRIE: With all of the geometric  
5 compactness measures that we are looking at  
6 here today -- well, those three ratios, a  
7 higher score is more compact, more  
8 geometrically compact. Higher score is better.  
9 One is the highest score. Perfectly compact is  
10 a one. Perfectly non-compact would be a zero.

11 SENATOR GAETZ: Okay. Now, Senator Storms  
12 has raised some good points and she still has  
13 the floor. Senator Storms for any further  
14 questions.

15 SENATOR STORMS: Well, I do think -- I do  
16 think -- I do think that it is important that  
17 in every step -- every step of the way, we  
18 should be following the same record. I mean,  
19 we are not just talking -- we are not whistling  
20 Dixie here. We are not talking to ourselves.  
21 We are creating a record, and the record should  
22 be very clear. We should do the same thing  
23 every single time. We should -- we should use  
24 the road map and follow the check list that the  
25 Court used, and we should do it every single

1 time on every single district. You should put  
2 in the record, here is why we did this, this is  
3 why we think this is constitutionally  
4 defensible. We are going to look at this  
5 district, and now we get to the point that you  
6 suggested, Mr. Chair. Now we get to the point  
7 as you analyze District 1, is that a minority  
8 access seat? No, the answer to the question is  
9 no. Is it a majority-minority seat? The  
10 answer to the question is no. Therefore, we --  
11 we may now proceed to the compactness analysis,  
12 and the compactness analysis is satisfied  
13 because one, two, three, and now we move on to  
14 District 3. Is it a minority --  
15 majority-minority seat? No. Is it a minority  
16 access seat? No. So now we can proceed to  
17 compactness. Compactness is one, two, three.  
18 And we should do that on every single time.  
19 When we get to the minority access seats, when  
20 you ask that question, is this a minority  
21 access seat or a majority-minority, then you  
22 say is this a minority access seat? Yes. Here  
23 is the functionality that we used. This is the  
24 equation that we used for it. This is why --  
25 this is what worked. We took into

1 consideration the voting age population, we  
2 took into consideration the turn-out, we took  
3 into consideration this. We have to be  
4 completely -- right, I mean, we have to justify  
5 everything that we do, but we have to be  
6 completely diligent in utilizing every single  
7 element of this constitutional analysis. It is  
8 a check list. You check it off. In order to  
9 check it off, you have to articulate it into  
10 the record, in my opinion. And so that is what  
11 I am looking for for you to do on every one of  
12 these. But if you don't want to do it and the  
13 Committee doesn't want to do it, I think that  
14 that is -- I think that we run a risk of being  
15 afoul of constitutional analysis.  
16 Constitutional analysis always has a threshold  
17 that you have to get through, and then there  
18 are elements, and you must check them off, and  
19 the government must provide the backup to the  
20 elements.

21 SENATOR GAETZ: Senator Storms, well put.  
22 That is exactly what the plan has been and is  
23 for today, and I think that is the course we  
24 are on.

25 Any other general comments about

1 procedure? We have now managed to eat up  
2 almost two hours. Yes.

3 SENATOR DIAZ DE LA PORTILLA: Mr. Chair,  
4 thank you, and I would agree with that. I  
5 think that as you go -- and I agree with the  
6 methodology that you, Mr. Chairman, have  
7 started with northwest Florida, go -- 1 and 3,  
8 and then move to northeast Florida and so on,  
9 but I think that kind of check list approach  
10 that Senator Storms suggested is a good way to  
11 go about it, do the Tier 1 analysis on each  
12 district just to build the record, and then go  
13 to the Tier 2 analysis. And then talking about  
14 Tier 2, the compactness issue, the Court spent  
15 a lot of time defining compactness for us. We  
16 argued and talked about several definitions,  
17 the functional definition and the geographic --  
18 or geometrical, rather, definition of  
19 compactness when we first met way back when,  
20 but the Court basically told us how we should  
21 look at the compactness issue. I think it  
22 would be useful to get those scores and the  
23 context each and every time, just because it  
24 does take a little bit of time to let them sink  
25 in. I think based on what you have just said

1 in terms of the Reock scores and the perimeter  
2 score and the convex hull score and all that,  
3 these two districts that we're looking at now  
4 appear to be very compact. We need to have  
5 numbers for the others as we move along to take  
6 a look at that.

7 SENATOR GAETZ: And Senator Diaz de la  
8 Portilla, that is exactly the plan. Good  
9 point.

10 SENATOR DIAZ DE LA PORTILLA: One brief --  
11 you know, just to put in context. While I  
12 agree with about 99 percent of what Senator  
13 Storms said, I do think that in looking at the  
14 second tier analysis, the only category or  
15 criterion that isn't qualified is the  
16 compactness criterion, because it does say  
17 "districts shall be compact." It doesn't say  
18 "where practicable" as they do when they talk  
19 about population, and it doesn't say "where  
20 feasible" as the geographic and political  
21 boundaries were qualified. So the direction I  
22 got from reading the Supreme Court opinion is  
23 that of those Tier 2 criteria, the only one  
24 that isn't qualified is compactness, so  
25 there -- and because they spent a lot of time

1           on that, I think it is important that we have  
2           the numbers to show just how compact each  
3           district is, and that's it, that is the final  
4           thing I wanted to put there on --

5                    SENATOR GAETZ:  Sure.  Thank you very  
6           much, and Senator Storms, I thought your  
7           comments were right on point, and you -- you --  
8           I think you accurately predicted how Mr.  
9           Guthrie intends to move through the rest of the  
10          day.

11                   Any other comments or questions at this  
12          point?  Senator Gibson.

13                   SENATOR GIBSON:  Thank you so much, Mr.  
14          Chair.  I just need clarity on one of the  
15          questions that I asked earlier, and that is  
16          whether the circumference stuff was applied to  
17          the districts as they exist or -- do you  
18          understand what I am saying?

19                   SENATOR GAETZ:  Yes, ma'am.

20                   SENATOR GIBSON:  How did we get to where  
21          we are?

22                   SENATOR GAETZ:  In other words, if I may,  
23          have you done a comparative analysis between  
24          the -- as we are talking about compactness  
25          scores, have you done a comparative analysis

1           between the districts as they are proposed in  
2           the PCB and any other comparable, any other  
3           plan, any other --

4           SENATOR GIBSON: Mr. Chair, I think my  
5           question goes --

6           SENATOR GAETZ: I'm sorry.

7           SENATOR GIBSON: I'm sorry. Currently we  
8           represent districts that are -- however they  
9           are shaped. So did the analysis get applied to  
10          the districts as they look now to come up with  
11          the shapes is what I am trying to get to.

12          SENATOR GAETZ: I think the answer to that  
13          is no. I think -- yeah, I think that the -- my  
14          understanding, and Mr. Guthrie can correct me  
15          if I am wrong, the compactness scores, if that  
16          is what we are talking about, are as to the  
17          plan as it would go forward to the Supreme  
18          Court. I think the Court has indicated that  
19          they are not terribly impressed with the 2002  
20          baseline, and that we should not make a  
21          reference to it as a justification. But we  
22          certainly can provide you, if you would like,  
23          with the compactness scores for the districts  
24          that -- that we have now that will soon be  
25          replaced by other districts.



1           MR. GUTHRIE: In fact, the scores for the  
2 benchmark districts --

3           SENATOR GAETZ: Are in your packet, I  
4 think.

5           MR. GUTHRIE: -- and for the plan that  
6 passed the Legislature during regular session,  
7 SJR 1176, and for this proposed alternative and  
8 for the amendment that Senator Diaz de la  
9 Portilla will offer and for the amendment that  
10 Senator Latvala will offer are all in your  
11 meeting packet.

12           SENATOR GAETZ: And when we get to that  
13 point, we will lift those up so that you don't  
14 have to tweezer them out yourself.

15           Senator Gibson, of course.

16           SENATOR GIBSON: Thank you, Mr. Chair.

17           So in terms of going back to -- and we are  
18 going to get to it, I am sure, shortly. In  
19 terms of you mentioning that the Court was not  
20 impressed with the 2002 maps, but in terms of  
21 minority opportunity districts or minority  
22 access districts or minority-majority  
23 districts, do we not have to use 2002 in order  
24 to make sure that we do the protection or to  
25 non-diminish, if you will, those particular

1 districts?

2 SENATOR GAETZ: So we thought, but we will  
3 certainly take your question, and then so that  
4 we can maintain some order to our conversation,  
5 let's -- let's finish up with the districts  
6 that are in front of us and then move to  
7 districts where that question is germane. But  
8 Mr. Guthrie and Mr. Bardos and Ms. Tunnickliff,  
9 we will ask you to comment on Senator Gibson's  
10 question.

11 MR. GUTHRIE: I agree, Senator Gibson,  
12 that -- that the benchmark districts are very  
13 relevant for determining retrogression under  
14 Section 5 of the Voting Rights Act and for  
15 determining the diminishment standard in Tier 1  
16 of the Florida Constitution.

17 SENATOR GAETZ: Mr. Bardos or  
18 Ms. Tunnickliff, any elaboration on that point?  
19 And my point, Senator Gibson, was that my  
20 layman's reading was that the Court was not  
21 impressed with any attempt to use the 2002  
22 districts as justification for not making  
23 changes as we are talking about compactness.

24 Any other comments or questions at this  
25 point? If not, let's -- are we at a stopping

1 point for Districts 1 and 3?

2 MR. GUTHRIE: You guys are going to be  
3 interested to see what the next slide is.

4 SENATOR GAETZ: Well, before we go to  
5 that, last -- last -- last call. We will go  
6 back, if you want to, to anything, but while we  
7 have these districts up -- Senator Negron.

8 SENATOR NEGRON: Thank you, Mr. Chairman.

9 I just wanted to agree with what Senator  
10 Simmons said earlier with regard to the scope  
11 of what we are here to do. If you look at the  
12 Court's opinion, it is a 234-page opinion  
13 written by Justice Pariente with some dissents  
14 and other things, but it is very clear that 32  
15 of the 40 districts have been found that  
16 there's nothing wrong with them. And the idea  
17 that we need to somehow revisit them I think  
18 goes against what the Court said. They  
19 specifically said, if you look at page 189,  
20 that we should remedy the problems with regard  
21 to those districts, to redraw them, and any  
22 affected districts in accordance with the  
23 standards defined by the Court, and conduct an  
24 appropriate functional analysis to make sure  
25 that we are complying with minority voting

1 provisions, as well as the two tier standards  
2 of equal population, compactness and  
3 utilization of existing, political and  
4 geographic boundaries.

5           So, you know, these other questions might  
6 be interesting, but I think how you are doing  
7 it is exactly the way we should be doing it,  
8 which is to start with the districts where they  
9 found a problem, which were 1 and 3, and then  
10 work our way through, showing that what staff  
11 has recommended either does or does not make  
12 the appropriate corrections, but I think that  
13 Senator Simmons was exactly right that the  
14 Court is not going to then, you know, go back  
15 and do, you know, a fancy legal word, de novo,  
16 but a whole new hearing on these other  
17 districts, they've already looked at all the  
18 districts in a thorough manner, and they even  
19 gave us a suggestion as to Lakeland, which  
20 wasn't mandatory, which I understand we fixed,  
21 and then lastly with regard to the number --  
22 the numbering of districts for two and  
23 four-year seats. That is the scope of what we  
24 are here to do today.

25           So I think that we are -- that we are on

1 the right track in moving forward, and some of  
2 these other issues that don't relate  
3 specifically to these eight districts are areas  
4 that we shouldn't venture into.

5 SENATOR BRAYNON: Mr. Chair?

6 SENATOR GAETZ: Senator Negrón, as to --  
7 as to the remedy that is proposed in the  
8 proposed committee substitute for the problems  
9 identified by the Court in Districts 1 and 3,  
10 any other comments, questions, criticisms or  
11 suggestions?

12 SENATOR BRAYNON: Mr. Chair, you said just  
13 Districts 1 and 3 right now?

14 SENATOR GAETZ: We are, yes, sir, Senator  
15 Braynon.

16 SENATOR BRAYNON: Because I -- Senator  
17 Negrón spoke to the entire and our process, and  
18 I just -- I felt the need to kind of expand on  
19 what he just said there.

20 SENATOR GAETZ: Let us expand, by all  
21 means.

22 SENATOR BRAYNON: And only because I think  
23 that while I don't disagree with what Senator  
24 Negrón and Senator Simmons were saying, I also  
25 believe that we and this entire -- we -- when

1 we were doing our process, and also throughout  
2 this opinion, they talk about the impact of the  
3 minority seats on the map in general, and all  
4 of the minority seats were not spoken about.  
5 Even in one portion it even said we also  
6 recommend that you also do a functional  
7 analysis on this seat. And while we haven't  
8 gotten to that discussion yet, it seems to me,  
9 and I think Senator Storms was trying to get to  
10 that, that when we do get to it and we see what  
11 was the -- what was the functional analysis,  
12 what was the specifics of what we did and how  
13 did it affect the map that we see in front of  
14 us, then I think we can have a conversation  
15 that encompasses everything, and I think  
16 without that, I -- I mean, I can say 1 and 3  
17 are fine, but I don't know how they were  
18 affected by the functional analysis that was  
19 done on District 6, because I don't know what  
20 -- exactly what the functional analysis was,  
21 because we haven't discussed that -- discussed  
22 exactly what that was yet. I felt like it was  
23 maybe -- maybe that should have been spoken  
24 about as a definitional thing, not specific to  
25 that district or the minority districts, and I

1           just think that we could -- we could at least  
2           lay that ground work as to what a functional  
3           analysis is. So I don't -- I don't see a point  
4           in asking for one for 1 and 3, if you get what  
5           I am saying, Senator.

6                     SENATOR GAETZ: Yes, sir. Any other  
7           questions that might be germane specifically to  
8           the Court's order as to 1 and 3 and our  
9           proposed remedy? Anything else?

10                    All right. Then we can certainly go back  
11           to it if anybody has any questions, comments or  
12           criticisms, but Mr. Guthrie, why don't you move  
13           to the next issue, please.

14                    MR. GUTHRIE: And before I do that, just  
15           to make sure we are all understanding what we,  
16           in fact, have done here, I and my staff have  
17           been very, very busy over the past week, and  
18           we, in fact, have performed functional analyses  
19           on each and every one of these districts. So  
20           we have done that for you. If you want that  
21           laid out in the record, six o'clock today may  
22           not be time enough, but we can -- we can do  
23           that for any and all of the districts.

24                    SENATOR GAETZ: Well, let us take the  
25           questions as they come. And, again, the

1 information is in the packet, it will be  
2 provided in our pleading to the Court, but if  
3 anybody has any question about functional  
4 analysis for Districts 1 and 3, now is not the  
5 only time, but now would be a good time to  
6 raise those questions.

7 Senator Diaz de la Portilla.

8 SENATOR DIAZ DE LA PORTILLA: Yes, Mr.  
9 Chairman, I think we should have the functional  
10 analysis for each and every seat, not just --  
11 not just the eight that the Court found a  
12 problem with, because there are 24 districts  
13 that are affected, as the Court also said, and  
14 given Mr. Bardos' answer to the question that  
15 Senator Latvala asked and the one that I asked,  
16 nothing can prevent the Court from taking a  
17 look at any and all of these districts or any  
18 one of these districts when we submit the new  
19 bill back to them.

20 But at this time, just to keep the  
21 discussion moving, Mr. Chair, I don't want to  
22 delay it, I know we have limited time -- it  
23 seems like we had a lot of time when we  
24 started, now it doesn't seem like we have that  
25 much time, but if you could just give us the



1 functional analysis in a nutshell for 1 and 3,  
2 which is what we are on now, I think that would  
3 be helpful to all of us. And, yes, all of the  
4 stuff is in there, but it is kind of hiding in  
5 plain view since there's so much stuff in  
6 there.

7 SENATOR GAETZ: Well, why don't you do  
8 that, Mr. Guthrie. Let's respond to those  
9 questions very specifically, and then when you  
10 do, please reference where in the meeting  
11 packet members may find this information if  
12 they wish to ask questions about it or refer to  
13 it later.

14 MR. GUTHRIE: Okay. The information that  
15 is in your meeting packet for Districts 1 and 3  
16 regarding the concentrations of minority voters  
17 is the voting age population in District 1.  
18 The black voting age population is 15.3 -- or,  
19 excuse me, 15.5 percent. In District 3, the  
20 black voting age population is 11.5 percent.  
21 The similar numbers for Hispanic: Voting age  
22 population are 4.0 percent in District 1, and  
23 4.7 percent in District 2.

24 A VOICE: Mr. Chairman, could we just have  
25 the page numbers for those things so that we

1 can --

2 SENATOR GAETZ: Absolutely.

3 A VOICE: -- track and follow along?

4 SENATOR GAETZ: Could you provide where in  
5 the meeting packet that information is found,  
6 please?

7 MR. GUTHRIE: I am going to need my staff  
8 to help follow along. The statistical workup  
9 for SJR-2B, which is one of the items behind  
10 the staff analysis, and it is referenced in the  
11 index that Mr. Ferron prepared -- page 17, I am  
12 informed, of the PDF that is on -- available  
13 on-line. So page 17 shows you the voting age  
14 populations that I just read out, as well as  
15 those same populations for all the districts in  
16 the state.

17 SENATOR GAETZ: Senator Diaz --

18 MR. GUTHRIE: I wonder, Mr. Chairman, if  
19 it would be efficient to walk the members  
20 through all of the data that are in the meeting  
21 packet.

22 SENATOR GAETZ: Let's take a moment to do  
23 that. That might save a little time and make  
24 everybody able to use the information in front  
25 of them more effectively.

1           So are there any other questions now --  
2           this is not your only chance -- as to Districts  
3           1 and 3? If not, we will ask Mr. Guthrie to  
4           walk us through the meeting packet.

5           MR. GUTHRIE: So what I am going to do is  
6           -- first I need the meeting packet. Jay, where  
7           do I go to get the meeting packet? Is it on  
8           one of our drives? On our --

9           A VOICE: Yes.

10          MR. GUTHRIE: Where?

11          A VOICE: There. That is it right there.

12          MR. GUTHRIE: Okay. Okay. So in the  
13          meeting packet that is available on-line --

14          SENATOR GAETZ: And let's stop. Is  
15          everybody -- is everybody with us here if you  
16          want to be? Are you tracking with Mr. Guthrie  
17          as to -- as to the on-line meeting packet?  
18          Okay, Mr. Guthrie, go ahead.

19          MR. GUTHRIE: So we have the expanded  
20          agenda, which you are familiar with from all of  
21          your committee work. There's the analysis for  
22          SJR-2B, that is a typical staff analysis. In  
23          this case, what we are describing is the shell  
24          bill, or the bill that was filed last Wednesday  
25          before the committee substitute is applied. We

1           also have a more thorough staff analysis for  
2           the proposed committee substitute explaining  
3           the effect of proposed changes and  
4           constitutional issues, again, as you are  
5           accustomed to seeing.

6                        What is different between the materials  
7           provided in this meeting packet and what you  
8           may be used to from some of your other  
9           committees is that we have, as we did during  
10          the regular session, lots of maps and  
11          statistics that we make available for each of  
12          the plans that are being considered by the  
13          Committee.  So the first page under the  
14          analysis -- I'm now on page nine out of 514 --  
15          is an index to the materials that are available  
16          for plan 9016, which is the proposed committee  
17          substitute for SJR-2B.  We have seven maps.  I  
18          also produced for the Committee these larger  
19          maps, which I think actually are a lot easier  
20          for you to use, but there are seven maps.

21                       Following that is the district statistics  
22          for each of the maps.  And by the way, we have  
23          these -- all of these documents bookmarked.  So  
24          if you want to see the southwest map for this  
25          district, you simply click on that bookmark and

1           you go directly there.

2           Let's look at the district statistics,  
3           which was the next element in the -- in the  
4           index there. The district statistics that we  
5           show for every plan and for every district are  
6           the deviation -- that is the difference between  
7           the district population and the ideal  
8           population or the target population for  
9           districts -- we have that both as a number and  
10          as a percentage, we have the total population  
11          of the district, we have the total voting age  
12          or age 18 and over population of the district,  
13          we have the black voting age population, both  
14          as a number and as a percentage -- and let me  
15          make a note here that black voting age  
16          population includes those persons who check on  
17          the census that they are black, irrespective of  
18          whether they checked that they are Hispanic,  
19          okay. So Hispanic blacks and non-Hispanic  
20          blacks are both included in this number. Also,  
21          with the census form, you could indicate up to  
22          six different choices as to what your race is.  
23          If you chose black as any one of the six  
24          choices, then you will be counted as one of the  
25          persons in the black VAP category. And then

1 Hispanic VAP is simply the persons who checked  
2 on the census form that they were Hispanic,  
3 regardless of whether they said that they were  
4 black. So there is a bit of -- a small bit of  
5 double-counting of persons who are Hispanic  
6 blacks between these two categories, but the  
7 way that we counted them here is consistent  
8 with the U.S. Department of Justice guidance on  
9 how to count voting age population of racial  
10 minorities. As a handy little visualization,  
11 we have structured these columns so that the  
12 larger percentages of African-American  
13 population are highlighted in shades of red and  
14 the larger populations of Hispanic population  
15 are highlighted in blue. So that is the first  
16 sheet, and we have that for each of the plans.

17 The next thing you come to is an analysis  
18 for -- again, for each plan of how it stacks up  
19 in terms of split subdivisions. So how many  
20 counties are there in the state? There are 67  
21 counties and 410 cities. Of those, how many  
22 are only in one district? Well, with this  
23 proposed committee substitute, there are 43  
24 counties that are wholly in one district, there  
25 are 364 cities that are only in one district.

1           And aggregate number of splits, we have covered  
2           this before at a committee meeting, is if a  
3           city gets split into three districts, we will  
4           count that as, not two, but as three. So any  
5           city that is split or any county that is split  
6           is going to count as two splits for purposes of  
7           this aggregate number of splits. If it is  
8           split in three districts, it will count as  
9           three; if it is split in four, it will count as  
10          four. This is a general measure of the extent  
11          to which political subdivisions are held intact  
12          by your districts.

13                 The next -- the next sheet that we have in  
14          the report is called "Subdivisions, Borders and  
15          Geometry." That gives you a count by district  
16          of the numbers of -- let's look at -- the  
17          numbers of cities and counties that are whole  
18          or part -- wholly or partially included in each  
19          of your districts. It has the analysis, what  
20          we call our border analysis, and that is a  
21          statistical method that I and my GIS staff came  
22          up with to try to provide a quantitative  
23          measure of the extent to which political and  
24          geographic boundaries are followed by these  
25          districts. The city borders is the percentage

1 of city boundaries that are -- that go into the  
2 total boundary of the district. So in this  
3 case, District 1, 12 percent of its overall  
4 boundary is made up of city boundaries,  
5 81 percent of its boundary is made up of county  
6 boundaries, and ninety -- so you put those two  
7 together, and if a city boundary and a county  
8 boundary happen to be aligned with one another,  
9 you don't count it twice. So you put those two  
10 together, and the amount of that district that  
11 is covered by what we call political borders is  
12 92 percent. Primary and secondary borders,  
13 that is a measure of how much of the boundary  
14 of that district is a primary or secondary  
15 road, a major road, a county road, a state road  
16 or a U.S. highway. Water boundaries, that is  
17 the percentage of the district that is  
18 following a river or a -- not a stream, but all  
19 we took was water bodies that were five acres  
20 or more, and we looked at the percentage of the  
21 district that -- the district boundary that is  
22 covered by one of those borders of five acres  
23 or more. And then finally, the political or  
24 geographic boundaries for these two districts  
25 we see is 99 percent.



1           We also have on this sheet the measures of  
2 compactness that we talked about earlier for  
3 each of the districts, and then at the top we  
4 have the totals, the minimum, the maximum, the  
5 mean and the standard deviation, so -- and  
6 those are the area perimeter, end-to-end  
7 distance and geometric ratios that we talked  
8 about earlier. So that is the next sheet in  
9 your meeting packet.

10           The next several pages of the packet show  
11 you for each district what counties go into  
12 that district, and if the county is split, we  
13 give the percentage of the population and the  
14 percentage of the area of that district that  
15 are in that county.

16           So for District 1, which we have just  
17 looked at, we see that all of Escambia's  
18 297,619 people are in District 1, all of Santa  
19 Rosa's people are in that district, and 25,083  
20 people from Okaloosa County are in District 1.  
21 We do that for each county and each district in  
22 the state.

23           Next we have, starting on page seven for  
24 this plan, a similar report for all of the  
25 municipalities that are in each of the

1 districts. Again, if a municipality is  
2 split -- you see if it is blank in the  
3 population percent and area percent category or  
4 column, that means the city is entirely  
5 contained within the district. If you see a  
6 percentage here, it means that the city is  
7 split. So District 4 makes up part of the City  
8 of Jacksonville; in fact, it makes up 43.4  
9 percent of the population and 61.8 percent of  
10 the area. So that is all of your city  
11 population.

12 The next report that we have for each of  
13 the plans tells you for each district and for  
14 each county, the share of the district that is  
15 in each of the counties, and the share of the  
16 county that is in the district. And we do that  
17 for total population, for voting age  
18 population, for black -- and then for black  
19 voting age population and Hispanic voting age  
20 population. So this is what we call our county  
21 shares report to give you an idea of which  
22 counties are going to have the dominant voice  
23 or, you know, how the counties stack up in  
24 terms of the influence they would have in a  
25 total district's population.

1           Next we come to the demographic profiles.  
2           So for each of the districts and each of the  
3           plan, we give you detailed statistics from the  
4           census summary file one data showing you the  
5           age, detailed race information, family  
6           information, group quarters, counts. Group  
7           quarters sometimes is interesting because it  
8           shows you the population that is living in  
9           correctional facilities, juvenile facilities,  
10          nursing homes, things that this Committee has  
11          talked about in the past. Well, all of that  
12          data for each of the plans is compiled here in  
13          your -- in your meeting packet. So we cycle  
14          through the 40 districts.

15          Next we come to a report called -- what we  
16          do is we compare the shares of the new  
17          districts with the prior districts. So what  
18          this report tells us is that the new District 1  
19          is made up of a part of the old District 2 and  
20          a part of the old District 4. Current District  
21          2 and current District 4 go into District 1; in  
22          fact, District 1 is made up -- 66 percent of  
23          the population of the old District 2, and 33,  
24          34 percent of the old District 4. So that  
25          gives you an idea of what the -- some people

1 call it a CORS analysis, the extent to which  
2 the new districts follow the population of the  
3 old district.

4 We might wonder -- while we are here,  
5 let's just go ahead and look at the new  
6 District 10, because that is one of the ones we  
7 are going to be focusing on later. What we see  
8 here is that the new District 10 is made up  
9 12.3 percent of the old District 9, which is  
10 represented by Senator Gardiner. It is made up  
11 also of parts of District 19, District 22. The  
12 majority comes from the old District 24, which  
13 is represented by Senator Altman. So more than  
14 half of this new District 10 is going to come  
15 from Senator Altman's territory, and then a  
16 part of the District 26. So you can do that  
17 CORS analysis using this next report that is  
18 available for all of these plans.

19 The next thing that we give you is a  
20 comparison, a similar shares report comparing  
21 the PCS with the plan that passed the  
22 Legislature during regular session. So this  
23 shows you the extent to which the districts --  
24 let's see, compare -- this is not showing me  
25 what I expect to see. District 5 -- okay.

1 District 1, 2, 3, 4 and 5 are changed -- or and  
2 4 are changed. District 5, Senator Montford's  
3 district, is not changed by the PCS; therefore,  
4 100 percent of the District 5 in the PCS is in  
5 Senator Montford's district. So that shows you  
6 how much change has occurred in terms of  
7 population with the -- with the new plan. And  
8 that is the report for the first plan.

9 Then we do -- we also do that not only for  
10 the PCS, but here we are doing it for Senate  
11 Plan 9008, which is the -- that is the Joint  
12 Resolution 1174 that passed during the regular  
13 session. So we have all of those same data for  
14 the plan that passed during the regular  
15 session. And then, Senator Gibson, this was  
16 your question, we have the exact same data for  
17 the benchmark or the current districts.

18 So all of the -- all of the ways of  
19 slicing and dicing the population, all of the  
20 ways of counting cities, counting counties, all  
21 of the ways of measuring geographic  
22 compactness, I and my staff, we dream about  
23 these numbers at night. We have been kind and  
24 have tried to spare dragging you into our  
25 world, but I think as -- as the Committee has

1 indicated here, it is important for us all to  
2 recognize what is in the record of this  
3 proceeding, and I believe that this meeting  
4 packet is an official record of this proceeding  
5 that has been used by me and my staff as we  
6 have been drawing these districts, all of this  
7 information, plus more, and it will be used by  
8 those who want to comment to the Supreme Court  
9 about these districts and by the Court itself  
10 in terms of evaluating the product of this  
11 extraordinary session. So -- and that repeats,  
12 then, when we get to Senator Latvala's  
13 amendment or Senator Diaz de la Portilla's  
14 amendment, we have a similar statistical workup  
15 for both of those amendments, and that is -- we  
16 are now at page 162. That is how this meeting  
17 packet got to be so large.

18 SENATOR GAETZ: Questions?

19 SENATOR BRAYNON: Mr. Chair?

20 SENATOR GAETZ: Senator Braynon.

21 SENATOR BRAYNON: Yes. Thank you, that  
22 was a lot of information, but one of my  
23 questions was, and I thought we said that it  
24 might be in here, was the functional analysis,  
25 and where is that? Let me be specific, because

1 if you look on page 67 in the opinion, it  
2 points out exactly what information is in a  
3 functional analysis.

4 MR. GUTHRIE: Yes.

5 SENATOR BRAYNON: And I will say, one,  
6 voting age population, which I have seen, voter  
7 registration data, have not, voter registration  
8 of actual voters and election results history,  
9 so -- and this is -- I am taking this from the  
10 opinion as to what is information that's in a  
11 functional analysis. I would -- if that  
12 information was there, I would say all right, I  
13 will do that myself, but some of this  
14 information isn't in the packet. So where --  
15 if you did it, can I get a copy of it, maybe I  
16 will go afterwards and see it? Or did we do  
17 this type of functional analysis for the seats?

18 SENATOR GAETZ: The answer to the  
19 question -- it is an excellent question. The  
20 answer to the question is yes, that information  
21 has been compiled, it is available and it is  
22 part of the record, and Mr. Guthrie, could you  
23 please help us understand where we might have  
24 access to it?

25 MR. GUTHRIE: Yes, and I think the

1           Committee is aware of my sensitivity to using  
2           political metrics as a way of engineering  
3           political outcomes. I have tried my level best  
4           from the moment that we started here to avoid  
5           doing anything that would put us in a posture  
6           where we could -- where people could assume  
7           that we were using political data to engineer  
8           political outcomes.

9           We have conducted the functional analysis  
10          of the exact sort that the Supreme Court  
11          referred to in its -- in its opinion. I did  
12          not include those data in the meeting packet  
13          that is before you now. It is all data that I  
14          have. I can -- I can drag any of it up on the  
15          computer. I've got it in my -- in my notebook  
16          here for each and every district and each and  
17          every plan, and when we get to Senator Gibson's  
18          district here in a minute, we will trace  
19          through exactly what the fields were that we  
20          looked at, exactly how we performed that  
21          analysis for each and every district.

22          If you would like to see the data -- let  
23          me tell you how I did that. What -- as you  
24          well know, the Senate made a choice long ago  
25          not to put registration data or election



1 results data into the District Builder  
2 application that the Senate is using. The  
3 House made a choice that those data would be  
4 helpful for purposes of conducting this very  
5 kind of functional analysis. So what I did in  
6 the days after receiving the Supreme Court's  
7 opinion was go to the House website, I loaded  
8 the plans, various of the plans, many of the  
9 plans, I think about a dozen of them that were  
10 still being considered as either a pass plan or  
11 a remedial plan by this Committee, and I  
12 downloaded from the House system the complete  
13 census and election data report that My  
14 District Builder provides. I have a  
15 spreadsheet, which I will make available to you  
16 if you would like it. The spreadsheet enables  
17 you to just the paste that data into an Excel  
18 spreadsheet, and what comes out is a report  
19 that looks -- looks like what is in my notebook  
20 here.

21 SENATOR DETERT: Senator Gaetz?

22 SENATOR GAETZ: Yes --

23 SENATOR DETERT: Detert.

24 SENATOR GAETZ: -- Senator Detert.

25 SENATOR DETERT: Thank you.

1           Just a question for the staff. It is kind  
2 of -- to me, it is the elephant in the room. I  
3 mean, I agreed with our initial way of doing  
4 business, which is we were not going to take  
5 party affiliation into consideration. I  
6 thought that was the more noble way to go and  
7 that is the way we went. The House, on the  
8 other hand, took party registration into  
9 consideration, and their maps got approved and  
10 ours didn't, and the Supreme Court seems to say  
11 that that is what we should have done. So now  
12 we are to the point where the big question is,  
13 why aren't we still not doing that?

14           SENATOR GAETZ: Well, Senator Detert, we  
15 are, and as we get to each of the -- of the  
16 districts, that functional analysis has been  
17 done, but so that everyone has access to  
18 everything and don't have to look for it on the  
19 Web, or search for it, while the Committee is  
20 in session today, Mr. Guthrie, may I ask that  
21 you have one of the members of your  
22 professional staff make Xerox copies of all of  
23 the party registration and political  
24 performance data that is on the Web and make it  
25 available in copies for every member of this

1           Committee, and also make some extra copies for  
2           members of the press and public who might be  
3           here, please.

4           MR. GUTHRIE: Mr. Chairman, instead of  
5           generating all that paper, would it be possible  
6           maybe to append that to the meeting packet for  
7           today and make it available on-line?

8           SENATOR GAETZ: Is that satisfactory, that  
9           you would be able to -- or would you like it in  
10          hard copy?

11          SENATOR DETERT: No, hard copy.

12          SENATOR GAETZ: Hard copy it shall be.  
13          The trees shall fall -- just a moment. The  
14          trees shall fall. So can you have that done,  
15          please? And then as we go forward in the -- as  
16          we look at each of the -- at each of the  
17          districts, please reference that functional  
18          analysis. Senator Braynon makes an excellent  
19          point, and let's make sure that all that data  
20          is in the record just as -- as our friends in  
21          the House have done.

22          MR. GUTHRIE: I believe the way that I was  
23          intending to proceed here today -- and we are  
24          going to make all of those data available. I  
25          have one question as to --

1           SENATOR GAETZ: Sure.

2           MR. GUTHRIE: -- as to the scope of that  
3 data, but we will make all of that data  
4 available. My question is -- or my statement  
5 is I believe that the approach that the House  
6 staff took was that they had professional staff  
7 analysts looking at those data for the purpose  
8 of conducting the functional analysis they  
9 believed was necessary for these minority  
10 districts.

11          SENATOR GAETZ: Absolutely.

12          MR. GUTHRIE: Now, when I drop the data --  
13 and this is the scope question. When I drop  
14 the data into my spreadsheet, what falls out is  
15 data for all 40 Senate districts.

16          SENATOR GAETZ: Yes.

17          MR. GUTHRIE: Is that the data that you  
18 want?

19          SENATOR GAETZ: Anything that you have, we  
20 want.

21          MR. GUTHRIE: Okay.

22          SENATOR GAETZ: And I think Senator --  
23 Senator Braynon, let's make sure that we are  
24 responsive to your point. Is that responsive  
25 to your point, sir?

1           SENATOR BRAYNON: Yes, yes, Mr. Chair,  
2           that's pretty much responsive to the point.

3           SENATOR GAETZ: Well, let's be fully  
4           responsive. Is there something else you would  
5           like?

6           SENATOR BRAYNON: As we move forward, I  
7           just -- my curiosity is how did we apply it to  
8           the drawing of our maps, but I think you said  
9           we are moving to the northeast quadrant where  
10          we will talk about how it applies, so --

11          SENATOR GAETZ: Yes, absolutely, and if  
12          you find that the explanation is either  
13          insufficient or inadequate, I know you will  
14          point it out, but let's make sure that all the  
15          raw data, which is, by the way, all available  
16          on the Web through the House, we will make hard  
17          copies for everybody so that you can look at  
18          it.

19          Senator Gibson, you are recognized.

20          SENATOR LYNN: Mr. Chairman --

21          SENATOR GIBSON: Thank you, Mr. Chair. I  
22          apologize for being really anxious.

23          SENATOR GAETZ: No, no, no, no, no.

24          SENATOR GIBSON: These are anxious times.

25          We just printed out the meeting packet,

1 but the difficulty is -- and I am raising this  
2 so that -- to save some of the trees in the  
3 forest if we get the page numbers correct. You  
4 referred to a page one hundred and something or  
5 seventy something. When we printed this out,  
6 it somehow starts the numbers over and over and  
7 over, so there is no page seventy something in  
8 here.

9 MR. GUTHRIE: I apologize for that.

10 SENATOR GIBSON: I am not saying it is  
11 your fault. I am just trying to correct it  
12 before we print it.

13 MR. GUTHRIE: I will try to -- I will try  
14 to get my staff to number the meeting packet  
15 sequentially the way we did with the materials  
16 we submitted to the Supreme Court, you know, so  
17 that the page numbers match. Yes, the -- I --  
18 the spreadsheet numbers, districts, starting  
19 over and over and over again, but that is a  
20 different number than the number of the page in  
21 your packet. Is that something that we maybe  
22 could fix during the lunch break?

23 A VOICE: We can try.

24 MR. GUTHRIE: Okay.

25 SENATOR GAETZ: We will do more than try.

1           Anything else as to page numbering,  
2 meeting packets --

3           SENATOR LYNN: Yes, Mr. Chairman.

4           SENATOR HAYS: I have a question, too.

5           SENATOR GAETZ: Just a second. Anything  
6 else on this before we move on?

7           SENATOR LYNN: Yes.

8           SENATOR GAETZ: Senator Lynn.

9           SENATOR LYNN: I just would like to go  
10 back. As we are going down the entire state,  
11 each of these things -- we have talked about  
12 the minorities, we have talked about the number  
13 of minorities, we have talked about voting  
14 records and so forth, now we are talking about  
15 party affiliation. And if we could -- we have  
16 talked about that for the Panhandle, but not  
17 the party affiliation. If we could cover all  
18 of those things as we cover each area, it  
19 doesn't have to be in-depth, but at least the  
20 percentages and so we know where we are for  
21 each of the areas, because now we -- all we  
22 have done with the Panhandle is we talked about  
23 compactness and that there's practically no  
24 minorities. That is fine, but then give us all  
25 of those other factors that have just now been

1 brought up. It is fine to get thousands of  
2 pages, but to try to find exactly what you are  
3 looking for is pretty hard, and I think it  
4 would hasten our discussion and help our  
5 discussion if we could cover all of those  
6 factors as we go to each section, and then if  
7 people have questions based on that, it would  
8 be different.

9 We've gotten the foundation now, so now I  
10 think if Senator Gaetz is going to finish today  
11 to where he intends to, and I don't mean  
12 complete, but at least get to where he hopes to  
13 get, we will never get there the way we are  
14 getting, and I think all of us would like to  
15 have just the succinct information. It meets  
16 compactness because it's got this kind of party  
17 representing, it's got this kind of minority  
18 numbers, that would be so simple.

19 SENATOR GAETZ: And I believe that is what  
20 is intended as we go forward, but --

21 SENATOR HAYS: Mr. Chairman, I --

22 SENATOR GAETZ: Just a second. Because we  
23 are now beginning to understand our pacing and  
24 our time and how much time is being taken for  
25 these very important points, I have asked the



1 Rules Chair to indicate to us our ability to  
2 extend this session to tomorrow so that we can  
3 get everyone's questions in, everyone has an  
4 opportunity to make all the comments they would  
5 like to make.

6 Mr. Rules Chair, you are recognized.

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

9 I agree with you, I think the pace that we  
10 are going is deliberate at best, and given what  
11 Senator Lynn just said, and others, it seems to  
12 me that we need to probably schedule some time  
13 for tomorrow. I have talked to the President.  
14 He has authorized us to meet tomorrow from  
15 eight o'clock in the morning, 8:00 a.m. to 2:00  
16 p.m. Special order calendar group would still  
17 meet at 2:45, and the amendment filing deadline  
18 would be at 5:00 p.m. for the Senate joint  
19 resolution. So that notice from the  
20 President's office will be coming out shortly.

21 SENATOR GAETZ: Thank you very much,  
22 Mr. Rules Chair.

23 Now, I believe that Senator Hays was next.

24 SENATOR HAYS: Thank you, Mr. Chairman.

25 I am -- I am not really confused, but I am

1 concerned. I thought our original plan when we  
2 began these deliberations several months ago  
3 was to follow Amendments 5 and 6 and not take  
4 into mind incumbency or party affiliation or  
5 anything like that.

6 I think Senator Simmons had an outstanding  
7 point this morning when he said, "Follow the  
8 points given by the Court." And now I get a  
9 sense that we are fixing to open up the whole  
10 gamut and we are going to start looking at  
11 every district in the state based on their  
12 population composition, based on their voting  
13 performance, based on their party affiliation,  
14 and I think we are headed down a slippery slope  
15 of mass confusion. Am I correct in that  
16 perception, am I the only one that feels that  
17 way, or should we get back to following Senator  
18 Simmons' admonition?

19 SENATOR GAETZ: Well, I think unless it is  
20 the will of this Committee or the determination  
21 of the Rules Chair that we have wandered off  
22 the rules, we want to have a full and open  
23 discussion, we want everyone to ask all the  
24 questions that they want to ask. People may  
25 have different points of view on this

1           Committee.  Some people may think that the best  
2           thing we should have done was to start with a  
3           blank sheet of paper and start over.  Others  
4           may believe, with Senator Simmons, that the  
5           Court was specific and that we ought to follow  
6           the Court's order as it is -- was read to us by  
7           Senator Simmons.  We are going to provide as  
8           open and fair a dialogue, an opportunity for  
9           everyone to speak, as we can, but we are going  
10          to get through this.

11                 We do have a constitutional  
12          responsibility.  We cannot talk it to death.  
13          We have to get to a point where we make  
14          decisions.  And so, therefore, what I will ask  
15          Senators to do, most respectfully -- just a  
16          moment, Senator Latvala -- what I will ask  
17          Senators to do, most respectfully, is make your  
18          points -- and every point that's been made has  
19          been hopeful and valid and instructive, but let  
20          us, if we can, try to actually get to the  
21          districts so that we can explain the analysis  
22          that has been undertaken, as opposed to talking  
23          about what the analysis ought to include.  
24          Let's see if we can satisfy your concerns with  
25          the presentation that Mr. Guthrie is going to

1 make.

2 I think, Senator Hays, that you are right,  
3 the Senate did take a position that we wanted  
4 to be blind to some of the partisan data and  
5 partisan considerations. The Supreme Court  
6 took a different view. A request has been  
7 made, which is entirely proper, by members of  
8 this Committee to have access to all of that  
9 data in hard copy. It is already available on  
10 the Web. We will make that information  
11 available. But I will be as permissive as I  
12 possibly can, but we've now been given by the  
13 President another day to meet, and we will go  
14 through each of these issues as thoroughly as  
15 any member wants to, but I will -- I would like  
16 to ask members to try to stay on course.

17 We are moving now from northwest Florida  
18 to northeast Florida, and so I would like to  
19 see if we could contain our comments within the  
20 context of what we are talking about, and then  
21 there's always time to go back and make wider  
22 discussions, have wider deliberations and for  
23 people to make statements about their belief  
24 that we ought to do things -- other things.

25 But that is the way I would like to proceed,

1 Senator Hays. But we do -- we do want to take  
2 this seriously, this is once in a decade, none  
3 of us will ever have to do this again, except  
4 Mr. Guthrie, who's signed up for a life  
5 indenture.

6 Senator Diaz de la Portilla.

7 SENATOR DIAZ DE LA PORTILLA: Thank you,  
8 Mr. Chairman.

9 So to that end, Mr. Guthrie, staying in  
10 northwest Florida, we are now going to have a  
11 functional analysis of these two districts in  
12 northwest Florida, functional analysis as  
13 defined by the Supreme Court in its opinion in  
14 page 67, which includes a look at voting age  
15 population, voting registration data, voting  
16 registration of actual voters and election  
17 results history, correct? That is my  
18 understanding of how we are going to proceed.

19 SENATOR GAETZ: We certainly shall. Why  
20 don't we -- just a second. Why don't we --  
21 Senator Diaz de la Portilla has asked that we  
22 look at proposed Districts 1 and 3 and go  
23 through each one of those data points, and we  
24 will take as much time as Senator Diaz de la  
25 Portilla or other members want to take in order

1 to make sure that we -- not only are we putting  
2 all of this information in the record as we  
3 prepare for our lawyers to put a brief before  
4 the Court, but we will put all those words in  
5 the air, because we want to have a full  
6 discussion, make sure everybody understands and  
7 everybody has an opportunity to converse.

8 SENATOR LATVALA: Mr. Chairman?

9 SENATOR GAETZ: Mr. Guthrie --

10 SENATOR LATVALA: Mr. Chairman?

11 SENATOR LYNN: I have a question, please.

12 SENATOR GAETZ: Senator Latvala had had  
13 his hand up for a while.

14 SENATOR LATVALA: This is sort of a  
15 combination logistical question and a reminder  
16 for the Committee. Unless we have a whole  
17 bunch of redistricting staff that is not  
18 sitting here in front of us, we are going to  
19 have a little logistical problem tomorrow  
20 morning with anyone who might want to file  
21 amendments, because they are all going to be  
22 sitting in here instead of helping the members  
23 prepare amendments that would be due at noon  
24 tomorrow, or ten o'clock tomorrow as you have  
25 stressed earlier. Who is going to be doing

1           that processing if they are all sitting in  
2           here?

3           SENATOR GAETZ:   Well --

4           SENATOR LATVALA:   And maybe that is --  
5           maybe we kind of need to use that as a reminder  
6           that maybe we don't need to have, you know,  
7           every single statistic in the record read in  
8           verbally by Senator -- by Mr. Guthrie on this  
9           today.  I think we are making some points here  
10          about, you know, the big picture, but we can't  
11          lose sight of the logistical situation that  
12          we've got, and we've got to have some staff to  
13          help do amendments tomorrow.  So, I mean, we  
14          could just talk this to death, but that means  
15          no amendments are going to get done.

16          SENATOR GAETZ:   Senator Latvala makes an  
17          excellent point.  You are looking at the team.

18          SENATOR LATVALA:   That is what I thought.

19          SENATOR GAETZ:   And so, therefore, as they  
20          say in sports, we control our own destiny.  We  
21          can spend as much time as you would like up  
22          until when, Mr. Rules Chair, 2:00 tomorrow  
23          afternoon, in this committee room, the  
24          President and the Rules Chair have given us a  
25          new amendment deadline, and that is five

1 o'clock tomorrow, but we can't be thinking up  
2 amendments at 3:00 or 4:00, but the new  
3 amendment deadline can be five o'clock if  
4 necessary, if we are still talking tomorrow,  
5 but we do control our own destiny. We want to  
6 be as thorough as we can here and we want to be  
7 as thorough as we can in preparing amendments  
8 for the floor. So it is literally up to the  
9 Committee as to how you proceed.

10 SENATOR DEAN: Mr. Chair?

11 SENATOR LYNN: Mr. Chairman?

12 SENATOR GAETZ: And Senator Hays. I'm  
13 sorry, did you have your hand up? Senator  
14 Dean, I'm sorry, and then we will make sure  
15 everybody has a chance to talk. Senator Dean.

16 SENATOR DEAN: Mr. Chair, I would like to  
17 suggest also that we have a great degree of  
18 success in this court review of this process  
19 that our staff has done, and rather than to  
20 continually berate the issue over and over, I  
21 would like to see that Mr. Guthrie and our  
22 professional staff take those successes that we  
23 did get accomplished and use those directly  
24 also in the proceedings that -- as we start  
25 doing the revisiting of the new districts that



1           were proposed, as Senator Simmons pointed out.

2           I, for one, feel very strongly in support  
3           of what Mr. Guthrie and the professional staff  
4           has done, and I would hope that we would  
5           maintain that focus also and continue in that  
6           as we move forward.

7           SENATOR GAETZ: Thank you, Senator Dean.

8           Senator Lynn, and then we will take other  
9           comments.

10          SENATOR LYNN: I think I am echoing  
11          Senator Dean's -- and I am trying to  
12          understand. Senator DLP, did you indicate that  
13          you just want to do the -- these -- focus on  
14          those districts that we are in question that we  
15          have had to change?

16          SENATOR GAETZ: Senator Diaz de la  
17          Portilla, what is the scope of your request for  
18          verbal enunciation of the data that is in the  
19          record?

20          SENATOR DIAZ DE LA PORTILLA: Thank you,  
21          Mr. Chairman.

22          I think that certainly for the eight  
23          districts in question and the 24 districts  
24          affected, we should have the functional  
25          analysis as defined by the Supreme Court; of

1 course, reserving the right to ask for the  
2 functional analysis to be explained and  
3 elaborated upon as other districts may come up.  
4 It isn't my intention to have staff  
5 methodically do a functional analysis on every  
6 single district automatically. Obviously, I am  
7 mindful of the time constraints that we have.

8 SENATOR GAETZ: Well, Senator Diaz de la  
9 Portilla, the staff has done a functional  
10 analysis on every district. The question is,  
11 what would you like to have verbally  
12 articulated?

13 SENATOR DIAZ DE LA PORTILLA: Well, and  
14 that is exactly what I was saying, Mr.  
15 Chairman. I was saying that, again, as to the  
16 eight districts that the Court found problems  
17 with, we need to have the functional analysis  
18 as far as the remedial measure. As far as the  
19 24 districts that are affected as a result of  
20 those remedial measures, we should have that  
21 functional analysis elaborated upon and  
22 presented by Mr. Guthrie here, and we each  
23 reserve the right to ask for the functional  
24 analysis to be elaborated upon verbally here in  
25 this Committee today or tomorrow, as the case

1           may be, when those districts come up. But what  
2           I am saying is, I am not asking Mr. Guthrie to  
3           automatically elaborate on the functional  
4           analysis for each and every district.

5           SENATOR GAETZ: Okay. We will do sort of  
6           a buffet table, everyone can have their choice  
7           as to the data that they would like, but you  
8           have heard Senator Diaz de la Portilla's  
9           specific request, and then we will elaborate  
10          beyond that based on anyone's questions. May  
11          we allow the data now to be presented, or do we  
12          want to ask more questions about the data?

13          SENATOR ALTMAN: Mr. Chairman, I have a  
14          comment.

15          SENATOR GAETZ: More questions.

16          SENATOR ALTMAN: I am behind you, I'm  
17          sorry, I have been trying to get you.

18          SENATOR GAETZ: Senator Altman.

19          SENATOR ALTMAN: A while back ago we  
20          talked about printed reports. I just for the  
21          record don't want anymore paperwork, I am  
22          perfectly fine with the digital data, and I  
23          think anything that is printed -- maybe members  
24          have different preferences, but I'd find it  
25          much more easier to use in the digital form.

1           SENATOR GAETZ: All right, then, any  
2 members who do not wish to have printed  
3 reports, please let Jay, who is at the end of  
4 the table, know that, and he won't print  
5 reports for you.

6           Now, let's go back to Senator Diaz de la  
7 Portilla's question. Let's take proposed  
8 District 1, and can you walk us through the  
9 functional analysis, please?

10          MR. GUTHRIE: And I don't think we are  
11 quite understanding what the Court did with  
12 functional analysis. In its focus on Districts  
13 1 and 3, the Court itself did not do any  
14 functional analysis. That was not a relevant  
15 issue with those two districts.

16          SENATOR GAETZ: But it is relevant to  
17 Senator Diaz de la Portilla, his question is  
18 appropriate, so --

19          SENATOR DIAZ DE LA PORTILLA: Actually,  
20 Mr. Chair --

21          SENATOR GAETZ: Yes.

22          SENATOR DIAZ DE LA PORTILLA: -- if I may,  
23 let me modify that, because I could understand  
24 why that may just keep us here indefinitely. I  
25 think --

1           SENATOR GAETZ: Just till 2:00 tomorrow.

2           SENATOR DIAZ DE LA PORTILLA: Well, yes,  
3           which isn't indefinitely, actually, it is a  
4           very definite time frame, but since we have  
5           that limited time frame --

6           SENATOR GAETZ: Sure.

7           SENATOR DIAZ DE LA PORTILLA: -- that very  
8           definite time frame, I think we should at least  
9           address the functional analysis and elaborate  
10          upon it when you talk particularly about the  
11          minority districts.

12          MR. GUTHRIE: Absolutely.

13          SENATOR DIAZ DE LA PORTILLA: I think that  
14          is where it becomes much more relevant, and so  
15          I don't want us to go too far afield with each  
16          and every district, but I think that would be a  
17          better way to proceed upon further review, as  
18          they say in the NFL.

19          SENATOR GAETZ: As they say in the NFL.  
20          Okay. Now -- ah, Senator Gibson.

21          SENATOR GIBSON: Thank you, Mr. Chair.

22          So let me be clear, or as clear as  
23          possible until we get to the end. Is the  
24          purpose of the functional analysis to -- is the  
25          functional analysis supposed to be done in

1 every single district, or is the purpose of the  
2 functional analysis relevant only to minority  
3 representation, and minority being inclusive of  
4 all minorities?

5 SENATOR GAETZ: Are you asking for us to  
6 attempt to interpret what the Supreme Court is  
7 looking for, or what members of this Committee  
8 would like presented today?

9 SENATOR GIBSON: Thank you, Mr. Chair.

10 I am -- I am asking for the -- what is the  
11 purpose of the functional analysis? Is it to  
12 be applied to every district, whether it is the  
13 Court or the Committee or whomever, or whether  
14 the functional analysis is only applicable if  
15 it is a minority district?

16 SENATOR GAETZ: Mr. Guthrie, would you  
17 like to take a crack at that in terms of what  
18 we believe is necessary to be responsive to the  
19 Court? And let me just say, Senator Gibson,  
20 that we will be responsive in this Committee to  
21 the request of any Senator for any functional  
22 analysis data, whether the Court thinks it is  
23 important or not. If you think it is  
24 important, it is important.

25 Mr. Guthrie.

1           MR. GUTHRIE: And I would like to refer to  
2 special counsel, if I may.

3           SENATOR GAETZ: You may. Counsel.

4           MR. BARDOS: The relevance of the  
5 functional analysis is to determine whether  
6 minorities have the ability to elect the  
7 candidate of their choice in that district. It  
8 comes out of the requirement that we not  
9 diminish the ability of minorities to elect  
10 candidates of their choice, and it is patterned  
11 after the analysis. It is relevant to the  
12 non-retrogression standard under Section 5. So  
13 that is where its legal -- that is where it has  
14 legal relevance.

15           A functional analysis could, practically  
16 speaking, be performed on any district, but it  
17 would likely tell you that in Districts 1 and  
18 3, it would not function for minorities. So  
19 that is where its legal relevance really lies  
20 in determining whether minorities have the  
21 ability to elect a candidate of choice in a  
22 particular district.

23           A VOICE: Mr. Chair?

24           SENATOR GAETZ: I'm sorry, I will get to  
25 you in just a moment.

1           Senator Gibson, does that answer your  
2 question, ma'am?

3           SENATOR GIBSON: Yes, Mr. Chair, and,  
4 therefore, where -- if I may follow up?

5           SENATOR GAETZ: Of course, you may.

6           SENATOR GIBSON: Thank you.

7           Therefore, where there is no question in a  
8 district as to whether or not it could come  
9 close to being minority access,  
10 majority-minority or minority opportunity,  
11 there is no reason to do a functional analysis,  
12 and we will only do the circumference, the --  
13 whatever those other -- convex -- I can't even  
14 remember their proper names, but those other  
15 analyses?

16           SENATOR GAETZ: Well, it is our  
17 intention -- and we will respond to any  
18 question from any member of the Committee, but  
19 we will get through this. It is our intention  
20 as we go through each of the areas of the state  
21 to point out those things that the Supreme  
22 Court said were flawed, and then to be  
23 responsive. If we -- if folks want to go into  
24 other areas of data search, we will attempt to  
25 be responsive.



1           Now, Senator Diaz de la Portilla has  
2           kindly -- he has kind of shortened the scope  
3           now of the data that he wants explained, if I  
4           understood him correctly, so that we are now  
5           down to the minority districts as to functional  
6           analysis. But he reserves the right, as any  
7           member of the Committee, to ask for this kind  
8           of information about any district as we go  
9           through the process. Is that satisfactory,  
10          ma'am?

11           SENATOR GIBSON: That is --

12           SENATOR GAETZ: Did you have any  
13          follow-up, or is that all right?

14           SENATOR GIBSON: I think the answer to my  
15          question is yes, and that is I believe, because  
16          I want to make sure that if we get to any area  
17          of the state that potentially has minority --  
18          any of the three categories, opportunity,  
19          access or majority, that we are doing the  
20          functional analysis where there is the  
21          opportunity to do so. Otherwise, we are only  
22          doing the other formulas, is that correct?

23           SENATOR GAETZ: Yes, we are doing -- we  
24          are being responsive to each concern or  
25          criticism or invalidity that the Supreme Court

1 has indicated in each of the districts in which  
2 they have indicated one, plus there are members  
3 who would like to talk more generally about the  
4 state and about -- and we have, obviously, the  
5 numbering system to respond to as well. But  
6 the answer to your question is yes.

7 And now, President Margolis.

8 SENATOR MARGOLIS: I would like to --

9 SENATOR GAETZ: Madam President, I think  
10 your --

11 SENATOR MARGOLIS: I would like to request  
12 a functional analysis of all of Dade County,  
13 all the seats in Dade County, because of the  
14 six seats in the Florida Senate, five of them  
15 are protected seats, and the Anglo community  
16 has become a minority in Dade County, so I  
17 would certainly like to have that information  
18 available.

19 SENATOR GAETZ: And, Mr. Guthrie, please,  
20 let's make sure that when we get to that place  
21 in the state in our conversations, that that  
22 data is fully available, that we bring it up  
23 and discuss it in front of the Committee and  
24 that we do it in a plain fashion so that we can  
25 all understand it, okay?

1           MR. GUTHRIE: The data that we prepared  
2 here followed the prescription that was laid  
3 out by the Supreme Court in its opinion, and  
4 that prescription is -- was not used for  
5 purposes of determining whether a white  
6 minority was -- was having its voting rights  
7 diminished.

8           SENATOR GAETZ: But we do have the  
9 specific data in each of the districts in  
10 Miami-Dade to show here's what the ethnic  
11 breakdown is and here's what the voting  
12 performance is, correct?

13           MR. GUTHRIE: All of the data fields that  
14 were necessary for conducting the sort of  
15 analysis that the Supreme Court directed the  
16 Senate to do will be a part of these  
17 spreadsheets that I will make available to  
18 all --

19           SENATOR GAETZ: Great.

20           MR. GUTHRIE: -- at our lunch break.

21           SENATOR GAETZ: And when we get to south  
22 Florida, let's make sure that we fully discuss  
23 what President Margolis has asked for.

24           Now, anything else before we move to a  
25 part of the state where many of these questions

1 are actually germane? Senator Diaz de la  
2 Portilla.

3 SENATOR DIAZ DE LA PORTILLA: When it  
4 comes to Districts 1 and 3, the Court said that  
5 there is no consideration necessary of -- when  
6 it comes to protecting minority voting access,  
7 and so a functional analysis will not be  
8 necessary when it comes to Districts 1 and 3.  
9 That is all I --

10 SENATOR GAETZ: Praise God. Let's now  
11 move to the northeast part of the state. More  
12 questions? Anything else? Senator Braynon.

13 SENATOR BRAYNON: Mr. Chair, I only ask  
14 this -- I know that we go to the northeast and  
15 we skip over a district that we left the same,  
16 which was District 5, but the question that I  
17 ask, and this is only as I read the opinion,  
18 did we do -- and I think we covered this, but  
19 did we do a functional analysis of District 5?  
20 And I ask this because District 5 contains the  
21 most African-American county in the state of  
22 Florida, District 5 was represented in 2002  
23 benchmark by an African-American, so, you know,  
24 I mean, these are the type of things that I am  
25 sure led to the creation of District 29, which

1           was an ac- -- in our new map. So the  
2           functional analysis doesn't just say, you know,  
3           oh, this doesn't need it, but it could give you  
4           some insight that created a seat or something  
5           of that nature.

6                     SENATOR GAETZ: Thank you, Senator  
7           Braynon. Could you respond, Mr. Guthrie, as  
8           to --

9                     MR. GUTHRIE: Yes, Mr. Chairman, as to  
10          District 5, the sort of analysis that the Court  
11          prescribed we do on District 5 is first to look  
12          at the percentage of the Democratic primary  
13          election voters who were black. That number  
14          for the 2010 primary election was 33.1 percent.  
15          33.1 percent of the people who actually voted  
16          in the primary in 2010 were African-American.  
17          The percentage of -- the Court also looks at  
18          the Democratic 2010 general election voters who  
19          are black, so among the -- all the voters,  
20          Democratic voters who voted in the general  
21          election in 2010, what percentage was black.  
22          That number in District 5 is 36.8 percent.

23                     The Court also looks at the political  
24          preference of racial minorities; that is, do  
25          black voters prefer Democratic candidates or

1 Republican candidates? In District 5, 93.9  
2 percent of the black general election voters  
3 were Democrats, okay.

4 And then -- it is really a two-fold or  
5 three-fold analysis. The first question is,  
6 what percentage of minority voters do you have,  
7 and is it a sufficiently large percentage to  
8 control the primary election, okay, and elect  
9 or nominate the preferred candidate of choice  
10 in the primary election. The next question is,  
11 is there a political preference among the  
12 minority voters between Democrats and  
13 Republicans. And then the third question that  
14 the Court looked at in the functional analyses  
15 that it performed is how the candidates  
16 preferred by the minority voters fared in that  
17 district in the general election. So how  
18 did -- in this case, how did Democratic voters  
19 fare in the general election?

20 What we can say in conclusion with respect  
21 to District 5 is that -- is that your  
22 African-American voters constitute a third of  
23 the primary voters, insufficient for  
24 controlling the outcome of that -- that  
25 election. They are going to need significant

1 crossover vote in order to have their candidate  
2 of choice win the election.

3 Secondly, with respect to District 5, you  
4 have an overwhelming preference for -- among  
5 blacks for Democratic candidates, and in  
6 District 5, in the three races that the Court  
7 looked at in its analysis -- those were Alex  
8 Sink for Governor in 2010, Barack Obama for  
9 President in 2008 and Jim Davis for Governor in  
10 2006 -- in each of those three races, the  
11 Democratic candidate won in District 5. So  
12 that is the functional analysis prescription  
13 applied to that district.

14 And if I may, I -- Andy and I have not  
15 rehearsed this. If I could ask Mr. Bardos  
16 whether I got that close to right?

17 SENATOR GAETZ: Mr. Bardos?

18 MR. BARDOS: I think that is right. I  
19 think it is also important to note that  
20 District 5 is one of the districts that -- or  
21 rather, the Court didn't find fault with, and  
22 the Court did say that the Senate plan does not  
23 facially dilute a minority group's voting  
24 strength or cause retrogression under Florida  
25 law. So I think that is the ultimate

1 conclusion of what Mr. Guthrie stated.

2 SENATOR GAETZ: Senator Braynon, was that  
3 responsive, sir, or did you wish to pursue any  
4 other questions?

5 SENATOR BRAYNON: No, that was responsive  
6 to District 5.

7 SENATOR GAETZ: President Margolis.

8 SENATOR MARGOLIS: To the attorney, is  
9 there any description of a minority group that  
10 we can rely on?

11 SENATOR GAETZ: Mr. Bardos.

12 MR. BARDOS: Could you restate the  
13 question, I'm sorry?

14 SENATOR GAETZ: The question is, is there  
15 any description of a minority group, what is a  
16 minority group, a description that we can rely  
17 on, descriptions that are commonly -- that are  
18 accepted in law?

19 MR. BARDOS: Well, the Court in its  
20 opinion refers to districts that are  
21 African-American districts and then Hispanic  
22 districts, and my understanding is that  
23 Hispanics are generally viewed collectively and  
24 those are the two minority groups that have  
25 sufficient numbers in Florida to be able to



1 elect the candidates of their choice.

2 SENATOR GAETZ: Madam President?

3 SENATOR MARGOLIS: I am referring to  
4 counties, and in some counties, there are other  
5 groups that are minorities.

6 SENATOR GAETZ: Mr. Bardos.

7 MR. BARDOS: There are other groups that  
8 are minorities. Blacks and Hispanics, though,  
9 are the only ones that are sufficiently  
10 numerous to have the ability to elect  
11 candidates of their choice, so I don't know if  
12 that is fully responsive.

13 SENATOR GAETZ: Madam President?

14 SENATOR MARGOLIS: What would you consider  
15 -- what would you consider the necessity to be  
16 a minority, I mean, what percentage of the  
17 population?

18 SENATOR GAETZ: Mr. Bardos.

19 MR. BARDOS: There is no specific  
20 percentage. I think we would look at the  
21 functional analysis which the -- which the  
22 Court set forth, and so we'd look at the same  
23 data points and draw our conclusions the same  
24 way that the Court did.

25 SENATOR GAETZ: Other comments or

1 questions? Leader Rich, did you wish  
2 recognition, ma'am?

3 Senator Montford.

4 SENATOR MONTFORD: Thank you, Mr. Chair.

5 While we are on definitions, what is the  
6 definition of candidate of choice?

7 SENATOR GAETZ: I apologize, sir --

8 SENATOR MONTFORD: Candidate of choice.

9 SENATOR GAETZ: Candidate of choice?

10 SENATOR MONTFORD: Yes.

11 SENATOR GAETZ: Mr. Guthrie?

12 MR. GUTHRIE: I would say a general term  
13 of art used by political scientists to do  
14 ecological inference and ecological regression  
15 in voting analyses. It refers to not a  
16 candidate who necessarily is the same race as  
17 the -- as the voter, but the candidate who is  
18 favored by the -- consistently favored by  
19 members of that minority community. And it  
20 takes on particular relevance under the  
21 Thornburg v. Gingles case that Mr. Bardos or  
22 Ms. Tunnickliff can tell us about when the  
23 minority's preference is frustrated by the  
24 majority voting as a block against that  
25 candidate.

1           SENATOR GAETZ: Senator Montford, is that  
2 responsive?

3           SENATOR MONTFORD: Yes.

4           SENATOR GAETZ: Other comments or  
5 questions? I want to ask the Committee for its  
6 preference as to lunch. Mr. Leader, do we have  
7 -- hang on. Is the Majority Leader here?

8           A VOICE: He stepped out to get some food.

9           SENATOR GAETZ: Okay. Wise leader, wise  
10 leader. My understanding is that we have two  
11 choices. There is food in the back that  
12 members can partake on. If it is not there  
13 now, it soon will be. I think that is what the  
14 Majority Leader was working on. Or we can take  
15 a lunch break if you have other business to  
16 attend to. What is the preference of the  
17 Committee?

18           SEVERAL VOICES: Lunch break.

19           SENATOR GAETZ: Lunch break, all right.  
20 This Committee shall stand in recess until  
21 12:30.

22           (Brief recess taken.)

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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 152 represent a true, correct, and complete transcript of the tape- recording;

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

Dated this 26th day of March, 2012.

\_\_\_\_\_

CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2014

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SENATE REAPPORTIONMENT COMMITTEE HEARING

TUESDAY, MARCH 20, 2012

VOLUME II

PAGES 154-153

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

3 SENATOR GAETZ: We have the copies made of  
4 the additional data that some members wanted to  
5 have hard copies of, and so we will get back  
6 together again, and I would like to ask the  
7 administrative assistant to call the roll to  
8 make sure we have a quorum. Please call the  
9 roll.

10 THE CLERK: Senator Gaetz?

11 SENATOR GAETZ: Here.

12 THE CLERK: Senator Margolis?

13 SENATOR MARGOLIS: Here.

14 THE CLERK: Senator Altman?

15 SENATOR ALTMAN: Here.

16 THE CLERK: Senator Benacquisto?

17 SENATOR BENACQUISTO: Here.

18 THE CLERK: Senator Braynon?

19 SENATOR BRAYNON: Here.

20 THE CLERK: Senator Bullard?

21 Senator Dean?

22 SENATOR DEAN: Here.

23 THE CLERK: Senator Detert?

24 SENATOR DETERT: Here.

25 THE CLERK: Senator Diaz de la Portilla?

1           SENATOR DE LA PORTILLA: Here.

2           THE CLERK: Senator Evers?

3           SENATOR EVERS: Here.

4           THE CLERK: Senator Flores?

5           SENATOR FLORES: Here.

6           THE CLERK: Senator Garcia?

7           SENATOR GARCIA: Here.

8           THE CLERK: Senator Gardiner?

9           SENATOR GARDINER: Here.

10          THE CLERK: Senator Gibson?

11          SENATOR GIBSON: Here.

12          THE CLERK: Senator Hays?

13          SENATOR HAYS: Here.

14          THE CLERK: Senator Joyner?

15          SENATOR JOYNER: Here.

16          THE CLERK: Senator Latvala?

17          SENATOR LATVALA: Here.

18          THE CLERK: Senator Lynn?

19          SENATOR LYNN: Here.

20          THE CLERK: Senator Montford?

21          SENATOR MONTFORD: Here.

22          THE CLERK: Senator Negron?

23          SENATOR NEGRON: Here.

24          THE CLERK: Senator Rich?

25          SENATOR RICH: Here.

1 THE CLERK: Senator Sachs?

2 SENATOR SACHS: Here.

3 THE CLERK: Senator Simmons?

4 SENATOR SIMMONS: Here.

5 THE CLERK: Senator Siplin?

6 SENATOR SIPLIN: Here.

7 THE CLERK: Senator Smith?

8 SENATOR SMITH: Here.

9 THE CLERK: Senator Sobel?

10 SENATOR SOBEL: Here.

11 THE CLERK: Senator Storms?

12 SENATOR STORMS: Here.

13 THE CLERK: Senator Thrasher?

14 SENATOR THRASHER: Here.

15 THE CLERK: Senator Wise?

16 SENATOR WISE: Here.

17 THE CLERK: Quorum present.

18 SENATOR GAETZ: All right. We are back in  
19 session, and during the lunch break, I did have  
20 the opportunity to receive some advice from the  
21 Minority Leader and the Majority Leader. They  
22 would like us to move along. Certainly both  
23 leaders want to make sure every question gets  
24 asked and answered, but they would like us to  
25 try to stay a little tighter to the task. And



1 so, therefore, what we are going to do is try  
2 to do some times that we allot to the  
3 amendatory process. We have members who have  
4 amendments who deserve to have their amendments  
5 heard, and so we are going to devote time to  
6 the amendatory process, take about 45 minutes,  
7 if necessary, for each of the amendments.

8 So the way that we would like to budget  
9 the time, unless there is objection, is now we  
10 will ask Mr. Guthrie to just briefly describe  
11 to us what it is that he's handed out in hard  
12 copy, and then we will go to northeast Florida  
13 and for the next hour and a half, the next hour  
14 and a half until about 2:30, we will go through  
15 the specific areas of the map where the Court  
16 has declared districts invalid and we will  
17 describe to you the remedies that are being  
18 proposed and we will respond, as you have asked  
19 us to, with specifics as to how those remedies  
20 bear up against the various criteria that the  
21 Court has laid out that we need to respond to,  
22 including functional analysis where appropriate  
23 as defined by Senator Diaz de la Portilla, as  
24 he defined where he would like that handled,  
25 and compactness analyses where those are

1 relevant, and we will take questions as we go,  
2 but I would like to ask members to respect the  
3 request of their leaders to see if we can stay  
4 on topic and that we can keep the points that  
5 we make to essential points, but not  
6 necessarily elongated points.

7 Is there any objection to moving as our  
8 two leaders have indicated that they would like  
9 us to move?

10 Okay. That being the case, Mr. Guthrie,  
11 what is it that is being handed out to us now,  
12 sir?

13 MR. GUTHRIE: Prior to the break, Mr.  
14 Chairman, the Committee requested that they be  
15 provided hard copy reports of the data that I  
16 and my staff used for purposes of conducting  
17 the functional analyses that were prescribed by  
18 the Supreme Court. So what we are supplying  
19 for each of the plans, the proposed committee  
20 substitute, the plan that passed during regular  
21 session, SJR 1174, and for the benchmark plan,  
22 the districts that were in place from 2002  
23 until present, the fields that the Supreme  
24 Court stated would be relevant for determining  
25 the opportunities for black and Hispanic

1 minorities to participate in the political  
2 process. So it is the data -- we do not limit  
3 it to just the districts that we think might  
4 perform. We, in fact, have the data for all 40  
5 districts in all of the plans, so that the  
6 reader of the report can use what discretion  
7 you believe is appropriate in determining which  
8 districts are candidates for doing the more  
9 thorough functional analysis and which are not.

10 SENATOR GAETZ: And two questions, Mr.  
11 Guthrie: First, when we get to the Latvala  
12 amendment, which also proposes a statewide  
13 plan, and when we get to the Diaz de la  
14 Portilla amendment, which also proposes a  
15 statewide plan, we have functional analyses  
16 that we can hand out when we get to those  
17 points on the agenda, is that correct?

18 MR. GUTHRIE: Those are being -- we wanted  
19 to get the copies made as quickly as possible.  
20 They are continuing working, and we should have  
21 those copies well in time for taking up those  
22 amendments.

23 SENATOR GAETZ: All right. And then the  
24 final question, and that is, for those members  
25 who like to work on-line, all of this

1 information is, of course, on-line, and could  
2 you please give the -- give the on-line site so  
3 that members who wish to follow on-line can  
4 follow on-line, and those who wish to follow in  
5 hard copy can do so?

6 MR. GUTHRIE: So let's go to the Florida  
7 Senate website and then to the "Redistricting"  
8 tab, and I am going to see this for the first  
9 time. And what I see is that we have asked the  
10 IT team to get the -- a new bullet under the  
11 home page for the redistricting committee.  
12 That new bullet should be operational within  
13 the hour, I would think. It will be called  
14 "Data for Functional Analyses," and what will  
15 be in that bullet is the three reports that are  
16 being handed out in hard copy now.

17 SENATOR GAETZ: Okay. And then,  
18 finally -- Ben, I would love to have copies --  
19 a hard copy, too. Thank you. And then do we  
20 have copies for members of the press so that  
21 they can see if they choose to follow in hard  
22 copy as opposed to on-line? Any extra copies,  
23 make sure that our ladies and gentlemen of the  
24 press have that.

25 All right. Does everyone know what you

1 have in your hands? Do you know how to follow  
2 -- you don't know what you have in your hands.  
3 Okay. Let's go back and -- yes, Senator  
4 Gibson.

5 SENATOR GIBSON: I know what I have in my  
6 hand, but I am not sure how to correlate it to  
7 what. Like 9016 is obviously SJR-2B.

8 SENATOR GAETZ: Well --

9 SENATOR GIBSON: What's 2002?

10 MR. GUTHRIE: 2002 is the current  
11 districts, so those are the --

12 SENATOR GIBSON: All right. That's what I  
13 thought.

14 SENATOR GAETZ: Let me ask --

15 MR. GUTHRIE: -- districts that took  
16 effect in 2002.

17 SENATOR GAETZ: You had asked, Senator  
18 Gibson, if we could also show the districts as  
19 they are and then the districts as were passed  
20 by the Legislature and then the districts in  
21 the remedial plan that we are considering now.  
22 That is what you have in your hand.

23 Senator Siplin, did you have a question,  
24 sir?

25 SENATOR GIBSON: Specifically which one is

1           which?

2           SENATOR SIPLIN: Thank you, Mr. Chair.

3           I just want -- maybe staff can explain  
4           what we have in our hands.

5           SENATOR GAETZ: Are you satisfied with the  
6           explanation, or do you need more?

7           SENATOR SIPLIN: I didn't catch it, I  
8           apologize. Can you go over it again? I didn't  
9           catch it.

10          SENATOR GAETZ: Yes, we can certainly go  
11          over it again. Mr. Guthrie, would you please  
12          go over again what these three pieces of paper  
13          are?

14          MR. GUTHRIE: Real briefly, we download  
15          the extended data set from the My District  
16          Builder website that is hosted by the Florida  
17          House of Representatives, and we select out of  
18          that data set the fields that are relevant for  
19          conducting the kinds of functional analysis  
20          that were prescribed by the Florida Supreme  
21          Court for evaluating minority districts.

22          SENATOR GAETZ: Yes, Senator Siplin.

23          SENATOR SIPLIN: I just need to know, what  
24          is the functional analysis S9008 and 2002 and  
25          9016? That is what I need to know.

1           SENATOR GAETZ: Mr. Guthrie.

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

3           9016 is plan number 9016, which is the  
4           proposed committee substitute, 9008 is the plan  
5           that passed the Senate -- Senate Joint  
6           Resolution 1174 during the regular session,  
7           S2002 is your current Senate districts.

8           SENATOR GAETZ: Good question. Any other  
9           questions? Yes, sir, Senator Montford.

10          SENATOR MONTFORD: Just a real simple  
11          question, the current districts. Did you  
12          superimpose the numbers on the Gaetz plan here;  
13          in other words, is District 1 on 2002 the same  
14          as District 1, or did you go -- is District 1  
15          the old District 1?

16          SENATOR GAETZ: Mr. Guthrie?

17          MR. GUTHRIE: What the House of  
18          Representatives does is use a statistical  
19          procedure that is called aerial interpolation  
20          in order to attribute precinct of variables or  
21          precinct attributes to census blocks, and then  
22          they recompile those census blocks into  
23          districts. So what you are seeing here is not  
24          the actual results per district, but rather,  
25          where the people would be if these districts

1 had been in place, if the proposed committee  
2 bill districts had been in place for elections  
3 ten -- two, four or six years ago.

4 SENATOR MONTFORD: Mr. Chair, if I may?

5 SENATOR GAETZ: Senator Montford.

6 SENATOR MONTFORD: Let me ask it another  
7 way. District -- is District 1 on 2002 --

8 MR. GUTHRIE: Yes.

9 SENATOR MONTFORD: -- the same as District  
10 1 on 9016 and 9008?

11 MR. GUTHRIE: No, those are three  
12 different sets of geography.

13 SENATOR GAETZ: Currently Senator Gibson  
14 represents District 1. It is in the  
15 Jacksonville area. So the answer to that  
16 question is no.

17 MR. GUTHRIE: Yeah. So you would look at  
18 the map for the current districts, and those  
19 numbers go with the election results for 2002.

20 SENATOR MONTFORD: So you can't compare 1,  
21 1, 1, you've got to compare 1 with 3 to 6?

22 MR. GUTHRIE: One to 6 or 5 to 3, yes.

23 SENATOR GAETZ: Okay. Are we together?  
24 Any other questions about what we have in our  
25 hands?



1           All right. I think a lot of this will  
2           become clearer as we actually use the data and  
3           work our way through the districts where there  
4           are more complicated issues. And with that,  
5           Mr. Guthrie, can you take us to northeast  
6           Florida?

7           MR. GUTHRIE: And I would like to make the  
8           Committee aware about one little technical  
9           detail in these numbers. For the election  
10          results, the numbers that I report in this  
11          spreadsheet are slightly different than the  
12          numbers that the Supreme Court reported in its  
13          opinion.

14          The method that we used was -- say for the  
15          Rick Scott/Alex Sink election for Governor, we  
16          made it so that we only looked at the votes for  
17          those two candidates. So the -- for Rick Scott  
18          for Governor, the numerator would be the votes  
19          for Rick Scott, the denominator would be the  
20          votes for Rick Scott or Alex Sink. If there  
21          were third candidates or -- third-party  
22          candidates or write-in candidates in the race,  
23          they fall out. And the reason for doing it  
24          that way is then you know that if a candidate  
25          gets 50 percent of the vote, that candidate

1 would have had a -- at least a plurality in the  
2 district. So that is how these data were  
3 calculated. So when we say Rick Scott, we mean  
4 Rick Scott, his share of the vote for the two  
5 candidates; John McCain, his share of the vote  
6 for votes cast either for McCain or Obama.

7 SENATOR GAETZ: And to keep us moving, if  
8 I have kind of a dumb question, a question that  
9 I just am having trouble relating a couple of  
10 numbers, just -- you know, you can certainly  
11 ask that a member of the staff come up and  
12 speak to you personally. If you think it is a  
13 question that has broader applications and  
14 other people ought to know the question and the  
15 answer, please feel free to ask it.

16 Okay, northeast Florida, away we go.

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

18 What you see on the screen now is the  
19 current configuration of Senate District --  
20 actually, it is Senate District 1. I guess I  
21 -- what I did is I renumbered the districts so  
22 that the colors would align with the districts  
23 in the plan 9008 or plan 9016, so this is  
24 actually Senate District 1. It stretches from  
25 Duval County through St. Johns and Flagler

1 County, extends into Putnam County, and the  
2 southern terminus is in Volusia County, the  
3 Daytona Beach area. That district today is  
4 based on the twenty -- when that district was  
5 created, it was 46.6 percent black VAP. That  
6 was in the -- in 2002, after the 2000 census.  
7 During the decade, it became slightly higher  
8 percentage of African-Americans. It is 46.9  
9 percent black VAP as of the 2010 census. In  
10 the plan that the Legislature passed out during  
11 the regular session -- and, actually, that is  
12 what we are showing on the screen here now, not  
13 the current district, but the district in the  
14 plan that was in Senate Joint Resolution 1176,  
15 the one that the Court has asked us to correct.  
16 So this is the district that the Legislature  
17 presented to the Supreme Court. The Supreme  
18 Court concluded that District 6 sacrifices  
19 compactness and utilizing boundaries when not  
20 necessary to do so to avoid conflict with the  
21 minority voting protection provision. So the  
22 Court is telling us that the district is  
23 unnecessarily non-compact and does not  
24 sufficiently follow political and geographic  
25 boundaries. The Court also concluded that a

1 district that is based solely in Duval County  
2 would be much more compact and likely afford  
3 black voters the ability to elect candidates of  
4 their choice.

5 The Court went on to say that further,  
6 "Although adjoining District 9 standing alone  
7 is not invalid, the reason for its lack of  
8 compactness and failure to utilize political  
9 and geographic boundaries was its location  
10 adjacent to District 6. As a result of  
11 District 6 being made more compact, District 9  
12 becomes more compact as well."

13 So, again, let's look at the district in  
14 the plan that was submitted to the Supreme  
15 Court, the one that you passed off the Senate  
16 floor in -- was it -- in January, and that the  
17 Legislature passed out on February 9th.

18 Flipping the screen, here is the proposed  
19 remedy. So as was suggested by the Supreme  
20 Court, this remedy will create a district  
21 entirely in Duval County. That district will  
22 be 43.0 percent voting age population, which is  
23 actually a higher percentage than the level in  
24 the League Of Women Voters' plan, which the  
25 Court held up as an example of how a more

1 compact district could be drawn in this area.

2 We conducted the functional analysis for  
3 this reconfigured District 6. What we  
4 discovered was that 66.3 percent of the voters  
5 in the Democratic primary are black, that 91.4  
6 percent of blacks in this area who vote in the  
7 general election vote as Democrats. We don't  
8 know how they cast their ballot, but they are  
9 registered as Democrats. We know that the 54.3  
10 percent of the general election voters in this  
11 district are going to be Democrats, and that  
12 Alex Sink got 57 percent of the vote, Barack  
13 Obama got 59.8 percent of the vote and Jim  
14 Davis in 2006 got 48.6 percent of the vote.  
15 Those are figures, again, that are comparable  
16 to the ones that the Court looked at for the  
17 League of Women Voters' plan, and so based on  
18 that, we conclude that it is possible to create  
19 an opportunity district for minorities in Duval  
20 County as the Court directed without working  
21 contrary to the other objectives of Amendment  
22 5, which are to avoid compactness and to follow  
23 political and geographic boundaries.

24 SENATOR GAETZ: And then going back to  
25 Senator Storms' request that we do -- you know,

1           that we articulate the way that a check list  
2           could be developed here, you have responded --  
3           or you have shown how the district responds to  
4           the majority-minority issue. Now tell us how  
5           these districts respond. Let's start with  
6           District 6 and District 4 to the three indices  
7           of compactness, please. And, again, as Senator  
8           Storms has suggested, let's use that as our --  
9           as our verbal method of articulating how these  
10          districts respond to the Court.

11           MR. GUTHRIE: Okay. So for District 6, in  
12          the plan that was originally submitted,  
13          obviously it was in five partial counties, the  
14          Reock score -- or let's go in order of convex  
15          hull, Reock and Polsby-Popper, those values for  
16          the bill that passed earlier, the Senate Joint  
17          Resolution 1174 were at .43 for the convex  
18          hull --

19           SENATOR GAETZ: And which district are we  
20          on now?

21           MR. GUTHRIE: We are on District 6 --

22           SENATOR GAETZ: Okay.

23           MR. GUTHRIE: -- in the original plan. So  
24          .43. The Reock score, or how circular is it,  
25          the score was .12, and the Polsby-Popper score

1           was 0.07. So it -- with the remedy applied,  
2           those comparable numbers are, for the convex  
3           hull, .64, an increase of .21; for the Reock  
4           ratio, how circular is it, it goes from .12 to  
5           .41; and for Polsby-Popper, it goes from .07 to  
6           .20. So the -- by those traditional measures  
7           of geometric compactness, this district is  
8           significantly more compact than the district  
9           that extended south to Daytona Beach.

10                    SENATOR GAETZ: And Senator Diaz de la  
11           Portilla and Senator Storms, since you helped  
12           us with those, are we being responsive now?  
13           Okay. Senator Storms.

14                    SENATOR STORMS: Yes, sir, I have a  
15           question.

16                    SENATOR GAETZ: Of course, you are  
17           recognized.

18                    SENATOR STORMS: Thank you.

19                    So in looking at the analysis, I want to  
20           back up, because you do a couple of things.  
21           The Court's objection was that the districts  
22           were not as compact as they could be without  
23           diminishing the minority ability to elect a  
24           candidate of their choice, and so -- so we made  
25           it more compact. I am looking at the numbers

1 from -- from the regular session plan to the  
2 proposed committee bill, and I am just  
3 wondering -- my first question is, did we --  
4 how close are we to the diminishment line, and  
5 can we extract more compact qualities without  
6 crossing the diminishment line? Where is the  
7 line?

8 SENATOR GAETZ: Mr. Guthrie?

9 SENATOR STORMS: That is the \$64,000  
10 question.

11 SENATOR GAETZ: No, very good question.  
12 It is -- that is the rubber meets the road  
13 question.

14 MR. GUTHRIE: And I don't know that the  
15 Supreme Court set a bright line for us. I  
16 believe that all of these evaluations need to  
17 be made on a case-by-case basis using the full  
18 complement of available data.

19 So what the Court would have been able to  
20 see is that in the district that the Senate  
21 presented during the regular session, District  
22 6, which extended to Daytona Beach, had a black  
23 percentage of primary turnout of 67.3 percent,  
24 which is about one percent higher than the  
25 district as reconstituted in this proposed



1 committee substitute. And the Court determined  
2 evidently in this case that -- that that level  
3 of difference was not significant for --  
4 significant enough to justify the extension of  
5 this district to Daytona Beach.

6 SENATOR GAETZ: Senator Storms.

7 SENATOR STORMS: Thank you, because I  
8 noticed that the -- thank you, Mr. Chair.

9 I noticed that the -- statistically, while  
10 we achieved certainly more compactness here, we  
11 -- the percentage points, at least in a general  
12 election and in the primary election, was, you  
13 know, relatively small in so far as its  
14 statistical analysis for minority participation  
15 occurred. And so I just -- I just want to be  
16 sure that you are comfortable or counsel is  
17 comfortable that we did what we could to  
18 address -- let me be more specific than saying  
19 did what we could -- that we achieved as much  
20 compactness as possible that the Court was  
21 targeting with as much play that we have in the  
22 numbers to reduce those -- the statistical  
23 participation numbers.

24 I guess the real question would be is,  
25 which is the number, or was it an average, an

1 average of the general, the primary, et cetera?  
2 Because if I am looking at -- for 6, if I am  
3 looking at the proposed committee bill, the  
4 general election, the Hispanic general  
5 election, who are Democrats is -- Hispanic 2010  
6 is 37.6. The black 2010 general election  
7 voters who are Democrat is 91.4. That on the  
8 regular session was only 92.2, respectively,  
9 38.5, so you've got a little less than one  
10 percent there, and 34.6. So how do you -- how  
11 did you say -- was it an average that you took  
12 to achieve to not jeopardize the diminishment  
13 criteria?

14 SENATOR GAETZ: Mr. Guthrie.

15 MR. GUTHRIE: I believe what you do,  
16 Senator, and I believe what the Supreme Court  
17 has asked the Senate to do, is to look at all  
18 of the -- the full complement of available data  
19 and make an informed decision based on the  
20 entirety of the data available as to whether  
21 this diminishment is going to occur. The  
22 position, you will recall, that the Senate  
23 articulated during the regular session --

24 SENATOR STORMS: Mr. Chair?

25 SENATOR GAETZ: Yes, of course, ma'am.

1           SENATOR STORMS: I guess I just want to --  
2           and I guess I would rather have -- I guess I  
3           would rather have an attorney answer the  
4           question, with all due respect, it is not  
5           disrespectful at all, but I am really asking  
6           the question, is this a mathematical equation,  
7           or is this the balancing test, Counsel?

8           SENATOR GAETZ: Counselor?

9           SENATOR STORMS: Because I think it makes  
10          a difference.

11          MR. BARDOS: It is not an equation. I  
12          think it is just applying common sense, and as  
13          Mr. Guthrie said, an informed judgment to the  
14          numbers that are collected here. The Court  
15          performed several functional analyses in its  
16          opinion, two of them on Senate districts as  
17          enacted in Senate Joint Resolution 1176, and  
18          two of them on districts that were in the  
19          League of Women Voters' plan. And so you can  
20          see there exactly what the Court did, it  
21          reviewed the data points that were highlighted  
22          to you by Mr. Guthrie, and then it came to a  
23          conclusion as to whether under these  
24          circumstances it is likely that minorities will  
25          be able to elect the candidates of their

1 choice.

2 So there is no single formula or equation  
3 that gives an answer. It is a -- it is a  
4 common sense informed judgment applied to the  
5 data that are collected in the information that  
6 has been provided here.

7 SENATOR GAETZ: I think balancing test.  
8 And, Ms. Tunnickliff, I am not going to ask you  
9 each time. If you would like to expand upon  
10 any answer that Mr. Bardos gives, just speak  
11 up, okay?

12 MS. TUNNICLIFF: Thank you.

13 SENATOR GAETZ: Senator Diaz de la  
14 Portilla.

15 SENATOR DE LA PORTILLA: So just to  
16 understand it, then -- thank you,  
17 Mr. Chairman -- in summary, the district -- the  
18 plan that we passed, which is here under  
19 functional analysis 9008, was a lot more black  
20 voting age population than what is being  
21 proposed as a remedy, and in terms of  
22 performance based on election history, voted a  
23 lot more Democratic, if you will, than  
24 Republican, than what we are proposing to do  
25 and fix, but the difference isn't significant

1           enough where it would make an ultimate  
2           difference in the outcome. We go from a  
3           district, what we passed, 47 percent voting age  
4           population black to 43 percent voting age  
5           population black, but when you look at the  
6           performance in terms of elections, you are  
7           talking about a couple of points' difference.  
8           So at the end of the day, you wouldn't diminish  
9           the ability of African-Americans to select a  
10          candidate of their choice by reducing these  
11          numbers somewhat while you still make the  
12          district significantly more compact.

13                 SENATOR GAETZ: Would you believe?

14                 SENATOR DE LA PORTILLA: Is that right?

15                 MR. GUTHRIE: I believe that is exactly  
16          the sort of analysis the Supreme Court is  
17          looking to the Florida Senate to do.

18                 SENATOR DE LA PORTILLA: Okay. Thank you.

19                 SENATOR GAETZ: Thank you. Any other  
20          questions? Yes, sir, Senator Gibson, yes,  
21          ma'am. I saw somebody behind you, I thought it  
22          was a sir.

23                 SENATOR GIBSON: Thank you, Mr. Chair.

24                 I want to try to go back to something  
25          Senator Storms -- when she talked about average

1 and how the functional analysis operates, not  
2 only in this district, but other minority  
3 districts that the functional analysis is  
4 performed and are potential minority districts.  
5 As far as performance goes and the ultimate  
6 number that comes out as the voting age  
7 population and how they potentially vote, is  
8 that a combination of the general and the  
9 primary? Because obviously the primary doesn't  
10 decide -- is not really the election. The  
11 election is won in the general -- in this  
12 particular case, in Duval County, which is only  
13 one city, I might add. So is there -- how do  
14 you get to the voting age population and then  
15 make your numbers work for general and primary  
16 to come up with a performance?

17 SENATOR GAETZ: Mr. Guthrie.

18 MR. GUTHRIE: All of these are the kinds  
19 of evidence that we were talking about  
20 previously, and I think Senator Diaz de la  
21 Portilla did a good job of summarizing that.  
22 So you look at the voting age population, you  
23 look at the ability of the minority voters to  
24 be successful in getting their candidates  
25 elected in the primary election, you ascertain

1           whether the minority voters are mostly Democrat  
2           or mostly Republican, and then you look at  
3           whether Republicans or Democrats win in the  
4           general election. That is -- it is sort of a  
5           three-step analysis that the Supreme Court  
6           recommends that we perform here.

7           SENATOR GAETZ: Other questions? Yes, of  
8           course, ma'am.

9           SENATOR GIBSON: Thank you.

10           And then in terms of percentage points, I  
11           was just doing a little addition. I think I  
12           can do that pretty good, I don't know about the  
13           geometry part, but if you add the black voting  
14           age population and the Hispanic voting age  
15           population in the '02 and the '08 numbers that  
16           are at the top of the page, they are 53.0 and  
17           53.6, respectively, but then when you get to  
18           the 9016, it comes out to 49.4. And so is --  
19           what -- again, where is the line between  
20           diminution and not? And the second part of my  
21           question goes to then how many people are  
22           actually represented in a percentage point?

23           SENATOR GAETZ: Well, what we will do is  
24           divide that question. The first question calls  
25           for a legal conclusion, and I think we have

1 raised an answer to that question several times  
2 here, but we will do it again, because it is a  
3 very important point, and then if you could  
4 respond to the second part, Mr. Bardos.

5 MR. BARDOS: There is no single, clear,  
6 bright line rule or number, but I think what  
7 might be a helpful analogy is the functional  
8 analysis which the Court performed on the  
9 districts proposed by the League of Women  
10 Voters. And that district, like this one, was  
11 wholly contained in Duval County, and its  
12 numbers were very similar to the one that is  
13 being proposed here. Some of the numbers were  
14 slightly higher, some were slightly lower, but  
15 it is quite comparable, and in the compactness  
16 scores also, it is quite comparable. And so  
17 that provides us with -- I think with a helpful  
18 guide post in determining whether the district  
19 that is being proposed here diminishes or does  
20 not diminish, because the Court was quite  
21 complimentary of the League of Women Voters'  
22 district in this area and apparently viewed  
23 that as a district which appropriately  
24 reconciles the constitutional standards.

25 SENATOR GAETZ: And, Mr. Guthrie, could



1           you take the second part of the question?

2           MR. GUTHRIE:   So the report that we  
3           provided here and on-line does not show numbers  
4           of voters; however, in the source data set that  
5           I downloaded from My District Builder, which is  
6           the -- the input for all of these calculations,  
7           they have the count of the total number of  
8           registered voters and the total number of  
9           turnout and the total number of people voting,  
10          say, in the presidential contest.   So you can  
11          get a -- by doing the math, you can determine  
12          what a one percentage point is -- constitutes  
13          in terms of numbers of people, or a tenth of a  
14          point.   You can't calculate it from the numbers  
15          that are provided here, but you can from the  
16          source data that come out of the on-line My  
17          District Builder application.

18          SENATOR GAETZ:   And could you please make  
19          sure that we have that information; in other  
20          words, how Senators who are interested in that  
21          question can go to that data source easily?

22          Yes, of course, Senator Gibson.

23          SENATOR GIBSON:   Thank you, Mr. Chair, and  
24          I would certainly ask that that be placed into  
25          the record for all of the minority districts

1           that end up short, if you will, on percentage,  
2           because while these numbers are just numbers to  
3           us and the Court, they do represent people in  
4           every single district, and they represent  
5           minorities, as a matter of fact. And so -- and  
6           for the record, this is -- we just happen to be  
7           on northeast Florida, but it is not about me,  
8           and I don't think it is about any other person  
9           sitting here. It is about the people that are  
10          represented in these numbers, and I think that  
11          is more important than any square, box or  
12          anything else that we can draw. And so I am  
13          asking that that reflection of how many people,  
14          how many minorities are affected is actually  
15          something that goes into the record. And then,  
16          if I may --

17                 SENATOR GAETZ: Senator Gibson, if I might  
18                 just say that in order to determine how many  
19                 voters one percent equals, that changes from  
20                 election to election, because the number of  
21                 people who may vote in an election changes from  
22                 election to election. So to do that kind of  
23                 fine-tuned statistical analysis, we would have  
24                 to go to all the elections you are interested  
25                 in and then figure out the number of people who

1           voted and then figure out what one percent of  
2           that constitutes in terms of numbers of  
3           persons. May we have your permission to have a  
4           little time to do that for you, please?

5           SENATOR GIBSON: Thank you, Mr. Chair.  
6           That is fine, and I am not sure if it takes  
7           quite that, but whatever it takes --

8           SENATOR GAETZ: No, whatever you would  
9           like, we will try to find it.

10          SENATOR GIBSON: Thank you. Oh, gosh, I  
11          think I lost my other question. Oh, I know  
12          what it was, if I may?

13          SENATOR GAETZ: Sure, of course.

14          SENATOR GIBSON: In terms of -- I think it  
15          was Mr. -- not Mr. Guthrie, the gentleman  
16          sitting next to you.

17          SENATOR GAETZ: Mr. Bardos, the lawyer.

18          SENATOR GIBSON: The attorney. When we  
19          are talking about -- and this may be a Mr.  
20          Guthrie question. When the Court talks about  
21          the opportunity of minorities to elect a  
22          candidate of their choosing, in this particular  
23          instance, is the minority population inclusive  
24          of both black and Hispanic since both of them  
25          are minorities, or are the numbers arrived at

1 using solely the black population? Because  
2 when you combine them, the percentages are a  
3 lot different.

4 SENATOR GAETZ: Sure. Mr. Guthrie.

5 MR. GUTHRIE: In this particular case, the  
6 analysis that the Court conducted was looking  
7 at the black voters.

8 SENATOR GAETZ: Any other comments or  
9 questions at this point? If not, why don't you  
10 move on to the other districts that are  
11 affected here.

12 MR. GUTHRIE: Okay.

13 SENATOR GAETZ: As you pointed out, there  
14 were more districts affected than just the  
15 eight, there were some 24. And while we are  
16 there on northwest -- or northeast Florida, do  
17 you have any other comments to make about  
18 collateral effects, and then we will take any  
19 questions about that.

20 MR. GUTHRIE: So the configuration --  
21 District 4 both in the -- in the prior plan and  
22 in the remedial plan wraps around District 3.  
23 The difference -- the primary difference for  
24 District 4 is that District 6 takes a lot more  
25 of the territory out of Duval County. In

1 tracing the borders of District 6, my staff and  
2 I made a sincere effort to try to follow  
3 political and geographic boundaries where they  
4 were available for us.

5 And the other thing we see here is that  
6 District 9 in the original plan extended into  
7 Duval County. In the remedy, it stops at the  
8 St. Johns County line. So District -- in terms  
9 of District 4, its Reock score actual -- let's  
10 see, its convex hull score actually goes down  
11 slightly from .73 to .69 between the two plans,  
12 the convex hull goes down, the Reock goes down  
13 from .50 to .48, and the Polsby-Popper score  
14 remains the same at 0.14. So in terms of  
15 compactness measures, there is a very, very  
16 slight difference as to District 4. It is in  
17 the same counties and it is -- District 4 in  
18 both instances has all of Nassau County and a  
19 part of Duval County.

20 With District 9, that in the original plan  
21 included parts of Duval, St. Johns, Flagler and  
22 Volusia County. In the remedial plan, as the  
23 Court anticipated, if you put the minority  
24 district entirely in Jacksonville, that --  
25 District 6 plus District 4 equals the

1 population of exactly two Senate districts, or  
2 about two Senate districts. So we were able to  
3 use the county boundary to encircle those two  
4 districts. Then District 9 to the south can  
5 contain all of St. Johns County, all of Flagler  
6 County, all of Putnam County and a portion of  
7 Volusia County to balance out its population.

8 SENATOR SIPLIN: Mr. Chairman?

9 SENATOR GAETZ: Yes, of course, Senator  
10 Siplin, then Senator Smith.

11 SENATOR SIPLIN: Yes, thank you, Mr.  
12 Chair.

13 Do we know how many -- were there any  
14 blacks that were omitted that Senator Hill and  
15 Senator Gibson represented before the Supreme  
16 Court set forth their criteria that are not  
17 being represented right now?

18 SENATOR GAETZ: Mr. Guthrie?

19 MR. GUTHRIE: Well, there were  
20 African-American voters, citizens, living in  
21 St. Johns, Putnam, Flagler and Volusia  
22 Counties, which would have been in Senator  
23 Gibson's district with the earlier  
24 configuration and would not be in her district  
25 with this new configuration.

1           SENATOR SIPLIN: Follow-up?

2           SENATOR GAETZ: Of course, sir.

3           SENATOR SIPLIN: Is there any way, or have  
4 we had an opportunity or occasion to determine  
5 what's that percentage that would not be  
6 included of blacks in the re-make of the  
7 district?

8           SENATOR GAETZ: Can you draw the  
9 comparison between the two, recognizing that  
10 District 6 -- by my eye, District 6 in the new  
11 plan actually is larger in Duval County than  
12 the old District 6, or than the former district  
13 was. So if you could remark to that, and then  
14 also if you could draw any comparison between  
15 the League of Women Voters' plan and the plan  
16 that is pending before the Committee --

17          MR. GUTHRIE: Okay. So --

18          SENATOR GAETZ: -- as to the question  
19 raised by Senator Siplin.

20          MR. GUTHRIE: All of those data -- I don't  
21 have those in my notebook or in my head, but  
22 those data are accessible in the -- in the  
23 meeting packet. Where I have the compare 9016  
24 with 9008, that report, which is in your  
25 meeting packet -- and I won't turn to it right

1 now, but after the meeting, I can show you how  
2 to get to that -- that will show you exactly  
3 the numbers of people and the percentages that  
4 are included in the old district and not in the  
5 new district.

6 SENATOR GAETZ: And the League of Women  
7 Voters' plan which was held up as an example  
8 does basically the same thing, does it not --

9 MR. GUTHRIE: It --

10 SENATOR GAETZ: -- in the sense of making  
11 the district --

12 MR. GUTHRIE: The neighborhoods that --  
13 the boundary that this -- that District 6 in  
14 the proposed committee substitute to Senate  
15 Joint Resolution 2B follows is similar to, but  
16 not identical to the boundary in the League of  
17 Women Voters' --

18 SENATOR GAETZ: But just -- just -- I  
19 guess my question is, the League of Women  
20 Voters' plan also called for cutting off that  
21 district and not having it trail down to  
22 Volusia County.

23 MR. GUTHRIE: Absolutely, yes. The people  
24 who would be left out of the district would be  
25 exactly the same ones, yes.



1           SENATOR GAETZ:   Okay.   And Senator Smith,  
2           Leader Smith.

3           SENATOR SMITH:   Thank you, Mr. Chair, and  
4           I just want to pick your brain a little bit,  
5           Mr. Guthrie.

6           I see that Volusia County -- you come down  
7           into Volusia County with this district,  
8           District 9.  Now, remember, we had extensive  
9           testimony, as well as I think even a  
10          proclamation from the County to try to keep  
11          that county whole.  It would seem that if you  
12          would have taken some of Clay County and put  
13          into that district and keep Volusia County  
14          whole, you would have had more of a compact  
15          district for Senate District 9.  What was the  
16          reasoning for going down into Volusia County as  
17          opposed to taking part of Clay County in that  
18          district?

19          SENATOR GAETZ:   Mr. Guthrie.

20          MR. GUTHRIE:   District 7 as constituted in  
21          the original plan that passed the Senate was  
22          made up of three whole counties:  Alachua,  
23          Bradford and Clay.  If we had taken significant  
24          population out of Clay County, then District 7  
25          would have had to expand into some other

1 county. So instead of being made up of three  
2 whole counties, it would have been made up of  
3 two whole counties and two partial counties.  
4 And keeping counties whole, I think if you read  
5 the opinion in its totality, and following  
6 political and geographic boundaries are  
7 standards that the Supreme Court commends for  
8 the Legislature to consider in drafting all of  
9 these districts.

10 SENATOR SMITH: But --

11 SENATOR GAETZ: Leader Smith.

12 SENATOR SMITH: Follow-up? But do you --  
13 in this one, you didn't keep Volusia whole.  
14 You sacrificed Volusia, I guess, to keep Clay  
15 whole, and I guess you just gave your reasoning  
16 for doing that, okay.

17 SENATOR GAETZ: Any other questions or  
18 comments. Senator Braynon?

19 SENATOR BRAYNON: Yes, yes.

20 I think following up on what Senator Smith  
21 said, there was -- Marion County, as a result  
22 of the changes, gets split into three, whereas  
23 it was whole before. So I am not sure if -- so  
24 maybe you could give me some logic behind -- or  
25 maybe we are starting to get into central

1 Florida, I am not sure, but it is kind of like  
2 this -- you know, the jigsaw puzzle effect, and  
3 now we are splitting more counties that weren't  
4 split before. Marion was split in two before,  
5 and now it is split in three, because 8 drags  
6 all the way up into -- into Marion.

7 SENATOR GAETZ: Actually, we are splitting  
8 fewer counties than we did before in terms of  
9 the plan, but could you respond to that and  
10 then see if there's any other questions as to  
11 northeast Florida before we move to other parts  
12 of the state?

13 MR. GUTHRIE: Yes, there are many -- many  
14 fewer county splits in the plan as a whole, and  
15 you can't isolate your evaluation in terms of a  
16 single district. I mean, we -- with each and  
17 every district, we make every effort to comply  
18 with all the standards set in the Constitution,  
19 but in terms of evaluating split counties or  
20 split cities, is the Supreme Court recognized  
21 in its discussion of the City of Lakeland,  
22 there are some areas that are just going to be  
23 split, and you need to look at it on a more --  
24 on a more global basis.

25 SENATOR GAETZ: But just for the record,

1           how many fewer split counties do we have in the  
2           proposed committee substitute over and against  
3           the previously approved Senate plan?

4           MR. GUTHRIE: My sheet that has that  
5           answer is not right in front of me, but I do  
6           have a slide that does that right here. So the  
7           number of whole counties in the plan that  
8           passed the Legislature and was submitted to the  
9           Supreme Court was 36. The number in the  
10          proposed remedy is 43. So there are seven more  
11          whole counties in this plan than there were in  
12          the one that was submitted earlier.

13          SENATOR GAETZ: Okay. Any other questions  
14          at this point? Yes, of course, Senator Diaz de  
15          la Portilla.

16          SENATOR DE LA PORTILLA: We are leaving  
17          northeast Florida. Does that mean we are done  
18          with District 9 as well now?

19          SENATOR GAETZ: Any questions you have  
20          about District 9 are perfectly germane right  
21          now.

22          SENATOR DE LA PORTILLA: Thank you, Mr.  
23          Chairman.

24          Just the compactness numbers, the convex  
25          hull, the Reock and the Polsby, what are --

1           what is the comparison between what it was  
2           under 1176, which we passed in January, and  
3           what the proposed remedy does?

4           MR. GUTHRIE:   Okay.  The district became  
5           more compact.  The convex hull went from .61  
6           under the original plan, or the plan that  
7           passed earlier this year, to .78; the Reock  
8           ratio went from .16 to .49, a huge increase;  
9           the Polsby-Popper ratio went from .13 to .36.  
10          So District 9 in this configuration is  
11          substantially more compact by all of the  
12          measures than the earlier District 9.

13          SENATOR DE LA PORTILLA:  Okay.  Thank you.

14          SENATOR GAETZ:  Other comments or  
15          questions at this point?  Senator Gibson, did  
16          you -- okay.

17          Please go forward, Mr. Guthrie.  Thank you  
18          very much.

19          MR. GUTHRIE:  The next area we are going  
20          to look at is the central Florida area, and the  
21          Court took issue in particular with proposed  
22          Senate District 10 in Lake and Orange Counties.  
23          The Court said that visual -- or "District 10  
24          is visually non-compact as a result of the  
25          bizarrely-shaped appendage between Districts 12

1           and 14. The dividing line between District 10,  
2           the District 10 appendage, and surrounding  
3           Districts 12, 13 and 14 does not consistently  
4           follow any particular political or geographic  
5           boundary. District 10 violates constitutional  
6           mandates because it is visually non-compact  
7           with an appendage that reaches out to clearly  
8           encompass an incumbent."

9           So the District 10 is the pink district  
10          that is the southern portions of Lake County  
11          and western portions of Orange County. There  
12          is an African-American opportunity district,  
13          District 12, in the Orlando area, and there is  
14          an appendage -- what the Court calls an  
15          appendage in the Winter Park community and  
16          other areas east of Orlando that are affluent,  
17          heavily white areas that do not fit very well  
18          into either District 12 or the minority  
19          opportunity district for African-Americans, nor  
20          the newly created District 14, the minority  
21          opportunity district for Hispanics.

22          The number of people living in this  
23          appendage was 160,000 people. So even though  
24          it is small and even though the Court  
25          determined that it was -- included the

1 residents of the Senate Majority Leader, it  
2 also included lots and lots of other people; in  
3 fact, a third of a Senate district is made up  
4 by this territory right here east of Orlando.

5 SENATOR GAETZ: And, Mr. Guthrie, when you  
6 go to the proposed remedy, would you also  
7 remark to how the House treated this issue,  
8 because one of the questions that sometimes  
9 arises is, how could the House get it right and  
10 we get it wrong. Part of the reason is that  
11 that so-called appendage forms a House  
12 district, or thereabouts, and is entirely  
13 compliant. The problem is that Senate  
14 districts are three times bigger than House  
15 districts. So this was a case of doing the  
16 right thing, we thought for the right reasons,  
17 but optically, you know, it looks different,  
18 and the Court drew the conclusion that they  
19 drew. Could you get us to the remedy, Mr.  
20 Guthrie?

21 MR. GUTHRIE: So on the remedy -- and the  
22 other thing we ought to look at before we flip  
23 away from this slide is the Court did not rule  
24 that District 12 was invalid, but they did  
25 indicate that the extension or the appendage

1 going into Sanford was something that the  
2 Senate might want to consider, using the same  
3 sorts of analysis that the Court had performed  
4 in the Jacksonville area. So they --

5 SENATOR SIPLIN: Mr. Chair?

6 SENATOR GAETZ: Senator Siplin, and then  
7 we will go to -- we will go to you, Senator  
8 Gibson. Senator Siplin.

9 SENATOR SIPLIN: Where was the language at  
10 that referred to that appendage in Sanford,  
11 Florida?

12 SENATOR GAETZ: Mr. Guthrie, can -- I'm  
13 sorry, Mr. Bardos, could you help us with that,  
14 please? Senator Siplin's question, if I  
15 understood correctly, was in reference to Mr.  
16 Guthrie's comment that the appendage going into  
17 Sanford was remarked on by the Court, and  
18 Senator Siplin's question is, I think -- what  
19 was the remark?

20 SENATOR SIPLIN: Well, Mr. Chairman, first  
21 of all, did the court opinion declare District  
22 12 unconstitutional or constitutionally  
23 invalid? That is the first question.

24 SENATOR GAETZ: Yeah, the answer to that  
25 question is no, but, and here comes the but.



1           SENATOR SIPLIN:   Okay.

2           MR. BARDOS:   The answer is no.  I am  
3           looking for the specific language.  I will need  
4           to look at the opinion.  But the Court did  
5           direct us to conduct a functional analysis on  
6           those two districts, so it stated that our --  
7           it questioned the justification for District  
8           10's appendage because the functional  
9           analysis --

10          SENATOR GAETZ:  We are on District 12.

11          MR. BARDOS:  -- hadn't been performed on  
12          District 12 or 13, the neighboring districts.

13          SENATOR GAETZ:  Okay.  And then, Senator  
14          Gibson, you had a question, ma'am?

15          SENATOR GIBSON:  Thank you, Mr. Chair.

16          In terms of -- okay, 12 is a minority  
17          access district, you said, right?  That is --  
18          let me get that straight first.  Is that what  
19          we said?

20          SENATOR GAETZ:  Yes, ma'am.

21          SENATOR GIBSON:  Okay.  Well, in terms of  
22          the compactness formula the way it currently is  
23          and the compactness formula in the new plan, I  
24          would just like to know if they are similar,  
25          because 12 almost looks like the new Duval, as

1 far as I am concerned. I don't see any issue  
2 with the shape.

3 SENATOR GAETZ: Well, Senator Gibson, if  
4 you would let us go to the remedy, and then  
5 visually we can see it and answer your question  
6 hopefully to your satisfaction.

7 Why don't you go to the remedy.

8 MR. GUTHRIE: Okay. So with the remedy,  
9 what we did do is conduct a functional analysis  
10 of -- we determined to the satisfaction of  
11 staff that using the same sort of analysis that  
12 the Court used in Jacksonville, that it would  
13 be possible to create a minority opportunity  
14 for African-Americans in the Orange County area  
15 without extending into Seminole County, and so  
16 we made a choice to recommend that the  
17 extension into Sanford not be included in the  
18 proposed committee bill.

19 The voting age population of this  
20 resulting District 12 is 36.9 percent black  
21 VAP, which is less than the 40 percent black  
22 VAP in the district that was passed by the  
23 Legislature earlier. With the surrounding  
24 districts, we were able to keep the Hispanic  
25 district south of Orlando right at a 50 percent

1 Hispanic voting age population district. We  
2 determined through the functional analysis that  
3 lowering the Hispanic voting age population by  
4 any appreciable amount with that district would  
5 create significant risk that Hispanic voters  
6 would not have opportunities to elect a  
7 candidate of their own choice.

8 The two minority districts merge together  
9 in Orlando, so there is no corridor going  
10 through at that location, and so we were left  
11 with this -- what the Court called an appendage  
12 of 160,000 people that we needed to make into a  
13 district of 470,000 people.

14 As Chairman Gaetz already alluded, this  
15 area east of Orlando between an Hispanic  
16 opportunity district and an African-American  
17 opportunity district already in the House plan  
18 was a single district. The House also had a  
19 couple districts going out into east Orlando,  
20 extending over into Brevard County, so putting  
21 that together, it seemed to be a logical choice  
22 to just create a district in east Orange County  
23 and northern Brevard County. The district  
24 follows county boundaries for a good portion of  
25 its perimeter, and that is where it is.

1           SENATOR SIPLIN: Mr. Chair?

2           SENATOR GAETZ: Yes, of course, Senator  
3 Siplin.

4           SENATOR SIPLIN: I have a question to the  
5 lawyers. It seems like the Hispanic seat,  
6 number 14, has an appendage from Orange County,  
7 Osceola County and Polk County, the little  
8 southwest portion of it. Is that -- is that --  
9 is that an appendage?

10          SENATOR GAETZ: Is it what, sir?

11          SENATOR SIPLIN: Is that an appendage?

12          SENATOR GAETZ: Mr. Bardos?

13          SENATOR SIPLIN: That was analogous to the  
14 appendage that 12 had in --

15          SENATOR GAETZ: Appendage by any other  
16 name.

17          MR. BARDOS: We did the functional  
18 analysis on District 14, and the reason that it  
19 assumes that shape is because we, in performing  
20 that functional analysis, came to the  
21 conclusion that a lesser Hispanic population in  
22 that district would threaten the ability of  
23 Hispanics to elect their candidate of choice in  
24 that district.

25                 So, for example, if we look at voter

1 registration in District 14, 47.5 percent of  
2 registered Democrats are Hispanic, but in the  
3 Democratic primary, only 28 percent of  
4 Democratic voters were Hispanic. So there are  
5 turnout issues there that would -- that  
6 suggested a lower Hispanic voting age  
7 population there might not be sufficient to  
8 elect the candidate of choice in that district.

9 SENATOR GAETZ: Other comments, questions?  
10 Yes, Senator Latvala.

11 SENATOR LATVALA: Mr. Guthrie touched on  
12 this sort of, but I had noticed as I was  
13 working on preparing the amendment that I have  
14 today that deals with the Orange  
15 County/Seminole County situation, that there  
16 are three House districts, House District 47,  
17 49 and 50, which almost exactly fit in the same  
18 arrangement that we have there for District 10,  
19 not exactly, but could be made into exactly  
20 fitting in there, and -- which is a concept of  
21 nesting that, you know, in prior years,  
22 redistricting has been considered from time to  
23 time as the idea of nesting three House  
24 districts in each Senate district and as  
25 actually done in other states.

1           What I am wondering is since we have a  
2           situation where we have had the Supreme Court  
3           validate those three House districts, what our  
4           attorneys think about the -- whether that would  
5           improve our position of going back to the Court  
6           with a Senate district that basically was  
7           exactly the nested three House districts, which  
8           they have already approved?

9           SENATOR GAETZ: Mr. Bardos, I would like  
10          to ask you to comment on that, and  
11          Ms. Tunnickliff, if you could be ready to chat  
12          about it as well.

13          MR. BARDOS: Well, there are some who  
14          contend that nested districts are preferable,  
15          others who contend that they are not. The  
16          League of Women Voters, for example, initially  
17          produced a plan that nested House districts  
18          within Senate districts, and then subsequently  
19          produced a plan that did not do that, and they  
20          assigned pretty valid reasons to the Court for  
21          the change. So there are different  
22          considerations there. I think it would also  
23          depend on the specific demographics within the  
24          district. I think a general abstract statement  
25          that nested districts are preferable, I think

1           that would be debateable, but we would have to  
2           look at the specific districts in question.

3           SENATOR GAETZ: Ms. Tunnickliff, do you  
4           have anything to add to that, ma'am?

5           MS. TUNNICLIFF: I don't. I agree with  
6           Mr. Bardos on that.

7           SENATOR GAETZ: Okay. But, Senator  
8           Latvala, did you want to follow up on that,  
9           sir?

10          SENATOR LATVALA: Well, it would just seem  
11          to me as a layman that if they had approved the  
12          three House districts, that it would be a  
13          little bit to our advantage to try to follow  
14          their lead and put those three House districts  
15          together in a Senate district. And since, you  
16          know, it is basically -- you know, we have the  
17          challenge there of trying to preserve two  
18          minority seats to give the minorities that live  
19          in those seats, both the Hispanics in 14 and  
20          African-Americans in 12, the opportunity to  
21          elect a person of their choice. That leaves,  
22          you know, some folks in the middle. And  
23          whether you call it an appendage or whether you  
24          come up with a different name, you know, I am  
25          just trying to find the best way possible of

1           treating that situation, and it did occur to me  
2           that those three House districts would  
3           mirror -- would allow us to treat that and then  
4           have that as a justification for why we have  
5           done it when we go back to the Court. So just  
6           my observation.

7           SENATOR GAETZ: Thank you, Senator  
8           Latvala.

9           Senator Negron, did you wish recognition?

10          SENATOR NEGRON: No, sir.

11          SENATOR GAETZ: Anyone else at this point?

12          Mr. Guthrie, why don't you proceed and  
13          give us -- here, again, there were ripple  
14          effects of remedying the problem that was  
15          pointed out in central Florida, and can you  
16          comment on any effects -- any ripple effects  
17          that were material that affected other  
18          districts and then -- oh, there was one  
19          question that didn't get answered yet. Senator  
20          Gibson, I think -- I think if I understood her  
21          correctly was asking for a -- some analysis of  
22          the geometry of District 12 then and now, then  
23          being the Senate approved plan, and now being  
24          the remedial plan. Can you comment on that?

25          SENATOR SIPLIN: Mr. Chair, I think her



1 point was that her seat -- her contour of her  
2 new district is the same contour as my old  
3 district that the Senate passed, and she was  
4 concerned about now that the new -- her new  
5 Senate seat has that contour, but you are  
6 taking off a part of my former seat, that was  
7 her question.

8 SENATOR GAETZ: Well, let's do that,  
9 because that is faithful to what Senator Storms  
10 and Senator Diaz de la Portilla wanted us to  
11 do, too. Let's put on the record what are the  
12 geometric indices as to 12, and then we can  
13 thereby see a comparison to what was done in  
14 northeast Florida.

15 MR. GUTHRIE: Yes, Mr. Chairman.

16 With District 12, the convex hull of the  
17 plan that passed the Legislature in February  
18 was .41. The convex hull of the proposed  
19 committee substitute is .74.

20 SENATOR GAETZ: A substantial improvement.

21 MR. GUTHRIE: The Reock ratio goes from  
22 .24 to .40. And then the Polsby-Popper score  
23 goes from 0.07 to .31.

24 SENATOR GAETZ: Okay. Thank you. And are  
25 there any other check list issues? I know you

1 are kind of helping us here, Senator Storms, to  
2 make sure we lay everything into the record  
3 that we need to here verbally. Any other check  
4 list issues that you think we have not  
5 responded to fully or appropriately in central  
6 Florida?

7 Senator Diaz de la Portilla.

8 SENATOR DE LA PORTILLA: And just to close  
9 the loop on that, so we have made in the remedy  
10 District 12 more -- way more compact than what  
11 it was and what we passed out of -- as a bill  
12 in January, and in terms of the functional  
13 analysis and performance, there again isn't a  
14 significant difference in terms of how those  
15 districts function in an election. Is that  
16 right?

17 SENATOR GAETZ: Is that correct?

18 MR. GUTHRIE: What we determined,  
19 Mr. Chairman and Senator Diaz de la Portilla,  
20 was that blacks would make up 56.2 percent of  
21 the voters in the Democratic primary, the  
22 blacks are 89 percent Democratic, and the  
23 Democratic candidates are consistently  
24 successful in winning election in that  
25 district. So blacks -- the black candidate of

1 choice wins the primary, and with Democratic  
2 crossover is able to win the general election.

3 SENATOR DE LA PORTILLA: Follow-up?

4 SENATOR GAETZ: Of course, Senator Diaz de  
5 la Portilla.

6 SENATOR DE LA PORTILLA: And that is under  
7 -- and that is under the proposed remedy, so  
8 while making it more compact, it would still  
9 perform as a black seat, correct?

10 MR. GUTHRIE: That is correct, Senator  
11 Diaz de la Portilla, and that is the sort of  
12 analysis that we believe that, based on what  
13 the Court did in Jacksonville, they were  
14 expecting us to do here.

15 SENATOR GAETZ: Senator Gibson.

16 SENATOR GIBSON: Thank you, Mr. Chair, and  
17 this kind of goes back again to northeast  
18 Florida and what is proposed as Senate District  
19 6 to include Senate District 12. Crossover, is  
20 that a definition that the Court used or made  
21 reference to that would be supposedly helpful  
22 to electing a minority candidate?

23 SENATOR GAETZ: Mr. Guthrie?

24 MR. GUTHRIE: Do the attorneys have an  
25 answer on --

1           SENATOR GAETZ: Well, you used the term  
2 "crossover," and my guess is that --

3           MR. GUTHRIE: I do not know whether that  
4 word is used in the opinion or not.

5           SENATOR GAETZ: I guess the answer is we  
6 don't know if it is in the opinion. Mr.  
7 Bardos.

8           MR. BARDOS: It is used in the opinion,  
9 but --

10          THE CLERK: Oh, it is, it is.

11          MR. BARDOS: But not in reference to  
12 District 12 as I am looking over it now. Just  
13 rereading it, it seems that the Court is  
14 describing District 12 in reference to its  
15 black VAP. It does mention its Hispanic VAP,  
16 but it does -- it refers to it as including the  
17 highest concentration of black residents from  
18 Orlando, Ocoee, et cetera. So it seems that  
19 the Court was placing primary emphasis on black  
20 voters in that district.

21          SENATOR GAETZ: Other comments or  
22 questions? Leader Smith, did you have your  
23 hand up, sir?

24          Senator Gibson, did you want to follow up,  
25 ma'am?

1           SENATOR GIBSON: Thank you, Mr. Chair.

2           Since there is such a thing as the Court  
3 finds crossover, maybe later I would like to  
4 know if that term was used in reference to this  
5 configuration of District 6 and any other  
6 minority opportunity or access district,  
7 believing that crossover somehow should factor  
8 into the voting population as a means of saying  
9 it is non-diminishing to a minority district.

10           SENATOR GAETZ: Ms. Tunnickliff, while we  
11 are talking, would you mind running your  
12 practiced eye over the opinion so that we can  
13 give a thorough answer to Senator Gibson's  
14 question?

15           MS. TUNNICLIFF: Yes.

16           SENATOR GAETZ: Other comments or  
17 questions at this time? Yes, Senator Gibson.

18           SENATOR GIBSON: Thank you, Mr. Chair.

19           And my question goes to -- as we continue  
20 to plod our way through, and I guess it is  
21 standard procedure to use certain elections  
22 going backwards to get us to the numbers where  
23 we are today. My question then goes to  
24 particularly the election cycle wherein the  
25 current President, Barack Obama, was elected,

1           which in most people's mind is an anomaly, the  
2           numbers -- I mean, it was certainly a very high  
3           turnout. So how do we then -- to make sure  
4           that we are getting true representative numbers  
5           going forward, which is what this is about, how  
6           do we average in the higher turnout in the  
7           Presidential general election in '08 to make  
8           sure that we are on the right course to have  
9           the proper lines? Does the Court deal with  
10          that at all, and are we precluded from dealing  
11          with an anomaly?

12                 SENATOR GAETZ: No, ma'am, we are not  
13           precluded from dealing with an anomaly, and  
14           that is why the handouts that you have aren't  
15           limited to just the Presidential election in  
16           2008. They also address the gubernatorial  
17           election in 2010 and the gubernatorial election  
18           in 2006, as well as the Presidential election.  
19           So there are three election cycles that tend to  
20           be used there. Yes, ma'am.

21                 SENATOR GIBSON: Thank you, Mr. Chair, and  
22           I get that, but what I am saying is the 2008  
23           election, the numbers are extremely elevated  
24           because it was a historic time and a lot more  
25           peopled turned out. And so my question is, do

1 we have to use these particular election  
2 cycles, or is there a way to average out other  
3 than using these three?

4 SENATOR GAETZ: I am not -- I am not sure  
5 if there are other indices that you think are  
6 important that you might want to use to  
7 buttress an amendment or make an argument, but  
8 these are -- this is what the Court used, this  
9 is what -- what we have available. I am not  
10 sure how Adlai Stevenson did there in 1956.  
11 Probably did pretty well, probably did pretty  
12 well. I remember his nominating speech, I am  
13 that old, I am that old.

14 Any other comments or questions at this  
15 point? Senator Simmons.

16 SENATOR SIMMONS: I have some questions.  
17 Mr. Guthrie, I am looking at the northern  
18 border of District 13, and I ask you what  
19 boundary lines and what methodology did you use  
20 to create an approximately -- it looks like a  
21 10-mile strip to the north of Seminole County?

22 SENATOR GAETZ: Mr. Guthrie.

23 MR. GUTHRIE: Yes, thank you,  
24 Mr. Chairman.

25 The -- so we were about to jump into the

1 ripple effect of moving two-thirds of District  
2 10 from the west side of Orange County and Lake  
3 County to the east side of Orange County and  
4 Brevard County. One of those ripple effects  
5 was that -- trying to keep counties together as  
6 the Supreme Court commended. We filled out the  
7 entire population of east Orange County and the  
8 areas of Winter Park and Maitland with District  
9 10, and so District 13 then, with the District  
10 12 coming out of Seminole County, District 13  
11 includes all of Seminole County, and District  
12 13 is still shy about 50,000 people from being  
13 a 470-person Senate district. So the  
14 additional population was made up by crossing  
15 the Volusia County line, getting the entirety  
16 of the City of De Bary, a portion of the town  
17 of Deltona, and then trying to follow political  
18 and geographic boundaries east and south to  
19 follow a logical and reasonably compact  
20 alignment for that district.

21 SENATOR GAETZ: Other comments or  
22 questions?

23 SENATOR SIMMONS: Yes, and --

24 SENATOR GAETZ: Yes, Senator Simmons, you  
25 are recognized.



1           SENATOR SIMMONS: Thank you. And is there  
2 any appendage that you see on this -- on this  
3 map for central Florida?

4           SENATOR GAETZ: And I apologize, Senator  
5 Simmons, could you speak a little bit more  
6 closely into the mike?

7           SENATOR SIMMONS: Yes. Is there any  
8 appendage that you see?

9           MR. GUTHRIE: Well, appendage is in the  
10 eye of the beholder. Some might consider or  
11 might interpret the configuration of District  
12 14 as it sits in this proposal as being not as  
13 compact as the surrounding districts. I think  
14 that would be correct. But as I mentioned  
15 earlier, staff determined that based on the  
16 functional analysis we performed, any reduction  
17 in the Hispanic numbers for this District 14  
18 would materially impact the ability of  
19 Hispanic -- the Hispanic minority to elect  
20 candidates of their own choosing.

21           SENATOR DE LA PORTILLA: Follow-up?

22           SENATOR GAETZ: Yes, Senator Diaz de la  
23 Portilla.

24           SENATOR DE LA PORTILLA: So just to tie  
25 the different things together, the Tier 1 to

1 Tier 2 kind of analysis, so based on that, for  
2 Tier -- I mean, for District 14 rather,  
3 compactness gives way to the Tier 1 criterion  
4 of minorities -- language or ethnic minorities  
5 being able to select a candidate of their  
6 choice, correct?

7 MR. GUTHRIE: That is exactly correct.

8 SENATOR DE LA PORTILLA: Okay, thank you.

9 SENATOR GAETZ: All right. Thank you very  
10 much. Please move on.

11 MR. GUTHRIE: While we are on the ripple  
12 effects of moving the two-thirds of a Senate  
13 district over to the east side of Orlando, it  
14 also resulted in a reconfiguration of District  
15 8. District 8 in the earlier proposal was  
16 portions of Volusia County, excluding the  
17 Daytona Beach and areas north of Daytona Beach.  
18 It had a part of Brevard County and it had a  
19 part of Orange County, with District 10 moving  
20 to the east side of Orlando. We've got a  
21 clockwise rotation going on throughout --  
22 excuse me, a counter-clockwise rotation going  
23 on throughout central Florida. So District 8  
24 gets pushed into Lake County and Marion County,  
25 District 11 gets pushed out of Palatka -- or,

1           excuse me, out of the portions of Putnam  
2           County, excluding the City of Palatka, and it  
3           is now in part of Marion County and a  
4           significant share, the lion's share of Lake  
5           County, plus The Villages portion of Sumter  
6           County, which is not affected by this map, and  
7           some of the Wekiva Springs area east of Apopka.  
8           And then finally finishing the rotation, the  
9           boundary for District 11 through southern Lake  
10          follows the Lake County boundary exactly, and  
11          there is a district south of there which  
12          includes the City of Lakeland. We are going to  
13          look at that district in detail a little bit  
14          later, but all of that is a ripple effect of  
15          the shifting of population from the west of  
16          Orlando to the east.

17                 SENATOR GAETZ: Comments or questions?

18                 SENATOR LATVALA: Mr. Chairman?

19                 SENATOR GAETZ: Yes, of course, Senator  
20          Latvala.

21                 SENATOR LATVALA: You said you want to  
22          talk about the Lakeland district later, but I  
23          am going to ask this while I am thinking about  
24          it here. Why did you -- why did you find it  
25          necessary to push some of that Lakeland

1 district into Hillsborough County?

2 MR. GUTHRIE: Okay.

3 SENATOR GAETZ: Mr. Guthrie?

4 MR. GUTHRIE: Yes, I am going to flip --  
5 okay. So this is the slide we looked at last  
6 week. It shows the boundary of the City of  
7 Lakeland in red here. That city is divided  
8 between two districts, District 24, which is  
9 Plant City, a portion of Lakeland, Mulberry,  
10 and then the portions of Manatee County that  
11 are not in the minority opportunity District  
12 19. So in the -- in the -- in the remedy,  
13 Plant City is kept with Lakeland, but it is in  
14 more of an I-4 district that goes from Plant  
15 City to the Disney area and keeps together the  
16 towns of Lake Alfred, Auburndale, Lakeland and  
17 Plant City. So those are all whole cities in  
18 this proposed district.

19 SENATOR LATVALA: Mr. Chairman?

20 SENATOR GAETZ: Yes, of course.

21 SENATOR LATVALA: But you could have kept  
22 all those people right in Polk County, you  
23 know, pushing them down into District 26  
24 though. I mean, in other words, there is  
25 nothing said that we had to separate Plant City

1 from the rest of Hillsborough County, is there?  
2 I mean, that is just a little -- I mean, it is  
3 problematic. I have heard from the Mayor, I  
4 have heard from the city council, I have heard  
5 from the Chamber of Commerce. I just -- it is  
6 just a peculiar arrangement there, especially  
7 since you have a big county there to put the  
8 rest of those people in.

9 MR. GUTHRIE: So --

10 SENATOR LATVALA: And that is not the  
11 configuration -- the District 24 did not come  
12 all the way up to the corner of Hillsborough  
13 County, it only came to Plant City. So as you  
14 see there, that corner wasn't in District 24  
15 before, so you really weren't keeping what was  
16 there already. And I am just wondering, you  
17 know, why we found it necessary to do that.

18 MR. GUTHRIE: The population in the  
19 extreme northeast corner of Hillsborough County  
20 is very sparsely populated, and the rationale  
21 for this particular configuration was trying to  
22 achieve the level of compactness and logical  
23 boundaries that the Court has recommended to  
24 us. So I don't think it was particularly --  
25 that did not result in a whole lot of a

1 population shift.

2 SENATOR LATVALA: One more?

3 SENATOR GAETZ: Of course, sir.

4 SENATOR LATVALA: Well, there's 42,000  
5 people there, I think, and I guess the question  
6 again is, why were you not able to just push  
7 those further south in Polk County and keep  
8 them in the same county?

9 MR. GUTHRIE: I -- that -- Mr. Chairman?

10 SENATOR GAETZ: Of course.

11 MR. GUTHRIE: With the redistricting  
12 software, you can model districts literally  
13 millions of ways, and we chose a particular  
14 solution, which I and my staff recommended to  
15 the Chairman as conforming to the judgment of  
16 the Supreme Court, following the standards in  
17 the State Constitution and responding in a  
18 responsible way to the -- all of the good input  
19 that this Committee received from the public  
20 during our extensive public hearing process.  
21 We made choices along the way, and that is not  
22 to say any of these districts are drawn in the  
23 only way or even the best way.

24 SENATOR LATVALA: Thank you.

25 SENATOR GAETZ: Was there somebody else

1 before Senator Simmons? I'm sorry. Senator  
2 Simmons.

3 SENATOR SIMMONS: Mr. Guthrie, could you  
4 please -- the original way that the -- that you  
5 drew Senate District 12 under the original plan  
6 which the Florida Supreme Court has not found  
7 unconstitutional, the -- could you give me --  
8 give us the Reock and the convex hull analysis  
9 of District 12 compared to District 19, which I  
10 understand to be another minority district, and  
11 explain to me, please, when the Florida Supreme  
12 Court looked at District 12, did not -- in the  
13 face of a challenge to its constitutionality,  
14 did not find it unconstitutional, and just give  
15 me the comparison between 19 and 12.

16 MR. GUTHRIE: Okay. So we are looking at  
17 the plan that passed the -- the plan that  
18 passed during the regular session of the  
19 Legislature. We are going to compare Senate  
20 District 9 -- no, no, Senate District 12 with  
21 Senate District 19 in terms of the geometric  
22 measures of compactness. So the convex hull  
23 score for District 12 was .41 in the Senate  
24 Joint Resolution 1176. For District 19, the  
25 convex hull score was 0.45. .41 and .45. For

1 Reock --

2 SENATOR SIMMONS: I'm sorry, I didn't get  
3 that. What is the convex hull for District 19?

4 MR. GUTHRIE: For District 19, it is .45;  
5 for District 12, it is .41. In both cases, we  
6 are looking at SJR 1176.

7 The Reock ratio is the same between those  
8 two districts, .24 in 12, and .24 in 19, and  
9 the perimeter ratio is .07 in 12 and .11 in 19.  
10 In all cases, higher numbers are better than  
11 lower numbers in terms of geometric  
12 compactness, but slight differences are not  
13 hugely significant.

14 SENATOR SIMMONS: So is it fair to say  
15 that under these analysis, that 19 and 12 are  
16 literally functionally identical?

17 SENATOR GAETZ: With perhaps the sole  
18 exception that 19 was not remarked on by the  
19 Supreme Court, and 12 was.

20 MR. GUTHRIE: And I would say that they  
21 have very similar geometric compactness scores,  
22 yes.

23 SENATOR GAETZ: Any other comments?  
24 Leader Rich.

25 SENATOR RICH: Thank you. Mr. Chair, I



1           just wanted to just draw attention, I thought  
2           that maybe Mr. Bardos was going to, but  
3           actually both 12 and 19 were mentioned on page  
4           128 --

5           SENATOR GAETZ: I stand corrected.

6           SENATOR RICH: -- and 29 where they talk  
7           about "A visual inspection of the plan reveals  
8           a number of districts that are clearly less  
9           compact than others with visually bizarre and  
10          unusual shapes. These districts include," and  
11          included in there are 12 and 19.

12          SENATOR GAETZ: I stand corrected, thank  
13          you.

14          Other comments or questions at this point?  
15          Yes, of course, thank you for coming today, and  
16          we welcome Senator Dockery.

17          SENATOR DOCKERY: Thank you, Mr. Chair,  
18          and on the Lakeland issue, Senator Latvala  
19          brought up the former map with Plant City  
20          versus the current map with Plant City.

21          SENATOR GAETZ: Uh-huh.

22          SENATOR DOCKERY: And I haven't heard  
23          anything from Plant City, but I do appreciate  
24          you and your staff putting Lakeland back into  
25          one district and creating a north Polk County

1 district in District 16. Whether or not it  
2 goes into Hillsborough County is not a big  
3 issue for me, but my question kind of to  
4 Senator Latvala, but maybe just as a comment  
5 then is the previous map of Hillsborough had  
6 Plant City in a Manatee district. Was Plant  
7 City okay with it being a Manatee district but  
8 not a Polk County district?

9 SENATOR GAETZ: Senator Latvala, would you  
10 care to comment, sir?

11 SENATOR LATVALA: I didn't say I liked  
12 that either.

13 SENATOR GAETZ: All right. Anything else  
14 on this at the moment?

15 Please proceed, Mr. Guthrie.

16 MR. GUTHRIE: I guess to finish out the  
17 rotation, the last bit of that is the District  
18 26 getting pushed in -- more into Osceola  
19 County, and as a result of all these changes,  
20 Polk County, instead of being divided among  
21 four Senate districts, will be divided  
22 primarily between two Senate districts. A  
23 solid anchor of District 16 to the north and  
24 District 26 to the south will be Polk County,  
25 and then the Haines City neighborhoods, which

1 are heavily Hispanic, will be included in the  
2 Hispanic opportunity District 14. So those are  
3 the ripple effects of the central Florida  
4 changes we made.

5 We are now ready to move to southwest  
6 Florida where the Supreme Court objected or  
7 found invalid Senate District 30.

8 SENATOR GAETZ: Before you go, Senator  
9 Dockery, did you have any other comment, ma'am?

10 SENATOR DOCKERY: Just to thank you for  
11 what you have done to clean up the Polk County  
12 area, and if it wasn't for the minority  
13 district, as Mr. Guthrie said, it would be --  
14 Polk County population of 600,000 would be in  
15 two, but because of the minority district, we  
16 are in three, and that is still good. So thank  
17 you very much.

18 SENATOR GAETZ: Yes, ma'am, thank you.

19 I apologize, Mr. Guthrie, you were in  
20 southwest Florida.

21 MR. GUTHRIE: And the Supreme Court  
22 included in its opinion a graphic similar to  
23 this that showed that the connection between  
24 Naples and Cape Coral was a -- some beaches or  
25 beach property along the western shore of Lee

1 County, and as a result, the Supreme Court  
2 found this to be unnecessarily non-compact and  
3 declared District 30 to be invalid as to the  
4 portions of District 30 that are not adjacent  
5 to the District 40. So the Supreme Court in  
6 its opinion recognized the fact that Senate  
7 District 40 is a minority opportunity district  
8 in Hendry, Collier, Monroe and Miami-Dade  
9 Counties for which retrogression of minority  
10 voting opportunities would be a significant  
11 issue, and the Supreme Court did not suggest  
12 that the correction to any of the boundary  
13 problems or compactness issues with District 30  
14 need to consider its boundary with Collier  
15 County.

16 That did not give the staff many options  
17 in terms of where to go to create a more  
18 compact way of filling out District 30. Let's  
19 go to the excerpts from the opinion before we  
20 jump to that: "District 30 is visually  
21 non-compact and the mathematical measures of  
22 compactness support this conclusion. In  
23 addition to being non-compact, District 30  
24 splits counties, municipalities and  
25 geographical features. With the exception to

1 the boundary it shares with District 40,  
2 District 30 does not need to be configured to  
3 avoid diminishing minority voting strength.  
4 While the Legislature intended to tie coastal  
5 communities together, this is not a valid  
6 constitutional justification for a departure  
7 from Tier 2 standards."

8 So what the staff recommended in the  
9 proposed committee substitute is that instead  
10 of extending along the beaches to the Sanibel  
11 and Cape Coral population centers, that the  
12 District 30 fill out by including Bonita  
13 Springs, following geographic and political  
14 boundaries through the areas south of Ft. Myers  
15 and south of Ft. Myers Beach, and that we  
16 include all of the community of Lehigh Acres.  
17 So the boundary on the north here and around at  
18 the top is the Lehigh Acres census designated  
19 place, and then once we get out of Lehigh  
20 Acres, we follow normal political and  
21 geographic boundaries to Estero Bay and then  
22 out between Ft. Myers Beach and Bonita Springs.  
23 So that is the reconfiguration of District 30.

24 Because the Supreme Court mentioned  
25 geographic compactness measures for that

1 district, it probably is wise for us to take a  
2 look at how the new district fares in  
3 comparison with the old one.

4 The convex hull score for the district  
5 that passed the Senate in -- or the Legislature  
6 in February was .56. That is increased here to  
7 .67. The Reock score goes from .19 to .32, and  
8 the Polsby-Popper score goes from .17 to .24.  
9 So on all three of the geometric measures of  
10 compactness, the reconfigured district is  
11 measurably more compact than the one that was  
12 there -- that it replaces.

13 SENATOR GAETZ: Let's stop there for  
14 questions as to southwest Florida. Comments?  
15 Senator Braynon.

16 SENATOR BRAYNON: Thank you, Mr. Chair.

17 I know that in the opinion they talked  
18 about our use of geographic and political  
19 lines, and when we are drawing things and we  
20 got outside of maybe just using a city or  
21 county, that we weren't consistent, whereas the  
22 House was consistent, specifically along any  
23 specific district. Do you feel in your opinion  
24 that this line here is a consist- -- we are  
25 more consistent with these geographic

1 boundaries that we are using for District 30 on  
2 the northern part?

3 SENATOR GAETZ: Mr. Guthrie.

4 MR. GUTHRIE: I believe that the  
5 boundaries that the Senate drew before, and  
6 even more so, the boundaries that we drew now  
7 were faithful to the Constitution's direction  
8 that we follow political and geographic  
9 boundaries. It may be that, you know, some of  
10 that evidence wasn't -- wasn't well-presented  
11 or whatever. But in this case, what we are  
12 doing is following the Estero River to U.S.  
13 Highway 41 -- and this will just serve as an  
14 example -- and then going across Alico Road, a  
15 major arterial road in Lee County, let's just  
16 trace the border here, and we could do this  
17 anywhere in the map and get a similar result.  
18 The district then heads north on Interstate 75  
19 to State Road 865 where it heads east to State  
20 Road 82. This is the southern boundary of the  
21 Lehigh Acres census designated place. And at  
22 that point, we traced the boundary of the  
23 Lehigh Acres census designated place until we  
24 get to the corner of Hendry County.

25 So I do believe that here and elsewhere we

1           were faithful to the standard in the State  
2           Constitution that districts follow political  
3           and geographic boundaries where feasible.

4           SENATOR GAETZ: Other comments or  
5           questions? If not, please proceed.

6           And those who are keeping track at home,  
7           are we -- were there any -- were there any  
8           minority voting rights issues there that we  
9           need to be cognizant of as we complete our  
10          check list, Mr. Guthrie?

11          MR. GUTHRIE: Well, there are minority  
12          voting rights issues in District 40, to be  
13          sure, which is why the Supreme Court  
14          recommended that we not impact that border in  
15          trying to cure the compactness issues that it  
16          found with District 30. In District 23 and 30,  
17          we have -- District 30 is six percent black VAP  
18          and 19 percent Hispanic VAP. District 23 is  
19          6.5 percent black VAP and 12.1 percent Hispanic  
20          VAP. Do you want to look at the functional  
21          analysis? I do not believe there were any  
22          voting rights concerns with District 23 or  
23          District 30.

24          SENATOR GAETZ: Any questions along those  
25          lines?



1           Mr. Bardos reminds me that -- and if you  
2           could just go back to the point that Leader  
3           Rich correctly made that both District 19 and  
4           District 12 were mentioned in the Court's  
5           opinion, and could you draw the distinction  
6           between the two just so that we will all have  
7           that understanding before we move on?

8           MR. BARDOS: Both District 12 and District  
9           19 were mentioned as districts with low  
10          compactness scores, but one consideration that  
11          does differentiate them is that District 19 has  
12          part of Hillsborough County, which is a covered  
13          county under Section 5, and just as it did with  
14          District 40 where the Court recognized that  
15          District 40 is protected by Section 5 of the  
16          Voting Rights Act, that seems to be an  
17          additional justification for the district as  
18          drawn.

19          SENATOR GAETZ: Okay. Thank you for  
20          mentioning that, Leader Rich.

21          Let us move on then.

22          MR. GUTHRIE: The next area we are going  
23          to visit is southeast Florida. In particular,  
24          the Court took issue with Senate District 34  
25          and Senate District 29 in SJR 1174. The Court

1           said, "Districts 29 and 34 were drawn to favor  
2           an incumbent and a political party by keeping  
3           District 29 essentially the same as its  
4           predecessor district. District 29 leans  
5           Republican in an area of the state that is  
6           largely Democratic. The districts in this  
7           area, including District 34, might have been  
8           drawn to, quote, make the area as a whole more  
9           compact. If the Legislature had drawn logical,  
10          compact districts in a neutral manner, the map  
11          would likely have reflected five Democratic  
12          districts."

13                 So the Court looked at the District 34,  
14                 which was a majority black voting age  
15                 population district that extended north through  
16                 Deerfield Beach and Delray, Boynton Beach into  
17                 West Palm Beach and Riviera Beach. They  
18                 noticed how that district created a wall that  
19                 resulted in a coastal district to its east, and  
20                 the Court determined that those two districts  
21                 would be invalid and asked the Legislature to  
22                 come up with a new plan conforming to the  
23                 judgment of the Court.

24                 The Court in its opinion made reference to  
25                 the League of Women Voters' plan, which in this

1 area what it did was tied together the  
2 communities of Ft. Lauderdale and West Palm  
3 Beach, with extensions into the Everglades, the  
4 conservation areas and the Everglades  
5 agricultural area. By removing the connector  
6 along the Interstate between Ft. Lauderdale and  
7 West Palm, the wall that segregated District 29  
8 along the coast was removed, and the League of  
9 Women Voters showed how they were able to stack  
10 three Senate districts in the C-shaped district  
11 that went from West Palm to Ft. Lauderdale.

12 So that was the direction we got from the  
13 Court. Staff did a functional analysis similar  
14 to what we had done in Jacksonville with  
15 District 34. What we discovered was that we  
16 could create a majority-minority -- a bare  
17 50 percent majority-minority African-American  
18 district entirely in Broward County; in fact,  
19 entirely north of Interstate 595 in Broward  
20 County. We determined through the functional  
21 analysis that that district would perform for  
22 African-American candidates of choice. The  
23 black percentage of primary election voters is  
24 61.2 percent, blacks are 90 percent Democratic,  
25 and the Democratic candidates win with 80, 82

1 and 75 percent of the general election vote.  
2 So it is a situation where you have the black  
3 voters being able to influence who gets elected  
4 in the primary and with the Democratic  
5 candidates consistently winning election.

6 So that -- the approach that staff took  
7 here was, number one, we created this District  
8 34, 470,000 people in Ft. Lauderdale and  
9 surrounding communities. We then wanted to --  
10 in the prior plan, there were three districts  
11 that crossed over the Broward/Palm Beach County  
12 line: District 29, District 34 and District  
13 32.

14 The other relevant fact to be aware of  
15 here is that District 34, the African-American  
16 district, included about 180,000 people out of  
17 Palm Beach County, whereas District 32, the  
18 western district, had about 150,000 people in  
19 Broward County.

20 So the remedy that staff is recommending  
21 here is really trading those populations. We  
22 take District 34, it grows by 180,000 people in  
23 Broward County. District 32, or the western  
24 Palm Beach district, we take this piece out,  
25 okay, which was 150,000. When District 34

1           grew, most of its growth was not along the  
2           coast, but rather, in the neighborhoods west of  
3           Ft. Lauderdale, including Margate, Tamarac,  
4           Sunrise, Pompano Beach, Lauderhill -- or north  
5           Lauderhill. With that population taken out of  
6           District 31, it needed to grow to include all  
7           of the population that formerly was in District  
8           32 in the earlier scenario, or the joint  
9           resolution that passed the Senate, and it  
10          needed to grow an additional 30,000 people into  
11          District 36. So this District 31 includes  
12          communities all along western Broward County.  
13          The District 36 is very similar to the district  
14          that was passed by the Legislature during  
15          regular session, fewer people in the Pembroke  
16          Pines area, and it makes up that population in  
17          the area south of Ft. Lauderdale.

18                 As before -- and then we keep working our  
19          way counter-clockwise to finish out the  
20          remainder of the region. The boundary between  
21          Districts 36 and 32, as before, is the Port  
22          Everglades. District 32 extends north during  
23          the much -- or along the much shortened  
24          boundary of District 34 to the Palm Beach  
25          County line. At that point, it widens out to

1 the Turnpike, and then just includes the  
2 territory north of the Palm Beach County line  
3 to Boynton Beach.

4 We also took a good hard look at the West  
5 Palm/Riviera Beach area, and discovered that in  
6 central Palm Beach County, the communities that  
7 formerly were part of District 34, if you look  
8 at the Hispanic population and the  
9 African-American population combined, was an  
10 area where we could provide an opportunity for  
11 African-American and minority voters to  
12 influence elections.

13 The extension -- there are three precincts  
14 in Boynton Beach in this area here. We can  
15 flip to the -- to the District Explorer view of  
16 the area and see exactly what they are. Let's  
17 zoom into that area. Three precincts in  
18 Boynton Beach which are more heavily  
19 African-American, and those were included with  
20 the West Palm/Riviera Beach district, but as  
21 you can see here, we are following political  
22 and geographic boundaries, we are trying to  
23 keep cities intact wherever we can. We are  
24 also trying to -- as our Tier 1 consideration,  
25 we are trying not to diminish opportunities of

1 minority voters anywhere in the region. And so  
2 District 29 now takes on this configuration  
3 with West Palm Beach, Riviera Beach and a piece  
4 of Boynton Beach included with Palm Beach and  
5 Lake Worth, okay.

6 SENATOR GAETZ: Mr. Guthrie, before we go  
7 to the functional analysis and the geometric  
8 analysis comparison, Senator Sachs has a  
9 question.

10 SENATOR SACHS: There is a little Band-Aid  
11 here that works. Now we are on, all right.  
12 Thank you very much, Mr. Chairman.

13 Mr. Guthrie, what was the most western  
14 point for District 32? What was the -- what  
15 was the geographic or political dividing line  
16 between 32 and 31 and 27, sir?

17 MR. GUTHRIE: In the original, the plan  
18 that passed earlier, or --

19 SENATOR SACHS: No, the one that we are  
20 looking at right now, the proposed one --

21 MR. GUTHRIE: In this plan, yes.

22 SENATOR SACHS: -- that we want to give  
23 back to --

24 MR. GUTHRIE: The boundary is the  
25 Turnpike.

1           SENATOR SACHS:  And is there a reason why  
2           we didn't follow up the Turnpike up from --  
3           because reading the Supreme Court decision now,  
4           we know that in Tier 2 -- but one of the most  
5           important things is compactness.  In looking at  
6           this entire area, everything looks pretty  
7           compact except for 32.  That is the only one  
8           that we don't have that sense of compactness.  
9           It is almost as if you take everything left  
10          over from -- you know, from the western side  
11          and you just make this long stream of land that  
12          goes between two counties.  What was the --  
13          what was the decision of the staff in defining  
14          the westernmost points of District 32?

15          MR. GUTHRIE:  Well, the Turnpike was -- is  
16          a very, very well-known and significant  
17          boundary in that area.  Had -- we also were  
18          mindful of the impact that put -- if you had a  
19          square orientation of District 32 in south Palm  
20          Beach County, it would have made it much more  
21          of a challenge to create a reasonably compact  
22          minority opportunity district in the West Palm  
23          Beach/Riviera Beach/Boynton Beach area.

24          SENATOR SACHS:  So, if I may, Mr.  
25          Chairman, I'm sorry, if I may, Mr. Guthrie, and



1 I know you know this area pretty well as well,  
2 because I know we have discussed -- you seem to  
3 know every area in Florida extremely well, but  
4 is it because of the analysis of the racial  
5 minority, is that the reason why, or what is  
6 the reason why that we didn't fill in the space  
7 between the Turnpike going up north of Boynton  
8 Beach up into -- up into the next -- 29? See  
9 that little gap there where 27 --

10 MR. GUTHRIE: Sure. As you know, Senator  
11 Sachs, that is a very densely populated area,  
12 and had that population all been included in  
13 District 32, it would have been extremely  
14 overpopulated. So you need to either move it  
15 in from the east or move it down from the  
16 north.

17 SENATOR SACHS: Or move it up from the  
18 south.

19 MR. GUTHRIE: Well, up from the south -- I  
20 explained how I got to where I was in the  
21 south. We started -- and we could have gone  
22 either way, we could have started -- and I  
23 think we would have gotten the same result  
24 either way, but we started at the Broward/Palm  
25 Beach County line, west of the minority

1 district, and then just started filling in  
2 districts sort of around the horn, being  
3 mindful where we could of the Tier 1 concern  
4 that we provide opportunities for minority  
5 voters, but also looking for political and  
6 geographic boundaries and always being mindful  
7 of compactness as we went along the way.

8           There is -- you know, this -- were it  
9 possible that this district could have  
10 perfectly filled in the population all the way  
11 to the Turnpike, all the way to where it  
12 intersects with District 29, that clearly would  
13 have been a more compact and copesettic map,  
14 but that equal -- thank you.

15           SENATOR SACHS: You got a quarter word in  
16 there, I think, huh, copesettic.

17           MR. GUTHRIE: Even -- well that's --

18           SENATOR SACHS: That's good. So in other  
19 words --

20           SENATOR GAETZ: Senator Thrasher and I  
21 woke up there, it was one of our words.

22           SENATOR SACHS: Well, thank you for that,  
23 because if we had filled that in, then it would  
24 be a lot more compact. If we could just move  
25 south for a minute on 32, going past 31. Is

1           this the map, this map, is that the only  
2           section that we are not following county line?  
3           Except for that little blimp there with -- you  
4           know, with District 31 into 27, it appears from  
5           my reading of this map that that 31 goes a  
6           little bit into -- over the county line, but  
7           other than that, which probably is for racial  
8           equality, is that --

9           MR. GUTHRIE: No, no, actually, the  
10          Legislature -- and some of you know way better  
11          than I the history of this, but this property  
12          was added to the County of Broward by  
13          legislative act within the last ten years, I  
14          believe.

15          SENATOR SACHS: About three or four years  
16          ago, yes, I think it was. Sir, then, going all  
17          the way -- well, let me go back to my other  
18          question. Thank you, Mr. Chairman --

19          SENATOR GAETZ: Of course.

20          SENATOR SACHS: -- for giving me this  
21          leeway, but the -- is this the only -- is 32  
22          the only district that dips south so far past  
23          the Palm Beach County line?

24          SENATOR GAETZ: Mr. Guthrie?

25          MR. GUTHRIE: In this region?

1           SENATOR SACHS: Palm Beach and Broward.  
2           Is there any other -- is there any other  
3           district that crosses the Palm Beach/Broward  
4           line other than District 32?

5           MR. GUTHRIE: No.

6           SENATOR SACHS: Okay. And one other  
7           question.

8           SENATOR GAETZ: Of course.

9           SENATOR SACHS: Thank you, sir.

10          SENATOR GAETZ: Sure.

11          SENATOR SACHS: The southernmost -- as  
12          District 32 goes south and is contiguous with  
13          District 34, what is the reason, sir, for that  
14          wavy line? Is that -- what are we following  
15          there? Is that Dixie, Highway 1, I-95? I  
16          can't --

17          MR. GUTHRIE: Well, it is -- there are a  
18          combination of borders along the way here. It  
19          is mostly U.S. 1, State Road 816. We can go in  
20          and look at the details. So the state highway  
21          curves around here and then we are jumping over  
22          to the railroad track, we head north on the  
23          railroad track, and at this location we are on  
24          State Road 811, keep heading north --

25          SENATOR SACHS: So my question is --

1           MR. GUTHRIE: -- on 811. So we looked for  
2           -- and I don't have it memorized, every turn of  
3           the map. Up here, I believe what we've got  
4           here -- let's turn on the value ramp. I think  
5           there is a higher concentration of minority  
6           voters just --

7           SENATOR GAETZ: I think, Mr. Guthrie, that  
8           that is where we are getting to. I think  
9           Senator Sachs raises a very interesting point,  
10          and the answer, just as we have talked about,  
11          our Tier 1 and Tier 2 analyses and the need to  
12          make the check list, I think the answer, and  
13          Mr. Bardos has just prompted me here, is that  
14          we are less concerned at this point with  
15          precise geography as to which -- which road we  
16          would use and more concerned with making sure  
17          that District 34 retains its 50 percent plus  
18          minority population. So I think that -- if you  
19          look at the value ramp, if you put that up, if  
20          you look at the value ramp, I think that helps  
21          explain it, and then if you will understand why  
22          we were working hard to make sure that we had a  
23          50 percent plus minority district there, that  
24          helped defined whether one would go, for  
25          example, all the way to U.S. 1 or whether one

1 would take a -- one of the other state roads.

2 SENATOR SACHS: And the reason I ask that,  
3 Mr. Chairman, is that the test that we have  
4 been using ever since northwest Florida is that  
5 any unnecessary appendages or bizarre  
6 designs -- and I'm taking these words from the  
7 Supreme Court decision -- need to be examined  
8 and need to be explained.

9 SENATOR GAETZ: And need to be justified  
10 in terms of Tier 1 requirements, which is the  
11 point here.

12 SENATOR SACHS: Well, if that is the  
13 answer --

14 SENATOR GAETZ: There you go.

15 SENATOR LATVALA: Mr. Chairman?

16 SENATOR SACHS: I just want to be -- I  
17 just --

18 SENATOR GAETZ: Senator Latvala.

19 SENATOR LATVALA: Thank you.

20 Mr. Guthrie, this bizarre appendage that  
21 goes down here has 155,000 people in it. If we  
22 didn't put it with Palm Beach County, what  
23 would we do with it?

24 SENATOR GAETZ: Mr. Guthrie.

25 MR. GUTHRIE: I think that is a rhetorical

1 question.

2 SENATOR LATVALA: Well, I mean, is there  
3 any other -- the rest of the districts in  
4 Broward County are balanced out, so some  
5 district has to go across the county lines, is  
6 that correct?

7 MR. GUTHRIE: That is correct.

8 SENATOR LATVALA: And there's 155,000  
9 people in this district that need to go  
10 somewhere, is that correct?

11 MR. GUTHRIE: I don't have the exact  
12 number --

13 SENATOR LATVALA: I am reading it off the  
14 sheet, 155,000, okay. So --

15 SENATOR GAETZ: Of course.

16 SENATOR LATVALA: -- whether we cut them  
17 out to sea or whatever, they got to go  
18 somewhere, okay.

19 Now, when you get north of the county line  
20 and look at the western boundary, one --  
21 another way to have done that western boundary  
22 would have been city limits, right? In other  
23 words, if we weren't comfortable with a  
24 particular highway, we could have said, for  
25 instance, the Boca Raton city limits could have

1           been used, or Delray or Boynton Beach. What  
2           would that have done? Would that have pulled  
3           the line closer to the -- there you go. So it  
4           would have been a little more zigzaggy if we  
5           would have used the city limits.

6                     SENATOR GAETZ: Mr. Guthrie?

7                     MR. GUTHRIE: That is correct, although  
8           we -- not as a principal concern, but among the  
9           considerations that we made while building  
10          these districts was trying to follow city  
11          boundaries where it made sense to do so. So,  
12          for instance, the City of Plantation, we follow  
13          that border between Plantation and Sunrise  
14          exactly until we get to this little corner  
15          right here. And you asked why did you cut that  
16          corner out of that district. Well, if we go to  
17          the value ramp, we will see that that area east  
18          of the Turnpike has a tremendous concentration  
19          of African-American residents, and so it just  
20          made sense to include that entire area with the  
21          City of Ft. Lauderdale and minority  
22          communities.

23                     SENATOR GAETZ: Senator Latvala.

24                     SENATOR LATVALA: Just one or two more.

25           If -- so basically what you are saying there is



1 in Broward County, we use city limits pretty  
2 extensively, except where there was a value  
3 ramp -- an issue with the minority district of  
4 a concentration of population, right?

5 SENATOR GAETZ: Mr. Guthrie.

6 MR. GUTHRIE: Well, or compactness  
7 consider- -- I mean, it is a balancing, as we  
8 have said before, of all the standards.

9 SENATOR LATVALA: But when we went to Palm  
10 Beach County, we didn't use the city limits any  
11 more. Is that -- you know, in looking at  
12 improving this map, if I was looking to improve  
13 this map in the amendatory process tomorrow,  
14 then one of the things that conceivably could  
15 do would be to follow the city limits a little  
16 closer in Palm Beach County then, right?

17 MR. GUTHRIE: I am --

18 SENATOR LATVALA: And we haven't really  
19 done that.

20 MR. GUTHRIE: My belief is that we did  
21 follow city boundaries, where feasible, in Palm  
22 Beach County. So the boundary here is tracing  
23 the line between North Palm Beach and Lake  
24 Park, we follow the boundary of Palm Beach  
25 Gardens, we cut across on an arterial road

1 here --

2 SENATOR LATVALA: But in south county, we  
3 didn't, right?

4 MR. GUTHRIE: Well, let's look at south  
5 county. I believe that there, too -- the City  
6 of Boynton Beach is entirely in District 32,  
7 with the exception of these precincts that I  
8 mentioned earlier were following the boundary  
9 of Boynton Beach, the boundary of Manalapan,  
10 the boundary of Ocean Ridge --

11 SENATOR LATVALA: Okay.

12 MR. GUTHRIE: -- through here. The areas  
13 far out west are unincorporated, but all of the  
14 Cities of Boca Raton, Golf, Delray Beach, Ocean  
15 Ridge, Gulf Stream and Boynton Beach, with the  
16 exception of that area I talked about, are in  
17 District 32.

18 SENATOR LATVALA: One last question.

19 SENATOR GAETZ: Of course, sir.

20 SENATOR LATVALA: We are talking -- we've  
21 heard a lot of conversation about bizarre  
22 appendages today, and we do have one on this  
23 map, and that is the extra finger that goes in  
24 in north county there, and I didn't hear  
25 Senator Sachs talking about that one, but that

1 is, you know, sort of -- kind of -- you know,  
2 you got everything in the west, and then you  
3 got one place where it goes in all the way to  
4 the ocean. So was there any other way of doing  
5 that district other than doing it that way?

6 SENATOR GAETZ: Mr. Guthrie.

7 MR. GUTHRIE: The answer to the question  
8 was there any other way of doing that district  
9 is yes.

10 The answer to why did we do it the way we  
11 did is we created a District 29, including West  
12 Palm Beach, Riviera Beach, the portion of  
13 Boynton Beach that we talked about, and then --  
14 so with that population -- then filling in  
15 District 32, you have District 27, and in order  
16 for it to get the population that it needs,  
17 there's just that additional territory in the  
18 north part of Palm Beach County. So it is --  
19 it is -- it is -- I -- representation is so  
20 important. I hate to refer to any area as not  
21 being entirely intentional in terms of why it  
22 was assigned to the district that it was, but  
23 this particular area is, in fact, what was left  
24 as we merged the changes that needed to be made  
25 in south -- in Broward County and the other --

1 the remainder of Palm Beach County and make it  
2 conform with the districts that the Supreme  
3 Court had already determined to be valid.

4 Another slight change that we made as we  
5 were about the business of addressing Broward  
6 and Palm Beach Counties was that we extended  
7 District 25 further south into Palm Beach  
8 County. As a result of that, we were able to  
9 address a concern that was raised by the  
10 opponents in their briefs that the plan  
11 initially submitted to the Supreme Court by the  
12 Senate tended by a slight amount to  
13 under-populate Republican districts and to  
14 overpopulate Democratic districts. That was a  
15 complaint that the opponents had expressed.  
16 Well, by that little change, we actually  
17 reversed that conclusion. So that change is a  
18 part of this map as well.

19 SENATOR GAETZ: Leader Rich.

20 SENATOR RICH: Thank you, Mr. Chair.

21 I guess I am wondering, you know, why this  
22 couldn't be squared off, because 29, correct me  
23 if I am wrong, that is not a minority access  
24 district, right? I mean, it has a num- -- you  
25 know, a percentage, but it is not a minority

1 access district, is that right?

2 SENATOR GAETZ: Mr. Guthrie.

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

4 District 29 as it is constituted here is  
5 25.7 percent black voting age population, 27.4  
6 Hispanic voting age population. So it is a  
7 combined majority-minority coalition district  
8 with Hispanics and African-Americans.

9 SENATOR RICH: Uh-huh.

10 SENATOR GAETZ: Leader, did you wish to  
11 follow up?

12 SENATOR RICH: Yeah. I am just wondering,  
13 I mean, because it appears that there's, you  
14 know, kind of a little -- it juts out somewhat  
15 into 27 and it -- why would it not be possible  
16 to -- you know, to just kind of shave that off  
17 there and put that difference back into making  
18 the rest of the district and Boca Raton whole?

19 SENATOR GAETZ: Mr. Guthrie.

20 MR. GUTHRIE: Boca. So is your issue  
21 wanting to cut off the western portions of West  
22 Palm Beach and have the district grow more  
23 along the coast here, or you are trying to --

24 SENATOR GAETZ: Leader, could you be more  
25 specific, ma'am?

1           MR. GUTHRIE: -- cut off the area west of  
2 the Turnpike and fill in the area east of the  
3 Turnpike here?

4           SENATOR RICH: Where you cut -- yes,  
5 exactly --

6           MR. GUTHRIE: Okay. Well, let's look at  
7 that. Let's turn on the value ramp and let's  
8 see what we see. Excuse me. So the areas east  
9 of the Turnpike and west of Boynton Beach are  
10 -- have very, very low percentages of minority  
11 voters. As we have discussed, they are pretty  
12 densely populated. I can turn on -- turn on  
13 the population numbers so that we can -- let's  
14 see if I can remember how to do this. I  
15 haven't done this -- there they are. So what  
16 we are seeing -- the numbers that are appearing  
17 on the map here are the numbers of persons per  
18 voting tabulation district in this western part  
19 of the district. So pretty densely populated  
20 is what we see, and we also see that it is not  
21 particularly heavy concentrations of Hispanics  
22 or African-Americans, versus the area -- this  
23 big, white space here is deceiving, because it  
24 has no population. We have this little area  
25 here with 596. The bulk of the population west

1 of the Turnpike that we are talking about here  
2 is these VTDs in the Royal Palm Beach area, and  
3 if you were to take those out of District 29 --  
4 well, first of all, the numbers here are, you  
5 know, something like what, 15,000 people,  
6 whereas the number of people living in this  
7 territory east of the Turnpike, I don't have it  
8 exactly in my mind, but that looks like -- more  
9 like thirty -- 35,000 people to me. So putting  
10 that many people with that low a concentration  
11 of minorities into a minority opportunity  
12 district is going to fundamentally change, I  
13 believe, the demographics of that entire  
14 district.

15 SENATOR GAETZ: Leader Smith, you are  
16 recognized.

17 SENATOR SMITH: Yes --

18 SENATOR GAETZ: I'm sorry, Leader Rich,  
19 were you finished, ma'am?

20 SENATOR RICH: I'll let --

21 SENATOR GAETZ: Okay. Leader Smith.

22 SENATOR SMITH: A comment that was made  
23 about 20 minutes ago and the answer to Senator  
24 Latvala when he asked about the district, I  
25 guess, was set up, 32, I guess the question

1 was, was there an opportunity to wholly put 32  
2 in one county, and you stated that there was no  
3 opportunity to make 32 in just one county, I am  
4 a little concerned of that, because when you  
5 looked at the old maps, I guess the two  
6 districts, 34 and 32, ran with each other, but  
7 you found a way to bring 34 into one county,  
8 but you kept 32 into another county. Could you  
9 revisit that answer again? Was there a way to  
10 maybe bring 32 down and connect it to parts of  
11 36 or something so that we can keep a district  
12 keep along the county lines, or you found that  
13 there was no way of making 32 into one county  
14 like you did 34?

15 SENATOR GAETZ: Mr. Guthrie, and then  
16 Senator Braynon, I apologize to you, sir, I  
17 didn't see you back there, you are next.

18 MR. GUTHRIE: I don't recall that being my  
19 exact answer to Senator Latvala. If that is  
20 what I said, then I misspoke. Obviously, if  
21 your goal was to start at the Palm  
22 Beach/Broward County line along the coast and  
23 to work south to fill out that district,  
24 obviously that district could be completed in  
25 Broward County. The reason I chose not to do



1           that is because I've got a short county  
2           boundary, you know, a few miles to the east of  
3           District 32, I've got a very long county  
4           boundary to the west of District 34, and so by  
5           following that boundary, making that the line  
6           that we would not cross in getting to a point  
7           where only one district crossed the  
8           Broward/Palm Beach County line, we were able  
9           to, to a much greater extent, follow the  
10          direction of the Constitution that we utilize  
11          geographic boundaries to the extent -- where  
12          feasible. And so I could have chosen to start  
13          on the east and work around either clockwise or  
14          counter-clockwise. I chose to start on the  
15          west and work around counter-clockwise, and  
16          what you see is the result of that choice.

17                 SENATOR GAETZ: Senator Braynon.

18                 SENATOR BRAYNON: Thank you, Mr. Chair.

19                 I know we were getting to this, but we  
20          started talking about it before we got to it,  
21          the functional analysis of District 29. We  
22          called it a minority access seat, but I would  
23          like Mr. Guthrie to kind of go through the same  
24          exercise that we go and see if it actually  
25          plays out that same way.

1           SENATOR GAETZ: Mr. Guthrie, could you  
2 walk us through both the functional analysis  
3 and the geometric analysis of the principally  
4 affected districts there, please?

5           MR. GUTHRIE: Okay. So -- thank you, Mr.  
6 Chairman.

7           For the functional analysis, Senator  
8 Braynon, you are exactly correct that we do not  
9 have a situation here with that district where  
10 the minority voters, even if you look at black  
11 and Hispanic voters together, constitute a  
12 majority of the voters in the Democratic  
13 primary. The numbers are 34.2 percent black.  
14 The Hispanic voters in this area have very,  
15 very low turnout and registration rates, so  
16 even though Hispanics make up a quarter of the  
17 population, they are only 3.7 percent of the  
18 voters in the Democratic primary. We see that  
19 black voters, as elsewhere, are overwhelmingly  
20 Democratic, and we see that this District 29  
21 will perform for the Democratic nominee in  
22 general elections consistently. So those are  
23 the relevant factors to consider in the -- in  
24 the functional analysis.

25           This is something of an opportunity

1 district because it was coming from an area  
2 which had a long-standing association with a  
3 Senator. For 20 years we have had a district  
4 that has gone from Broward -- or Ft. Lauderdale  
5 to West Palm Beach. We saw an opportunity to  
6 get a majority coalition district and chose to  
7 take that opportunity. I think we did so in a  
8 way that is faithful to all the other standards  
9 of the Constitution relating to compactness and  
10 following political and geographic boundaries  
11 where feasible.

12 As the Chairman suggested, let's take a  
13 look at the compactness scores for the proposed  
14 District 29. The convex hull is .89, the Reock  
15 ratio is .54, and the Polsby-Popper perimeter  
16 ratio is .50. Those are  
17 shooting-the-lights-out kind of compactness  
18 scores.

19 SENATOR DIAZ DE LA PORTILLA: Question on  
20 that.

21 SENATOR GAETZ: Senator Diaz de la  
22 Portilla.

23 SENATOR BRAYNON: I had one more  
24 follow-up.

25 SENATOR GAETZ: I apologize, Senator

1           Braynon. Please follow up.

2           SENATOR BRAYNON: It is only -- I know  
3           that earlier, I think it was Senator -- Leader  
4           Rich that was making a point, and the answer --  
5           in one of the answers of her point was, well,  
6           this is a minority access district, so we  
7           probably can't do something. So does that  
8           change the answer now that we have established  
9           that this doesn't actually constitutionally  
10          perform like a minority access district?

11          SENATOR GAETZ: I don't remember what it  
12          was we --

13          SENATOR BRAYNON: Yeah, I don't remember  
14          what the answer was, but I heard it said, and I  
15          knew --

16          SENATOR GAETZ: Leader Rich, did you want  
17          to maybe revisit this topic before we go to  
18          Senator Diaz de la Portilla?

19          SENATOR RICH: Thank you, Mr. Chairman.

20          That was the question I had originally,  
21          and Senator Braynon is just basically  
22          reiterating why we couldn't make that change  
23          because we are not dealing with the minority  
24          access district.

25          SENATOR GAETZ: Okay. Senator Braynon,

1 are you finished, sir? Okay.

2 SENATOR SACHS: May I?

3 SENATOR GAETZ: Would you yield to Senator  
4 Sachs just for a moment?

5 Senator Sachs, go ahead, please.

6 SENATOR SACHS: Thank you, and I think I  
7 can -- I can help out.

8 What the question was before, Mr. Guthrie,  
9 is if you look at 27 and you look at 29 and you  
10 look at 32, and I think the question was, you  
11 see how irregular, and as the Court said,  
12 bizarre the configuration is in 29 and 32, and  
13 I think the question was, is there any reason  
14 why we can't draw a line from the top of 29 --  
15 it goes and follows along so that it is  
16 straight, so that we have a boundary that  
17 either follows along the Turnpike or 441, we  
18 have a number of roads there, that would  
19 make -- would even that area out to the west.  
20 And I think your answer was originally, and  
21 correct me if I am wrong, that it could be done  
22 if the numbers are there, and I think that is  
23 -- is that correct, sir?

24 SENATOR GAETZ: And just so we level the  
25 predicate or the question, Senator Sachs, you

1 are not suggesting, are you, and if you are,  
2 that is fine, that 32 and 29 are somehow  
3 bizarrely shaped now?

4 SENATOR SACHS: Bizarre, that is bizarre.

5 SENATOR GAETZ: Bizarre? Are you  
6 suggesting that?

7 SENATOR SACHS: No, I am not.

8 SENATOR GAETZ: Okay.

9 SENATOR SACHS: I am saying though --  
10 however, let me say this: We are looking at --  
11 according to the Supreme Court, we are looking  
12 at trying to make geographic boundaries as much  
13 as possible, except those that impede upon  
14 those areas that are minority. And I think the  
15 line of questions has been up to now that 29  
16 may not necessarily be that type of district.  
17 So we go back to Leader Rich's question, which  
18 is is there any reason why we can't make  
19 straight those lines that go between those  
20 three districts, and that is the question, Mr.  
21 Guthrie.

22 SENATOR GAETZ: Mr. Guthrie, do you want  
23 to take a stab at that?

24 MR. GUTHRIE: Well, let's -- let's go,  
25 again, to the northern border of District 29.

1 I think that is one of the areas we're asking  
2 about, and let's look at the city boundaries,  
3 and what we see is that the district boundary  
4 is following the city boundaries -- see,  
5 straight -- straight through here until we get  
6 to West Palm where -- and I honestly don't know  
7 the answer of why this corner was omitted from  
8 -- well, but we would have had 3,100 people in  
9 this next track, so I -- I believe we did  
10 follow city boundaries through this area, and  
11 that is the dominant explanation of why it is  
12 not a straight line.

13 On the south, I already explained that  
14 because what we had here was a district of  
15 residents who historically in West Palm Beach  
16 and Riviera Beach had had an opportunity to  
17 elect a candidate of their own choice, working  
18 together with voters in Ft. Lauderdale, that  
19 because that extended down through Boynton  
20 Beach and because the district, just by drawing  
21 a straight line, was going to be within, you  
22 know, a stone's throw or two of these precincts  
23 that also historically were part of that same  
24 minority-majority district, I made a choice to  
25 include those precincts. I don't think that

1           what I created here was a bizarre appendage. I  
2           think it was a reasonable following of  
3           political and geographic features to arrive at  
4           a result.

5                    SENATOR GAETZ: Turn on the value ramp  
6           again, please, for that area, just so that we  
7           can -- we can all get reminded. There we go.

8                    All right. Senator Diaz de la Portilla.

9                    SENATOR DIAZ DE LA PORTILLA: Thank you,  
10           Mr. Chairman.

11                   I just wanted to make sure that -- because  
12           the numbers have changed here of districts and  
13           all that. The compactness mathematical  
14           measures that you gave for 29 are the new ones  
15           under the PCB that is being considered today,  
16           correct?

17                   MR. GUTHRIE: That is correct.

18                   SENATOR DIAZ DE LA PORTILLA: And so what  
19           was that under what we -- under 1176 that we  
20           passed out of here, what were those numbers and  
21           was it still District -- it wasn't 29, it was  
22           some other number back then.

23                   MR. GUTHRIE: Well, District twenty -- as  
24           the Court directed, the -- they said that  
25           District 29 in the plan that passed the



1           Legislature was an issue, and so District 29 in  
2           this proposal is split among four other Senate  
3           districts, two primarily, District 32 and  
4           District 29, but also portions of District 27  
5           and 25 are part of -- and maybe 36, I would  
6           need to check on 36, whether extended below the  
7           Port Everglades. The -- I lost my train of  
8           thought there. So what do we want to compare  
9           it to, the old 34, the old 29?

10                    SENATOR GAETZ: I think -- correct me if I  
11           am wrong, Senator Diaz de la Portilla. I think  
12           what the Senator is asking is, is there a  
13           comparison on the geometric compactness  
14           standards from the plan which passed the Senate  
15           and the plan which is now before us. Is that  
16           correct, sir?

17                    SENATOR DIAZ DE LA PORTILLA: That is  
18           exactly correct, Mr. Chairman.

19                    MR. GUTHRIE: Okay. So if we look at  
20           District 29 to District 29, so flipping back to  
21           the slides, District 29 in the configuration  
22           that originally passed the Senate went from  
23           Jupiter to the -- to Port Everglades, okay. We  
24           have substantially modified that District 29.  
25           Now, the question is, what do you want to say

1 is its comparable? Do you say it is 29 or do  
2 you say it is 32? I can --

3 SENATOR GAETZ: Let's do both.

4 MR. GUTHRIE: Okay.

5 SENATOR DIAZ DE LA PORTILLA: And on that  
6 point, just to fine tune it a little bit, okay,  
7 so the old 29, for lack of a better term, was a  
8 lot less compact than the new 29 in the PCB,  
9 but it seems that the new 32 is just as, if  
10 there is such a word -- well, I guess  
11 non-compact as the old 29. Do you follow what  
12 I am saying? That the new 32 seems to be as  
13 long and narrow and therefore non-compact as  
14 the old 29 that we were trying to fix. So the  
15 question is, okay, so 29 is now more compact  
16 and you have the mathematics and mathematical  
17 measures for that, but is 32 now less compact  
18 than what it was before?

19 SENATOR GAETZ: While Mr. Guthrie is  
20 gathering his numbers, the naked eye would  
21 suggest that the new 32 is wider and also  
22 shorter than the old 29.

23 SENATOR DIAZ DE LA PORTILLA: But,  
24 Mr. Chairman, if I may, but visually, using the  
25 visual test that -- the Supreme Court seems to

1 give you a visual test, and then they look at  
2 the mathematics to see if the numbers support  
3 what you think you're seeing.

4 SENATOR GAETZ: Right.

5 SENATOR DIAZ DE LA PORTILLA: It still  
6 looks.

7 SENATOR GAETZ: Yeah, I just gave you the  
8 visual test, and Mr. Guthrie is about ready to  
9 give you the numbers.

10 MR. GUTHRIE: If we get out our measuring  
11 stick and measure the old 29, we see that it is  
12 59 miles from end to end, and it -- the new 29  
13 is 23 miles from end to end, the new 32 is 33  
14 miles from end to end. So if you add the two  
15 together, you come -- you are still less than  
16 the total end-to-end distance of the old 29.  
17 Those two districts together are less --

18 SENATOR DIAZ DE LA PORTILLA: I'm sorry,  
19 Mr. Chairman --

20 SENATOR GAETZ: One more time, yes, sir.

21 SENATOR DIAZ DE LA PORTILLA: You said the  
22 old 29 was 59 miles --

23 MR. GUTHRIE: That is correct.

24 SENATOR DIAZ DE LA PORTILLA: -- and the  
25 new 29 is 23 and the new 32 is 33, so when you

1 add those, that is 62, which is more than 59.

2 MR. GUTHRIE: I think 23 and 33 is 56.

3 SENATOR DIAZ DE LA PORTILLA: No, sir.

4 No, you said 29 and 33 -- or 23 and -- okay, it  
5 is 23 and -- it is 56, it is three miles  
6 shorter. Yeah, yeah.

7 SENATOR GAETZ: Okay. Senator Benacquisto  
8 and then Senator Latvala, and we are on Senator  
9 Diaz de la Portilla's amendment time now, we  
10 are parking on his time, so Senator  
11 Benacquisto.

12 SENATOR BENACQUISTO: Thank you,  
13 Mr. Chairman.

14 Mr. Guthrie, could you go back to District  
15 29? Much comment has been made about the  
16 northwest portion of that district and why it  
17 couldn't have been lopped off at the west and  
18 placed on the top of a newly redrawn 29. And  
19 having spent a couple of years over there, much  
20 of that western portion is a water catchment  
21 area, there aren't really that many people, and  
22 the only other area you could pick up is the  
23 community of Ibis, which is just outside the  
24 black line on the west of the district. I  
25 don't suppose they would like to be placed in

1           that district at the far end of a water  
2           catchment area and not with the population base  
3           of 27. So I'm not really sure that is a  
4           feasible alternative, but could you speak to  
5           that --

6           MR. GUTHRIE: You said that we are using  
7           --

8           SENATOR BENACQUISTO: -- of taking that --  
9           what looks like it would be a large population  
10          base, but which is really only a water  
11          catchment area e- -- sorry, west of the  
12          Turnpike there?

13          MR. GUTHRIE: Right. As we zoom in, we  
14          see exactly what Senator Benacquisto is talking  
15          about. We can flip through Google maps and --  
16          and there you go, water catchment area, not  
17          very heavily populated.

18          SENATOR GAETZ: Okay. Senator Latvala,  
19          you are recognized.

20          SENATOR LATVALA: Thank you, Mr. Chairman.

21                 I am pretty weary of the conversation  
22                 about how long District 29 is or 32 is or  
23                 whatever. I am wondering if we could ask Mr.  
24                 Guthrie, how long is District 25, which is the  
25                 one right above it, that was passed on by the

1 Supreme Court?

2 MR. GUTHRIE: The end-to-end distance of  
3 District 25 in the new proposal is 65 miles.  
4 In the plan that the Supreme Court viewed  
5 previously, it was 69 miles.

6 SENATOR LATVALA: Mr. Chairman, you know,  
7 I haven't heard a question asked about that  
8 from anybody of either party, of anybody in the  
9 Senate ask about that district, which is a long  
10 and skinny district, and no one objected to it,  
11 no one complained about it in the Supreme  
12 Court, and I am not complaining about it  
13 either, but I am wondering why we have a double  
14 standard with regard to that district and the  
15 districts just south of it.

16 SENATOR SMITH: Mr. Chair?

17 SENATOR GAETZ: Well, sometimes selective  
18 indignation is the order of the day, but  
19 everyone is entitled to ask their questions.

20 And Senator Storms was next, and then we  
21 will go to you, Leader. Senator Storms. And I  
22 would just -- just so that we -- you manage  
23 your own time, you control your own destiny.  
24 We will be out of here at six o'clock, so you  
25 can decide how much you would like to get done

1           today and how much you would like to get done  
2           tomorrow. We still have three amendments  
3           pending. Senator Storms.

4           SENATOR STORMS: Thank you, Mr. Chair.

5           I wanted to ask the question, I wanted to  
6           explore the issue of the minority access seat,  
7           because as I understand -- I haven't previously  
8           understood that we had to pick a particular  
9           minority to be anointed the minority access  
10          seat. It seems to me that your new 29 could  
11          be -- with a coalition could be -- if I am  
12          looking at the numbers properly, that you could  
13          have a minority access seat that is an  
14          opportunity seat if there is a coalition there,  
15          and I don't see why that can't be considered a  
16          minority access seat. I am assuming that we  
17          would agree that there are African-American  
18          Hispanics who might vote with the  
19          African-American candidate, and there may be --  
20          and there may be African-Americans who are not  
21          Hispanics that would vote for an Hispanic  
22          Democrat just as easily, but the result would  
23          be the same, which would be a minority access  
24          seat. So could you please address that?

25          SENATOR GAETZ: Mr. Guthrie.

1           SENATOR STORMS: Or perhaps it is a  
2           counsel question.

3           SENATOR GAETZ: Well, anybody who would  
4           like to take a whack at it. Mr. Guthrie, would  
5           you like to comment on that statement?

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

7           I think I have already explained that  
8           because this is an area that has a 20-year  
9           tradition of being part of a minority-majority  
10          district, because it has had representation in  
11          the State House of Representatives with Mack  
12          Bernard, in the State Senate with Chris Smith,  
13          in the United States Congress with Alcee  
14          Hastings, I think that there is a possibility  
15          similar to what the Martinez -- the Federal  
16          District Court ten years ago found, that a  
17          viable candidate will come forward and provide  
18          the minority voters in that area an opportunity  
19          to elect a candidate of their choosing.

20          SENATOR GAETZ: Leader Smith.

21          SENATOR SMITH: Just briefly, the reason  
22          we are asking questions about the length of  
23          those two lower districts is because the  
24          Supreme Court brought up length of those lower  
25          districts. It wasn't bias or anything towards



1           25. The Supreme Court mentioned those two, and  
2 mentioned it specifically, and that is why we  
3 asked questions about length of those last two.

4           SENATOR GAETZ: And questions about any of  
5 these districts are entirely in order.

6           Senator Diaz de la Portilla, we are on  
7 your amendment time, but you go ahead.

8           SENATOR DIAZ DE LA PORTILLA: Yeah, well,  
9 and that was the point actually that I was  
10 going to make, but just to fine tune it, it is  
11 not selective indignation, it is a matter of  
12 responding to what the Supreme Court raised in  
13 its opinion, and they did specifically talk  
14 about the lack of compactness or  
15 non-compactness of District 29, and that is why  
16 Senator Latvala were discussing it in detail.

17           SENATOR GAETZ: Yeah, and Senator Latvala  
18 made excellent observations with which I agree.

19           Anything else on this until we move on?

20           SENATOR STORMS: Mr. Chair?

21           SENATOR GAETZ: Yes, Senator Storms. And,  
22 Senator Detert, did you wish recognition?

23           SENATOR DETERT: I was just helping  
24 Senator Storms.

25           SENATOR GAETZ: Helping Senator Storms.

1 Senator Storms.

2 SENATOR STORMS: Well, and the reason -- I  
3 understand that you explained it that way, Mr.  
4 Guthrie, but it seems like some of the -- some  
5 of my colleagues on the Committee were saying  
6 that it would not be a functioning minority  
7 access seat, and I am trying to understand the  
8 rationale. If you look strictly at the numbers  
9 and voter turnout, not even voting age  
10 population, but you look at voter turnout, you  
11 have a dominant minority seat, although it is a  
12 coalition, it is not strictly an  
13 African-American seat and it is not strictly an  
14 Hispanic seat. And so, I mean, I just wanted  
15 to know from a legal perspective what is the  
16 response back other than, well, I think it will  
17 stand. I mean, is it -- is there any history  
18 and case law anywhere that talks about -- that  
19 talks about this as being a bona fide minority  
20 access seat other than the Martinez  
21 confabulation?

22 SENATOR GAETZ: Mr. Bardos.

23 MR. BARDOS: It is quite possible that  
24 this district will not perform. I think the  
25 intention was to give minorities an opportunity

1           there to mobilize and to elect a candidate of  
2           their choice.

3           I think it is also important to keep in  
4           mind that the Tier 1 minority protections are  
5           not the sole justification for the district  
6           that was drawn. So it is quite squarish in  
7           shape. Where the boundaries are jagged, it is  
8           because they follow city boundaries. District  
9           29 could certainly have been taken to the north  
10          to meet District 25, but then both District 32  
11          and 29 likely would have become much more  
12          narrow. So those were the choices that were  
13          made, and this is one that we thought achieves  
14          all of the constitutional objectives in the  
15          best possible way.

16          SENATOR GAETZ: Thank you. Senator Sachs  
17          for the benediction.

18          SENATOR SACHS: You don't want a  
19          benediction from me.

20          SENATOR GAETZ: On this part, on this  
21          part.

22          SENATOR SACHS: That's all right. I do  
23          have a question.

24          SENATOR GAETZ: Senator Diaz de la  
25          Portilla is anxious on his amendment.

1           SENATOR SACHS: The question is that, in  
2 fact, if the lines that were drawn, 25, 29, 27,  
3 32, were not done -- and I am asking Mr. Bardos  
4 a legal question -- if they were not drawn  
5 because of necessarily a minority access seat,  
6 but they were drawn because of a decision to  
7 follow some city boundaries, some other  
8 boundaries, but there was no constitutional  
9 mandate on a Tier 1 issue to draw those lines  
10 pursuant to that, is that correct, Mr. Bardos?

11           SENATOR GAETZ: Mr. Bardos.

12           MR. BARDOS: I think that -- that depends  
13 on your assessment of whether 29 is a  
14 functioning coalition district. I think that  
15 is arguable. I think that this is the  
16 arrangement that we thought satisfied all of  
17 the constitutional standards.

18           SENATOR GAETZ: And also, Senator Sachs,  
19 we may want to go back, it is always helpful to  
20 go back to public testimony. I believe there  
21 was a young gentleman who testified many times  
22 before this Committee who argued for a minority  
23 opportunity district in exactly this location.  
24 I think he may be somewhat familiar to members  
25 of the Committee.

1           SENATOR SACHS: I'm sorry, Mr. Chairman, I  
2           don't know who that is, but --

3           SENATOR GAETZ: I can't remember his name,  
4           but we can get it for you. I think he --

5           SENATOR SACHS: No, it's all right. I  
6           just wanted to know if there was any Tier 1  
7           constitutional issue that was followed in  
8           making these boundaries, and I have the answer  
9           and I appreciate it. Thank you very much.

10          SENATOR GAETZ: His name is Ryan Terrell,  
11          I believe.

12          And now we will turn to the amendatory  
13          process unless there are any other comments.  
14          Ah, Senator Gibson.

15          SENATOR GIBSON: Thank you, Mr. Chairman.

16          I was trying to make sure I follow along  
17          looking at all my charts and numbers. So on  
18          29, is -- 29 is redrawn because 34 had to be  
19          redrawn? Or 29, 32 and 34 are all impacted  
20          because of 34. Is that why we find ourselves  
21          with these configurations? And 34 was a  
22          minority-majority district, or is or was?

23          SENATOR GAETZ: Mr. Guthrie, please.

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

25          The Court invalidated 34 and 29 and

1 directed the Senate to come up with a -- so on  
2 this plan, the Court invalidated 34 and 29 and  
3 directed this Legislature to come up with a  
4 remedy conforming to the judgment of the Court.

5 SENATOR GIBSON: Can I have a follow-up?

6 SENATOR GAETZ: Of course you may.

7 SENATOR GIBSON: And so what was the  
8 distance -- because I understand the Court  
9 talks about bizarre shape, but can something be  
10 bizarre and still meet the compactness test?

11 SENATOR GAETZ: Mr. Guthrie --

12 MR. GUTHRIE: I believe the direction the  
13 Court has given us, subject to legal counsel's  
14 correction, is that Tier 1 trumps Tier 2, but  
15 it doesn't trump it to such an extent that you  
16 can ignore Tier 2. So, in Jacksonville, even  
17 though there was a clear Tier 1 issue with that  
18 minority opportunity district, the Court said,  
19 "Nevertheless, you need to be mindful of  
20 compactness, because you can accommodate both  
21 your Tier 1 desire of providing opportunities  
22 for minority voters and have a district that is  
23 more compact without jeopardizing the ability  
24 of minorities to elect candidates of their own  
25 choosing."

1           SENATOR GAETZ: Any other comments? Yes,  
2           Senator Gibson.

3           SENATOR GIBSON: And that -- that is  
4           debatable, but in this particular instance,  
5           what you say is applicable to 34 in the new  
6           configuration, because there is -- there is no  
7           impact to 34, it is only to 29 and 32, which  
8           were never access districts to begin with?

9           MR. GUTHRIE: Well, 29 -- excuse me.

10          SENATOR GAETZ: Of course, Mr. Guthrie.

11          MR. GUTHRIE: Twenty-nine included 180,000  
12          people out of Palm Beach County, most of them  
13          in West Palm, Riviera and then it extended some  
14          areas going south in Boynton a bit, in Delray.

15          SENATOR GIBSON: And my last question --

16          SENATOR GAETZ: Yes, ma'am.

17          SENATOR GIBSON: Thank you, Mr. Chair.

18                 What is the distance between the top of  
19          the district and the bottom in this  
20          configuration?

21          MR. GUTHRIE: Of District 34?

22          SENATOR GIBSON: Yes.

23          MR. GUTHRIE: Top to bottom is 52 miles.

24          SENATOR GAETZ: And what was the top to  
25          bottom in old 34?

1           MR. GUTHRIE: In the benchmark District  
2           34 --

3           SENATOR GAETZ: Not the benchmark, but in  
4           the plan that passed the Senate.

5           MR. GUTHRIE: That is 52 miles.

6           SENATOR GAETZ: Okay. And in the -- and  
7           then in the benchmark?

8           MR. GUTHRIE: It was 49 miles.

9           SENATOR GAETZ: And in the plan that is  
10          now before us?

11          MR. GUTHRIE: Top to bottom is 17 miles.

12          SENATOR GAETZ: Thank you. Leader.

13          SENATOR SMITH: When you say benchmark, do  
14          you mean the previous district?

15          SENATOR GAETZ: The districts that we're  
16          under right now, sir.

17          SENATOR SMITH: Are you sure that forty --  
18          you said forty something miles, because the  
19          current district, I believe, is currently in  
20          the 50s already? Current District 29.

21          SENATOR GAETZ: I think, Leader, that the  
22          numbers may have changed, but Mr. Guthrie, can  
23          you --

24          MR. GUTHRIE: The current District 29  
25          represented by Senator Smith, of course, is



1 according to these calculations, which are as  
2 the crow flies, from the point -- the two  
3 points of that district that are most distant  
4 from one another is 49 miles rounded off to the  
5 nearest mile.

6 SENATOR GAETZ: All right. Any other  
7 comments at this point or questions about what  
8 we are looking at on the big screen?

9 If not, we will turn to the amendatory  
10 process. Senator Diaz de la Portilla has an  
11 amendment. It is bar code 656326, and that is,  
12 for your reference, Plan S036S9020. And,  
13 Senator, you are recognized on your amendment.

14 SENATOR DIAZ DE LA PORTILLA: Mr.  
15 Chairman, before we do that, I just want to  
16 inquire, because we haven't even finished going  
17 over the entire map as proposed in the PCB, and  
18 so I think that to engage in the amendatory  
19 process before we do that would not allow us to  
20 have the amendments in the proper posture to be  
21 considered against the PCB, which is what --  
22 you know, what we have to consider. And since  
23 we have an additional day that the President  
24 has so generously given us tomorrow starting at  
25 8:00, would it not be better to finish doing

1           what we have been doing in terms of reviewing  
2           the map and then take up the amendments at that  
3           junction so that they are in the proper context  
4           and posture?

5                    SENATOR GAETZ: Well, Senator, I believe  
6           that we have concluded the presentation on the  
7           PCB, and the amendments are in order. If you  
8           wish not to present your amendment now and you  
9           would like to not present it until tomorrow, if  
10          we meet tomorrow, that is your privilege. Your  
11          amendment is now before us if you would like to  
12          present it. If you wouldn't, that is fine.

13                   SENATOR DIAZ DE LA PORTILLA: If I may, my  
14          question is, we haven't gone over the PCB as it  
15          treats the districts in the rest of the state  
16          of Florida. I think we stopped at 29 or 32.

17                   SENATOR GAETZ: Mr. Guthrie, is there any  
18          other part of the presentation that we have  
19          missed?

20                   MR. GUTHRIE: What was left is the City of  
21          Lakeland, which we had jumped forward to  
22          previously --

23                   SENATOR GAETZ: Yes.

24                   MR. GUTHRIE: -- and then some summary  
25          findings about the overall number of city

1 splits and compactness scores.

2 SENATOR GAETZ: Well, why don't you make  
3 your summary comments, and I appreciate Senator  
4 Diaz de la Portilla granting you time to do  
5 that. Please go ahead.

6 A VOICE: Mr. Chair?

7 SENATOR GAETZ: Just a moment.

8 Yes, ma'am, for what purpose?

9 SENATOR GIBSON: For a question.

10 SENATOR GAETZ: A question about the plans  
11 or about procedure?

12 SENATOR GIBSON: I think I would question  
13 as it relates to some questions that I asked  
14 early so I can ask you procedurally how we are  
15 going to proceed so that I can see how the  
16 answers would fit in --

17 SENATOR GAETZ: Sure.

18 SENATOR GIBSON: -- to us proceeding.

19 SENATOR GAETZ: Well, let me tell you how  
20 we have forecasted when we started this  
21 morning.

22 SENATOR GIBSON: Okay.

23 SENATOR GAETZ: And then if the Committee  
24 has a different direction they would like to  
25 proceed, we can always take a detour.

1           We have now finished describing the PCB,  
2 other than any summary comments that Mr.  
3 Guthrie chooses to make. We have had extensive  
4 questions for now seven hours. We are now  
5 going to go into the amendatory process and  
6 take up the pending amendments, and we are  
7 going to deal with them one by one, we are  
8 going to vote them up or down, and then we will  
9 have the plan before us as amended and we will  
10 then consider that plan and we will take as  
11 much time as you would like. If we run out of  
12 time today, we will meet tomorrow morning at  
13 eight o'clock.

14           SENATOR GIBSON: May I have a follow-up?

15           SENATOR GAETZ: Of course.

16           SENATOR GIBSON: Thank you, Mr. Chair.

17 And I am asking because I believe that in terms  
18 of looking at the maps and the numbers in the  
19 best possible manner, the questions that I  
20 asked earlier about how many people are  
21 represented in a percentage point and where is  
22 crossover considered in the Court's ruling  
23 opinion and how that relates to minority voter  
24 protection, and I am only asking because I  
25 would like to be able to use this information

1 to help me determine whether or not I support  
2 what we are doing.

3 SENATOR GAETZ: That is a fair question,  
4 and you really had two questions. One was  
5 references to crossover in the opinion, and the  
6 second was what does a percentage point mean in  
7 terms of numbers of voters or people in a  
8 particular election. And let me try again to  
9 answer the second part.

10 It depends on what election. If you will  
11 tell us the election that you would like us to  
12 do the math on, we will try to do it, but in  
13 every election, there is a different number of  
14 people voting, so one percent of the electorate  
15 is not the same number in every election, if I  
16 am making myself clear. So if you will tell us  
17 the election that you are questioning, we will  
18 try to do the math and let you know what one  
19 percent of the voters were in that election.

20 But, Ms. Tunnickliff, did you have the  
21 opportunity to review the opinion as to the  
22 notion of crossover, what it means, where it is  
23 applied?

24 MS. TUNNICLIFF: "Crossover" is defined in  
25 the opinion on page 57, and it says that a

1 crossover or coalition district, and we've used  
2 the term "coalition" here today as well, is  
3 "one which minority voters make up less than a  
4 majority of the voting age population, but are  
5 at least potentially large enough to elect the  
6 candidate of their choice with help from voters  
7 who are members of the majority and who cross  
8 over to support minority preferred candidates."  
9 So that is the definition --

10 SENATOR GAETZ: May we have order, please?  
11 Senator Gibson has asked an important question,  
12 a question that is important to her, it may be  
13 important to a lot of us, and we are getting an  
14 answer.

15 Would you start your answer again, please?

16 MS. TUNNICLIFF: The term "crossover" or  
17 "coalition district," and we've used "coalition  
18 district" here today as well, is defined in the  
19 opinion on page 57 as "one in which the  
20 minority voters make up less than a majority of  
21 the voting age population, but are at least  
22 potentially large enough to elect a candidate  
23 of their choice with help from voters who are  
24 members of the majority and who cross over to  
25 support the minority's preferred candidate."

1           That is the definition. I do not see where  
2           that is referred to with regard to any Senate  
3           district, however, in the rest of the opinion.  
4           And I'll defer to Mr. Bardos, but I do not  
5           think --

6           SENATOR GAETZ: Stay at the podium. I  
7           have a feeling Senator Gibson has a follow-up.

8           SENATOR GIBSON: Thank you, Mr. Chair.

9           Only that crossover was mentioned earlier  
10          in our conversations as if crossover allowed, I  
11          guess, a minority -- the minority voters to  
12          elect a candidate of their choice, but they are  
13          dependent upon a crossover vote to get it done.  
14          And so that doesn't factor into any of our  
15          numbers here, does it?

16          SENATOR GAETZ: Mr. Guthrie, are we  
17          presuming when we -- when we describe  
18          minorities and we describe minority opportunity  
19          or minority-majority districts, are we making  
20          any assumptions about non-minorities crossing  
21          over and voting for minority candidates in the  
22          presentation of any of the numbers used today?

23          MR. GUTHRIE: The analysis that was  
24          prescribed by the Court as -- and is using the  
25          definition of "crossover" that Ms. Tunnicliff

1 just mentioned to us, yes --

2 SENATOR GAETZ: Okay.

3 MR. GUTHRIE: -- that -- so you do not  
4 necessarily need to find that African-Americans  
5 constitute a majority of the voters in a  
6 district in order for that district to be a  
7 performing district for African-Americans or  
8 for Hispanic communities.

9 SENATOR GAETZ: All right. I'm sorry,  
10 Senator Gibson, one more time.

11 SENATOR GIBSON: Thank you, Mr. Chairman,  
12 and on the issue of the percentage to people,  
13 and I thought we had come to some consensus, if  
14 you will, that we had some numbers that could  
15 reflect that without going election by  
16 election, and so, anyway, even just looking at  
17 the functional analysis sheets that we had  
18 earlier, for example, using District 6,  
19 formerly District 1, wherein as we sit today,  
20 the 2002 sheet, it -- the combination of  
21 minorities is 53 -- 53 percent. In the map  
22 that was invalidated by the Court, the  
23 combination of minorities is 53.6 percent, and  
24 in the proposed committee substitute, the  
25 combination of minorities is 49.4 percent. So



1 I am wondering, even if we just used those --  
2 these three sets of numbers, what is the  
3 potential difference in the number of voters at  
4 49 percent, at 53.6 percent and at 53 percent?

5 SENATOR GAETZ: Mr. Guthrie --

6 SENATOR GIBSON: And --

7 SENATOR GAETZ: I'm sorry, go ahead,  
8 ma'am.

9 SENATOR GIBSON: The other half of that --  
10 I'm sorry, and I will be done -- is when you  
11 are considering minority diminution, is it a  
12 single race that you are looking at that has to  
13 be above the 50 percent threshold, or is it a  
14 combination? Is that what you call coalition,  
15 where you have more than one minority  
16 represented in an area? How does -- how does  
17 that play into all of this? And thank you very  
18 much.

19 SENATOR GAETZ: Of course. Mr. Guthrie.

20 MR. GUTHRIE: Let me answer the second  
21 question first. A coalition is a combination  
22 of people who maybe are from different racial  
23 or ethnic backgrounds who vote cohesively in  
24 order to elect the candidate that is preferred  
25 by those two groups in combination. So in

1           downtown Miami, you would not have a coalition  
2           of African-American and Latino voters, but in  
3           south Miami, you might, and in areas of central  
4           Florida, you might. So that is coalition.

5           The question about numbers of people and  
6           percentages and why does the functional  
7           analysis use percentages rather than numbers,  
8           the answer there is that the numbers of people  
9           that we have were determined by the United  
10          States Census, and all people, men, women,  
11          children, are entitled to representation based  
12          on their numbers in the United States Census.  
13          The functional analysis, like the Court did,  
14          uses percentages because the key factor for  
15          determining success or failure in an electoral  
16          contest is whether you've got a majority of the  
17          vote or not. So that is why they simplify the  
18          presentation to just percentages of the vote or  
19          turnout or whatever the factor is.

20                 SENATOR GAETZ: Other than going to a  
21                 particular election, that is about the best  
22                 answer I think we can provide right now,  
23                 Senator Gibson.

24                 SENATOR BRAYNON: Mr. Chair?

25                 SENATOR GAETZ: Sure. Senator Sachs and

1           then somebody else, Senator Braynon.  Senator  
2           Sachs, then Senator Braynon.

3           SENATOR SACHS:  Okay.  Thank you.  I just  
4           didn't want to interrupt anything, but the  
5           questioning that we have been going through for  
6           the last few minutes with Senator Gibson brings  
7           up a question that we have -- that is  
8           correlated with that, and that is going down  
9           all the way down to District 40, is that also  
10          a -- and I am looking at, you know, our plan  
11          that we have for today, our PCS -- is that also  
12          a minority access seat as well, Mr. Guthrie?

13          MR. GUTHRIE:  District 40 is a minority  
14          access district that is protected by Section 5  
15          of the Voting Rights Act, yes.

16          SENATOR GAETZ:  Senator Braynon.

17          SENATOR BRAYNON:  Thank you, Mr. Chair.

18          There are a few things that I didn't  
19          mention, I see we are getting to the end, so  
20          since we are doing this now, with respect to  
21          retrogression, I know we said that we didn't  
22          have a bright line for it, but from what we did  
23          with District 34 and how it performs -- well,  
24          let's just go with VAPs for right now, or we  
25          can go with how it performs, but what it was in

1           our old map and what it is now I think is  
2           probably about five or so points below what it  
3           did, and then I went back into the opinion and  
4           I looked at what they said about District now  
5           33, in our maps, 38, and about it -- it is the  
6           map that the League of Women Voters gave, they  
7           said that it was -- wrote -- it had  
8           retrogression and it had numbers about -- I  
9           would say closer to eight or nine percentage  
10          points lower than what we have. So it sounds  
11          like they kind of -- they said what was wrong  
12          and they said what -- and we are saying that  
13          four or five is not enough, is -- doesn't  
14          constitute retrogression, but they said that  
15          eight or nine does. So does that kind of give  
16          us somewhat of a scope of where retrogression  
17          is?

18                 SENATOR GAETZ: Mr. Guthrie, and then we  
19                 will ask Mr. Bardos since we are, I think,  
20                 bordering on a legal question here. Or, Mr.  
21                 Bardos, do you want to take a shot at that?

22                 MR. BARDOS: I think that does give us  
23                 some guidance. I think also in that instance  
24                 in the Senate District 38 and in Senate Joint  
25                 Resolution 1176, which the League of Women

1 Voters had drawn in to I believe it was a forty  
2 -- maybe 48 percent district, it had fallen  
3 beneath the majority-minority threshold, and  
4 the Court had placed some emphasis on that, and  
5 that differentiates that from the situation of  
6 Senate District 34 where we remain above that  
7 threshold.

8 SENATOR BRAYNON: Mr. Chair?

9 SENATOR GAETZ: Yes.

10 SENATOR BRAYNON: Mr. Bardos, the Hispanic  
11 population in that district in the League of  
12 Women Voters was almost 31 or -- it was thirty  
13 something percent. So if you add that with the  
14 African-American population, wouldn't that be  
15 above the minority?

16 MR. BARDOS: Certainly if we add it, it  
17 would be. The Court -- I will go find again  
18 the reference to it in the Court, and I can  
19 share that -- in the Court's opinion, and I can  
20 share that with you. My recollection, though,  
21 is that the Court found significant the fact  
22 that the black age population of that district  
23 had been reduced to the point to which it had  
24 been reduced.

25 SENATOR GAETZ: Senator Dean.

1           SENATOR BRAYNON: I had one more question,  
2 but --

3           SENATOR GAETZ: All right, one more.

4           SENATOR BRAYNON: Last one, and it is  
5 really about -- and I wanted to ask Mr. Guthrie  
6 if he could finish -- cover it in the closing,  
7 which was Senator Margolis had mentioned about  
8 the functional analysis of the seats in Dade  
9 County, she wanted that to be done or to be  
10 talked about, so I don't know if he could maybe  
11 cover that a little bit, if it is what -- I  
12 just remember her asking that, so -- unless  
13 she's changed her mind.

14           SENATOR GAETZ: And I believe that when we  
15 get in, if we ever do, to Senator Diaz de la  
16 Portilla's amendment, that will be at the heart  
17 of that conversation.

18           Senator Dean.

19           SENATOR DEAN: Mr. Chairman?

20           SENATOR GAETZ: Yes, sir.

21           SENATOR DEAN: I would like to propose a  
22 time certain of 5:50 on the bill as proposed  
23 for a vote.

24           SENATOR GAETZ: Is there objection? Is  
25 there objection?

1           A VOICE: I would object.

2           SENATOR GAETZ: All right. Then the  
3 request is that there be a time certain vote on  
4 the bill of 5:50. The Secretary will call the  
5 roll.

6           A VOICE: I have a question.

7           SENATOR GAETZ: Do you have a question --

8

9           A VOICE: Yes, I do.

10          SENATOR GAETZ: Slow down, take it easy.  
11 Do you have a question as to the procedure we  
12 are about to undertake with a vote?

13          A VOICE: Yes, sir.

14          SENATOR GAETZ: What is the question?

15          A VOICE: The question is this: Are we  
16 going to have a time certain to vote on the  
17 bill and then we will do the -- and when are we  
18 going to do the amendments --

19          SENATOR GAETZ: As soon as everyone quits  
20 talking, we will do the amendments. The  
21 Secretary will call the roll on Senator Dean's  
22 motion, and the motion is a time certain vote  
23 on the bill at 5:50, which would require us to  
24 deal with the amendments before then.

25          THE CLERK: Senator Altman?

1 SENATOR ALTMAN: No.

2 THE CLERK: Senator Benacquisto?

3 Senator Braynon?

4 SENATOR BRAYNON: Yes.

5 THE CLERK: Senator Bullard?

6 Senator Dean?

7 SENATOR DEAN: Yes.

8 THE CLERK: Senator Detert?

9 SENATOR DETERT: Yes.

10 THE CLERK: Senator Diaz de la Portilla?

11 SENATOR DIAZ DE LA PORTILLA: No.

12 THE CLERK: Senator Evers?

13 SENATOR EVERS: No.

14 THE CLERK: Senator Flores?

15 SENATOR FLORES: Yes.

16 THE CLERK: Senator Garcia?

17 SENATOR GARCIA: Yes.

18 THE CLERK: Senator Gardiner?

19 SENATOR GARDINER: Yes.

20 THE CLERK: Senator Gibson?

21 SENATOR GIBSON: No.

22 THE CLERK: Senator Hays?

23 SENATOR HAYS: Yes.

24 THE CLERK: Senator Joyner?

25 SENATOR JOYNER: Yes.



1 THE CLERK: Senator Latvala?  
2 SENATOR LATVALA: Yes.  
3 THE CLERK: Senator Lynn?  
4 SENATOR LYNN: Yes.  
5 THE CLERK: Senator Montford?  
6 SENATOR MONTFORD: Yes.  
7 THE CLERK: Senator Negrón?  
8 SENATOR NEGRÓN: Yes.  
9 THE CLERK: Senator Rich?  
10 SENATOR RICH: Yes.  
11 THE CLERK: Senator Sachs?  
12 SENATOR SACHS: No.  
13 THE CLERK: Senator Simmons?  
14 SENATOR SIMMONS: Yes.  
15 THE CLERK: Senator Siplin?  
16 SENATOR SIPLIN: Yes.  
17 THE CLERK: Senator Smith?  
18 SENATOR SMITH: Yes.  
19 THE CLERK: Senator Sobel?  
20 SENATOR SOBEL: Yes.  
21 THE CLERK: I'm sorry?  
22 SENATOR SOBEL: Yes.  
23 SENATOR GAETZ: Please finish the roll  
24 call.  
25 THE CLERK: Senator Storms?

1 Senator Thrasher?

2 SENATOR THRASHER: Yes.

3 THE CLERK: Senator Wise?

4 SENATOR WISE: Yes.

5 THE CLERK: Senator Margolis?

6 SENATOR MARGOLIS: Yes.

7 THE CLERK: Senator Gaetz?

8 SENATOR GAETZ: Yes, and the motion is  
9 adopted, and now we will budget our time to be  
10 fair to those who have proposed amendments. We  
11 will provide a -- 15 minutes for Senator Diaz  
12 de la Portilla's amendment and we will attempt  
13 to take a vote, therefore, at 4:20.

14 Senator Diaz de la Portilla, you are  
15 recognized on amendment bar code 656326.

16 SENATOR DIAZ DE LA PORTILLA: Okay. Thank  
17 you, Mr. Chairman, and what I would like to do  
18 is I would like to ask Mr. Guthrie to walk us  
19 through the map as it pertains to the districts  
20 that we have not discussed and covered yet in  
21 the PCB so that we can then discuss my  
22 amendment in its proper context.

23 SENATOR GAETZ: Senator Diaz de la  
24 Portilla, every single district in the state?

25 SENATOR DIAZ DE LA PORTILLA: No, sir, I

1 was specifically talking about the ones we  
2 hadn't mentioned. I think at last count we  
3 stopped, I think, at 32, so there are about  
4 eight districts left, mostly -- or namely the  
5 south Florida districts.

6 SENATOR GAETZ: Okay. You want to talk  
7 about south Florida. May we do that, Mr.  
8 Guthrie, please?

9 MR. GUTHRIE: Yes. At the outset, I  
10 mentioned that there were a total of 16  
11 districts that were not affected by the  
12 proposed committee substitute. Many of those  
13 are in Miami-Dade County. The configuration of  
14 the five -- six districts in Miami-Dade County  
15 is as follows: We have a Hispanic district  
16 in -- represented by Senator Diaz de la  
17 Portilla in -- or in the area similar to what  
18 he represents today in the Little Havana, Calle  
19 Ocho and south area. West Dade is in District  
20 39, and Hialeah and Miami -- Hialeah, Miami  
21 Springs are in District 33. Those are all  
22 Hispanic majority districts. District 35  
23 starts at the Broward County line and extends  
24 south to Homestead. That district is just over  
25 50 percent Hispanic VAP. District 38 is in

1 northern Miami-Dade County and southern Broward  
2 County. That district is 58.3 percent black  
3 voting age population. And District 40, as we  
4 mentioned earlier, is in Miami-Dade, also in  
5 Hendry, Collier and Monroe Counties. It is  
6 protected against retrogression by Section 5 of  
7 the Voting Rights Act. District 40 includes  
8 the areas just mentioned, plus as we discussed  
9 earlier, it extends in the area of the airport  
10 east to pick up communities of downtown Miami,  
11 including Overtown, El Portal and -- well, that  
12 is basically the districts.

13 So is that the explanation you wanted,  
14 Senator Diaz de la Portilla?

15 SENATOR GAETZ: Senator Diaz de la  
16 Portilla, you are recognized on your amendment.

17 SENATOR DIAZ DE LA PORTILLA: Yes, thank  
18 you, that is exactly what I wanted.

19 Now if you could walk us through the  
20 amendment and what districts it impacts now.

21 SENATOR GAETZ: Senator, you wish -- have  
22 to explain your amendment?

23 SENATOR DIAZ DE LA PORTILLA: Well, with  
24 the amendment -- I will explain the amendment,  
25 but I think just like the staff went through

1 the PCB and what it impacts and what the  
2 practical effects of that are --

3 SENATOR GAETZ: Okay.

4 SENATOR DIAZ DE LA PORTILLA: -- vis-a-vis  
5 the Constitution, I would like to have the same  
6 type of analysis and presentation made by  
7 staff --

8 SENATOR GAETZ: Okay.

9 SENATOR DIAZ DE LA PORTILLA: -- for the  
10 amendment as they did for the PCB.

11 SENATOR GAETZ: Of course. Be happy to  
12 let you do that. Would you, to the best of  
13 your knowledge, explain Senator Diaz de la  
14 Portilla's amendment? And please be advised  
15 you are on the clock.

16 MR. GUTHRIE: So we have the same numbers  
17 of districts generally in Miami-Dade County.  
18 One difference is that in the proposed  
19 committee substitute, there are two districts  
20 that extend out -- outside of Miami-Dade  
21 County. Those are District 38, which -- well,  
22 let's start with District 40. District 40  
23 extends out of Miami-Dade County as required by  
24 Section 5 of the Voting Rights Act, then  
25 District -- we need one more district to extend

1 outside of Miami-Dade County in order to make  
2 the requisite population to constitute eight  
3 districts -- or, excuse me, six districts in  
4 that area, and so that is the district in the  
5 areas currently represented by Senator Margolis  
6 and Senator Braynon. As we said, that is a  
7 majority-minority 58 percent black district.

8           Going back to the alternate proposal by  
9 Senator Diaz de la Portilla, the Coral  
10 Gables/Pinecrest/Calle Ocho area is in District  
11 37. That district has an extension down to the  
12 Homestead/Florida City area. District 39 is --  
13 similar to the other map is in west Dade. It  
14 includes an extension down through Cutler Bay  
15 to Homestead. District 40, similar to the  
16 district in the proposed committee substitute,  
17 has an extension up toward the Cutler Bay area.  
18 Unlike the proposed committee substitute, the  
19 District 40, instead of coming in at the  
20 airport and connecting to Overtown/El Portal,  
21 the district extends north to the  
22 Miramar/Pembroke Pines area and includes  
23 population in south Broward and north  
24 Miami-Dade County. District 33 is a smaller  
25 part of Miami Springs, plus most of Hialeah.

1 District 38 in the alternate proposal stops at  
2 the Miami-Dade County line and extends south  
3 from there. And there is a District 35 along  
4 the beaches in Miami-Dade County which includes  
5 Little Havana and some of the downtown areas  
6 that are more heavily Hispanic.

7 The net of that -- those changes is -- in  
8 terms of racial composition is that you have  
9 four districts that are -- have a substantial  
10 majority of Hispanic voting age population, you  
11 have one district, as before, that is majority  
12 black voting age population. The Ft.  
13 Lauderdale district in this alternate proposal  
14 is less than 50 percent, and the District 40  
15 proposal -- or alternative here is 32.5 percent  
16 black VAP rather than 35.3. Both of those  
17 numbers are higher than the benchmark  
18 African-American population of Senator  
19 Bullard's district, District 39.

20 SENATOR GAETZ: And let's stop there.  
21 Questions for Senator Diaz de la Portilla about  
22 his proposal? Question, Senator Negron?

23 SENATOR NEGRON: Thank you very much,  
24 Mr. Chairman.

25 Senator, in looking at the Court's ruling

1 where they are very specific in saying we  
2 should remedy problems with respect to the  
3 districts and it names the numbers, the eight  
4 numbers, what's the rationale for your  
5 amendment which redraws districts that have  
6 already passed constitutional muster? Why  
7 would you be doing that?

8 SENATOR GAETZ: Senator Diaz de la  
9 Portilla for an answer.

10 SENATOR DIAZ DE LA PORTILLA: A couple of  
11 reasons. I think you -- for one, and we laid  
12 the predicate for this in the discussion that  
13 we had earlier, that while the Florida Supreme  
14 Court has looked at all of the districts and  
15 found problems with eight and felt that 24  
16 would be affected, nothing precludes the Court  
17 on a re-look on the bill to take a look at all  
18 of the districts and apply a second look-over.  
19 That was confirmed up by Mr. Bardos, number  
20 one.

21 Number two, the Florida Supreme Court, as  
22 you know, Senator Negron, looked at the maps  
23 based on whether they meet or pass  
24 constitutional muster as per Florida law and  
25 the Florida Constitution. And while in the



1 Tier 1 criteria there is a factor that -- where  
2 you consider diminution of minority --  
3 minorities, language or racial minorities being  
4 able to elect candidates of their own choice,  
5 it doesn't go into an analysis under the Voting  
6 Rights Act. That will be done in the event of  
7 a challenge at some point, if there is one, and  
8 it would be in different forum, which wouldn't  
9 be the state courts, it would be the federal  
10 courts. So that is one thing.

11 The other thing that we tried to do with  
12 very short notice and limited access to  
13 resources was to address an issue that I think  
14 on its -- a couple of things. Number one, to  
15 make the districts more compact. I think the  
16 -- all of the numbers that we have for the  
17 districts in south Florida under the plan that  
18 I am proposing in terms of the mathematical  
19 measures are considerably more compact than  
20 what is in the PCB.

21 In addition to that, and there was mention  
22 to this, currently there are three Hispanic  
23 seats in the south Florida area. I believe  
24 that there is sufficient population in the  
25 south Florida area to justify a potential

1 possibly fourth Hispanic seat, and you can do  
2 this without affecting or having any  
3 retrogression in any African-American seat or  
4 affecting any other minority adversely.

5 And so that is the general idea or ideas  
6 that are driving the map and that brought this  
7 map forward. I think we have an opportunity  
8 to -- for example, in the seat that is -- that  
9 is thirty -- District 35 under the PCB, to make  
10 it potentially an Hispanic access seat, and I  
11 think the numbers and the population justify  
12 that. So basically those are the driving  
13 arguments. I mean, number one --

14 SENATOR GAETZ: In the interest of time,  
15 let's not repeat what we have already said,  
16 because we are soon to be on other people's  
17 time.

18 Senator Thrasher for a question.

19 SENATOR THRASHER: Thank you,  
20 Mr. Chairman.

21 It is kind along the same lines, Senator  
22 Diaz de la Portilla, as Senator Negrón's  
23 question. As I see the Court opinion, they  
24 invalidated a number of districts, 1, 3, 6, 9,  
25 10, 29 and 30 and 34, on the basis of a number

1 of things: Failed to conduct the functional  
2 analysis, compactness was not adhered to in  
3 some instances, utilization of existing  
4 boundaries was not done. Therefore, they  
5 implied a visual intent that we had failed to  
6 meet the Constitution under Amendments 5 and 6.

7 Can you explain to me, given what Senator  
8 Negrón just asked and the specificity in which  
9 the Court determined that we have examined --  
10 and I am quoting on page 184, "We have examined  
11 and declared Senate Districts 1, 3, 6, 9, 10,  
12 29, 30 and 34 in violation of the  
13 constitutional requirements." Can you tell me  
14 how your map actually is a better response to  
15 those constitutional concerns than the map  
16 proposed by -- that is before us in the  
17 committee substitute?

18 SENATOR GAETZ: The sponsor for an answer.

19 SENATOR DIAZ DE LA PORTILLA: Absolutely,  
20 although I could object as asked and answered,  
21 but I will give it another answer to that.

22 Again, I think that -- and you heard it  
23 here from Mr. Bardos, who is our counsel --  
24 nothing precludes or prevents the Court on  
25 review of whatever new bill we pass out of here

1 in this extraordinary session from taking a  
2 look at all the districts, and if you can make  
3 these districts in south Florida and others  
4 more compact and conform more with the  
5 requirements in the Florida Constitution and  
6 the Fair Districts requirements, and advance  
7 the spirit of the Fair Districts requirement  
8 even more, that is an improvement. In addition  
9 to that, as I said to Senator Negron earlier, I  
10 think that there may be potentially issues that  
11 could be raised in a federal challenge under  
12 federal law that we could address and preempt  
13 by having a map that more closely follows what  
14 I believe the spirit and intent of the Voting  
15 Rights Act is.

16 SENATOR THRASHER: Chairman, follow-up, a  
17 brief follow-up?

18 SENATOR GAETZ: Very briefly.

19 SENATOR THRASHER: Very brief, I promise.

20 We listened to seven hours or so many  
21 hours of discussion about the proposed  
22 committee substitute. Let me get very  
23 specific. Can you tell me in Senate District 9  
24 how your map makes it more compact than the  
25 proposed committee substitute?

1           SENATOR GAETZ:  Senator Diaz de la  
2           Portilla.

3           SENATOR DIAZ DE LA PORTILLA:  I don't  
4           think we are affecting Senate District 9 at all  
5           in my proposal.  I don't believe we are  
6           affecting it at all, but I'd, you know, yield  
7           to Senator -- to Senator -- he has been talking  
8           to us so long he sounds like a Senator -- to  
9           Mr. Guthrie.  But I don't believe there -- it  
10          has absolutely any impact on District 9.

11          SENATOR GAETZ:  All right.  Further  
12          questions?  Senator Detert for a question.  And  
13          now, we are going to be fair to the other  
14          amendment sponsors.  We've got less than 30  
15          minutes before we have a time certain vote.  We  
16          have two other amendments, they are both  
17          substantive.  So Senator Detert.

18          SENATOR DETERT:  Senator Diaz de la  
19          Portilla, comparing your --

20          SENATOR GAETZ:  I'm sorry, I do.  I was  
21          being helpful.  Go ahead.

22          SENATOR DETERT:  Comparing your amended  
23          map to the one we are currently looking at,  
24          could you explain to me why it would be  
25          beneficial under your amended map to disrupt

1           Broward, Martin and Palm Beach in order to make  
2           these changes?

3                    SENATOR GAETZ:   Senator Diaz de la  
4           Portilla for an answer.

5                    SENATOR DIAZ DE LA PORTILLA:   Well, I  
6           would disagree with the premise that there is a  
7           disruption.  I think if you take a look at the  
8           Tier 2 criteria, clearly, as indicated by the  
9           Florida Supreme Court and by the very words and  
10          plain language of the Florida Constitution, the  
11          issue of following political and geographic  
12          boundaries are -- is a matter of -- it is  
13          qualified, as is -- but, however, the issue of  
14          compactness is not.  What I am proposing in my  
15          map creates much more compact districts.  And  
16          so that is -- that is the idea there.

17                   SENATOR GAETZ:   Senator Benacquisto.

18                   SENATOR BENACQUISTO:   Thank you, Mr.  
19          Chairman.

20                   SENATOR GAETZ:   And I apologize, I was --  
21          I was being hopeful as to an earlier -- I  
22          thought -- my old eyes here, I thought we had  
23          less time left than we do.  So, Senator  
24          Thrasher, I apologize to you, and Senator  
25          Negron and Senator Diaz de la Portilla, for

1 cutting you off a little quick, but Senator  
2 Benacquisto, you are recognized.

3 SENATOR BENACQUISTO: Thank you, Mr.  
4 Chairman.

5 Senator Diaz de la Portilla, with regard  
6 to Districts 23 and 30, if you could explain to  
7 me why -- in the configuration that we  
8 originally approved for those two districts,  
9 the Supreme Court rejected them as invalid.  
10 And in your amendment that you have presented  
11 today, you went back to that original  
12 configuration, and I am just wondering why that  
13 was done when the Supreme Court has ruled that  
14 that would not stand up to --

15 SENATOR GAETZ: Senator Diaz de la  
16 Portilla.

17 SENATOR DIAZ DE LA PORTILLA: Well, I  
18 believe you are wrong, Senator Benacquisto, on  
19 your premise. I don't think the Supreme Court  
20 said anything about District 23. They did  
21 mention District 30, and so in the context of  
22 the original plan, 1176 that we passed out of  
23 here, the Supreme Court's comments in  
24 invalidating that map were directed at District  
25 30, not at District -- not at District 23.

1           What I have done in my map is that I have  
2           modified -- no, it isn't. It is modified  
3           slightly, it is. It probably needs a tweak  
4           there.

5           SENATOR GAETZ: Okay. And Leader Rich?

6           SENATOR RICH: Thank you, Mr. Chair. I  
7           guess I have a couple of questions. I am --

8           SENATOR GAETZ: Leader, could I ask you to  
9           take your mike a little closer, please?

10          SENATOR RICH: I am wondering if there's  
11          been a functional analysis done. I am looking  
12          at Senate District 39, which appears to be  
13          pretty compact in the 9016 map, and yet in the  
14          one that is Senator de la Portilla's, there is  
15          this, I guess, you know, kind of visually very  
16          strange appendage coming down the side of 39.  
17          So I am wondering how that could be more  
18          compact than the one that we are looking at in  
19          the plan that we were discussing this morning.

20          SENATOR GAETZ: That would seem to be a  
21          factual question. Mr. Guthrie, has there been  
22          a geometric analysis done that could answer  
23          Leader Rich's question?

24          MR. GUTHRIE: There has, Senator Gaetz.

25          The end-to-end length of District 29 in Senator



1 Diaz de la Portilla's --

2 SENATOR RICH: No, 39, excuse me.

3 MR. GUTHRIE: Twenty-nine or 39?

4 SENATOR RICH: Thirty-nine.

5 MR. GUTHRIE: I'm sorry. The end-to-end  
6 distance of District 39 is 28 miles, versus --  
7 what are we comparing it to in the --

8 SENATOR GAETZ: Comparing it to the PCB  
9 and the Diaz de la Portilla amendment.

10 SENATOR RICH: And I was looking at the  
11 functional analysis of compactness, because  
12 there seems to be -- the PCB seems to be  
13 compact without any appendages, and then the 39  
14 that I am looking at here seems to kind of run  
15 --

16 MR. GUTHRIE: Okay, I am with you.

17 SENATOR RICH: -- all the way --

18 MR. GUTHRIE: So your question is the two  
19 39s and how do they compare --

20 SENATOR RICH: Yes.

21 MR. GUTHRIE: -- not on end-to-end  
22 distance, but on compactness. So the convex  
23 hull score is similar. As I had mentioned  
24 earlier, you don't get penalized for  
25 protrusions into a district with convex hull,

1 so it is point seven -- .90 in the PCS, .75 in  
2 Senator Diaz de la Portilla's amendment. In  
3 terms of Reock ratio, the circle test, it is  
4 .41 in the PCS, and actually a little higher,  
5 .47, in Senator Diaz de la Portilla's  
6 alternative. The Polsby-Popper measure, which  
7 is most sensitive to an irregular border on the  
8 district goes from .49 in the PCS to .22 in  
9 Senator Diaz de la Portilla's alternative.

10 SENATOR GAETZ: Was that responsive,  
11 ma'am?

12 SENATOR RICH: Yes, thank you, and I just  
13 have one other.

14 SENATOR GAETZ: Of course.

15 SENATOR RICH: There appears to be an area  
16 that is unassigned on this map right at the  
17 Broward line -- well, not at the Broward line,  
18 but at I-75, there is -- it is kind of like a  
19 salmon color next to the green. Could you just  
20 comment on that, Senator --

21 SENATOR GAETZ: Senator Diaz de la  
22 Portilla.

23 SENATOR DIAZ DE LA PORTILLA: Again, I  
24 believe that it is assigned and that staff  
25 addressed it in the amendment, which is what we

1 are discussing. Mr. Guthrie, I yield to you to  
2 answer that.

3 SENATOR GAETZ: I believe, Leader Rich,  
4 that when Senator Diaz de la Portilla filed his  
5 first amendment, there were some -- there were  
6 some cartography that wasn't technically right,  
7 and staff helped him, I think it is fair to  
8 say, by making some corrections, not to the --  
9 with the staff's bias, but in order to respond  
10 to his -- to the sponsor's concerns. Is that  
11 about right, sir?

12 SENATOR DIAZ DE LA PORTILLA: That is  
13 correct, and there were some technical glitches  
14 in the program that I think accounted to that,  
15 and that is the difference between the first  
16 map and the second map. Is that right, Mr.  
17 Guthrie?

18 MR. GUTHRIE: Let me make sure that we are  
19 in the right posture here. Senator Diaz de la  
20 Portilla had two amendments. The first one was  
21 map 9020. That has been withdrawn, I  
22 believe --

23 SENATOR DIAZ DE LA PORTILLA: Correct.

24 MR. GUTHRIE: -- and we are on map 9024.  
25 That is the one to which staff made the

1 technical corrections.

2 SENATOR GAETZ: Is everybody settled  
3 there? That may answer a couple of the  
4 questions.

5 Leader Smith.

6 SENATOR SMITH: Mr. Guthrie, a quick  
7 question. In your introduction of the map, you  
8 mentioned Senate District 34 in this plan, and  
9 I thought you said something about  
10 retrogression or the numbers had gone down.  
11 Could you give us an indication of the numbers  
12 of Senate District 34?

13 SENATOR GAETZ: Mr. Guthrie.

14 MR. GUTHRIE: The black VAP of Senate  
15 District 34 in the PCS is 50.1 percent. The  
16 black VAP in District 34 in the amendment is  
17 47.8 percent.

18 SENATOR GAETZ: Leader Rich.

19 SENATOR RICH: Thank you, Mr. Chair. I  
20 just wanted to ask one follow-up question on  
21 the -- that issue of the unassigned.

22 So the unassigned piece evidently is now a  
23 part of -- a part that goes all the way up  
24 through -- into Martin County, is that correct?

25 SENATOR GAETZ: Mr. Guthrie, can you

1 respond?

2 SENATOR RICH: So it takes Broward and  
3 connects it with Palm Beach and with Martin  
4 County?

5 MR. GUTHRIE: Well, let's actually look at  
6 it here. It looks to me like -- I am not sure  
7 where the unassigned -- help me find the  
8 unassigned territory you are referring to in  
9 the originally filed map. Was that in Treasure  
10 Coast, or was it --

11 SENATOR RICH: No, it is in Broward  
12 County --

13 MR. GUTHRIE: Okay.

14 SENATOR RICH: -- just south of I-75, and  
15 I think it would probably be Weston, Southwest  
16 Ranches, that area, I think is what was  
17 unassigned.

18 MR. GUTHRIE: Okay. I apologize, I am not  
19 -- no, I am not finding it here, but --

20 A VOICE: That's because it isn't there.

21 SENATOR GAETZ: And, Leader, if -- I think  
22 if we stay on map 9024, that is the map that  
23 the staff corrected.

24 A VOICE: Correct.

25 SENATOR RICH: Okay. So that is -- in

1           that map, that area that was unassigned is the  
2           portion -- is part of Broward County that is  
3           now connected to Palm Beach and Martin County,  
4           as far as I can see.

5           SENATOR GAETZ: Is that correct, Senator  
6           Diaz de la Portilla?

7           SENATOR DIAZ DE LA PORTILLA: I really  
8           don't know what Senator Rich is referring to.  
9           I can't really follow it here on the map.

10          SENATOR GAETZ: Weston, I believe, is the  
11          area.

12          Further questions for the sponsor?  
13          Senator Storms.

14          SENATOR STORMS: Senator Diaz de la  
15          Portilla, I don't have an objection to having a  
16          Hispanic minority access seat in south Florida,  
17          another one, I don't have any objection to it  
18          at all. What I am concerned about is sort of  
19          Jay Leno and the baseball cap on 32. If you  
20          look at him from the side, it is clearly Jay  
21          Leno's chin and his nose and a baseball cap,  
22          and I just -- I think that the Supreme Court --

23          SENATOR GAETZ: You may not be able to do  
24          tomorrow --

25          SENATOR STORMS: You've got to bring it

1 down some, John, to see Jay. There he is. His  
2 mouth is open. And so, I mean, I just -- I  
3 think that we run the risk of having an  
4 objection to a district, you know, based on  
5 some -- I don't know how you fix that. In  
6 other words, I want to help you with what you  
7 are trying to achieve, but I think 32 is hard  
8 to overcome. Can you address that?

9 SENATOR GAETZ: Sponsor, please.

10 SENATOR DIAZ DE LA PORTILLA: I think that  
11 that point is well taken, but Jay Leno is  
12 considered a very handsome fellow in certain  
13 circles, so -- and I don't know that it is any  
14 less good-looking, if you will, than the stick  
15 figure in the PCB under 32. So, you know,  
16 obviously there is -- there is a little bit of,  
17 you know, in the eye of the beholder in looking  
18 at these -- at these things.

19 SENATOR GAETZ: And, Leader Rich, I think  
20 this map here does depict the issue that you  
21 were raising, where I believe the sponsor can  
22 certainly correct us, where we are going from  
23 Southwest Ranches to -- actually, to Port St.  
24 Lucie. I think this depicts the issue that you  
25 were raising. And so, therefore, Senator Diaz

1 de la Portilla, did you want to respond now  
2 that we can see it more clearly? I apologize  
3 we didn't have it before.

4 SENATOR DIAZ DE LA PORTILLA: I'm sorry,  
5 if Mr. Guthrie could just point it out on the  
6 big map to me, I can address it. And what is  
7 the question specifically?

8 SENATOR GAETZ: Well, Leader Rich, did you  
9 want to rearticulate your question?

10 SENATOR RICH: No.

11 SENATOR GAETZ: Okay. That has been  
12 disposed of.

13 Further questions on the Diaz de la  
14 Portilla amendment?

15 A VOICE: Mr. Chair?

16 SENATOR GAETZ: Just a moment. We will  
17 take further questions. You are recognized to  
18 close on your amendment.

19 SENATOR DIAZ DE LA PORTILLA: I think what  
20 I am going to do is I am going to TP the  
21 amendment at this juncture, Mr. Chair.

22 SENATOR GAETZ: Show the amendment  
23 temporarily postponed. And now let us go to  
24 Senator Latvala's amendment. And, Senator  
25 Latvala, you have two amendments, and I gather



1           there is one that you wish to withdraw and  
2           another you wish to go forward with, is that  
3           right, sir?

4           SENATOR LATVALA:   The second one, which  
5           would be --

6           SENATOR GAETZ:    9022?

7           SENATOR LATVALA:   -- 9022 is the one that  
8           we would like to proceed with.

9           SENATOR GAETZ:    All right.  Show --  
10          without objection, show amendment bar code  
11          786012 by Senator Latvala withdrawn.  Is that  
12          correct, Senator Latvala?  And now take up  
13          amendment bar code 332304 by Senator Latvala.  
14          You are recognized on the amendment, sir.  And  
15          the amendment is late filed.  Show it  
16          introduced without objection.

17          SENATOR LATVALA:   Is that -- is that the  
18          Plan 9022?

19          SENATOR GAETZ:    Yes, sir, that is Plan  
20          9022 that is now before us.

21          SENATOR LATVALA:   Thank you, Mr. Chairman.

22          I have been concerned about trying to find  
23          a solution to the Orange County/Seminole County  
24          area, an area that was kicked back to us by the  
25          Court.  We have a -- we have a particular -- I

1 think it is a particularly difficult situation  
2 there to -- as I stated earlier this afternoon,  
3 we have two different minority districts, and  
4 then we have a lot of non-minority people who  
5 live in the middle of them. To put those  
6 non-minorities in one district or the other  
7 would dilute them unnecessarily, and probably  
8 unconstitutionally. So we have to figure out  
9 what to do with them. And this is another  
10 approach other than the one that you took with  
11 your amendment, which -- which took District 10  
12 to the east toward Brevard County. This  
13 basically takes the appendage and splits it in  
14 half between District 10 and District 13.

15 And for some technical backup and support,  
16 I would like to call on my personal legal  
17 counsel on this issue, Senator Simmons, for the  
18 analysis of it and kind of a little more  
19 explanation of why we did this.

20 SENATOR GAETZ: Senator Simmons, you are  
21 recognized.

22 SENATOR SIMMONS: Thank you, Mr. Chair.

23 In looking at central Florida, I think the  
24 important thing to do, as well as looking at  
25 the entirety of the state, is to do as I

1           previously referred to and discussed at the  
2           beginning of this meeting, and that is that  
3           first the scope of this is that we are going to  
4           look at the districts that the Supreme Court  
5           found to be invalid; in other words, follow the  
6           common sense view that if it ain't broke, don't  
7           fix it. And so for those districts that the  
8           Court did not find broken, we don't need to go  
9           ahead and try to fix them, but for the ones  
10          that were found to be deficient, those are the  
11          ones with the surrounding areas as necessary  
12          that we need to work on.

13                 There is another rule that I believe that  
14          we should follow and I submit to you is when in  
15          doubt, read the instructions. And the Florida  
16          Supreme Court's decision regarding central  
17          Florida starts on page 156, and they are  
18          exceedingly clear with respect to their  
19          analysis regarding Districts -- particularly  
20          District 10. And if you look on page 157 of  
21          the opinion, they say, "A visual examination of  
22          the challenged districts" -- and by the way,  
23          there were challenges to both 10, as well as to  
24          12. So we know that 12 was also challenged and  
25          was not found to be invalid, and 10 was

1 challenged as well. But on page 157 of the  
2 opinion, the Supreme Court says, "A visual  
3 examination of the challenged districts is set  
4 forth below. As shown in the above map,  
5 District 10 is located mostly on the west side  
6 of Orlando, and this portion of the district is  
7 fairly compact," going ahead and explaining how  
8 it goes. And then it goes on and says, "It  
9 creates an odd-shaped appendage that reaches  
10 out towards District 13." Then the Court goes  
11 ahead and does the Reock analysis and the area  
12 convex hull analysis and says at the bottom of  
13 page 158: "Although the compactness measures  
14 for District 10 reflect that the district is  
15 overall relatively compact, District 10 is  
16 visually non-compact as a result of the  
17 bizarrely-shaped appendage." And then it cites  
18 a case out of Alaska saying, "Appendages  
19 attached to otherwise compact areas may violate  
20 the requirement of compact districting."

21 The Court then goes on and continues its  
22 remarks about the appendage and ultimately  
23 makes its holding about the appendage and says  
24 on page 161, "Based on the objective data  
25 before this Court, we conclude that District 10

1           violates constitutional mandates because it is  
2           visually non-compact with an appendage that  
3           reaches out to clearly encompass an incumbent,  
4           and this bizarre shape cannot be justified  
5           based on concerns pertaining to ensuring  
6           minority voting strength. District 10 is  
7           constitutionally invalid."

8                        So our instructions are clear. The  
9           instruction is that there shall be no  
10          appendage. They believe that using a visual  
11          analysis -- if you sort of summarize 234 pages  
12          of opinion, members, you come to this: That  
13          minority access is a Tier 1 obligation for this  
14          Legislature, just as we have said, and  
15          compactness, you are supposed to subordinate  
16          compactness to assuring minority access. If  
17          you can meet both of the concerns, as was done  
18          with respect to this amendment that is  
19          dealing -- or the Chairman's amendment dealing  
20          with northeast Florida, then that is what you  
21          are supposed to do. If you can't do it, like  
22          19, then, you know, you ought -- you don't have  
23          compactness.

24                        There was an attack on District 12, and  
25          the Court simply said with respect to District

1           12, "We fail to consider whether this goal  
2           could be obtained by performing an analysis  
3           that adheres to all constitutional criteria."  
4           They told us to go ahead and do the functional  
5           analysis with respect to 12. They did not find  
6           it to be invalid. So we are supposed to go  
7           ahead and do the functional analysis.

8                     The second thing in the summarization, or  
9           I guess the compilation of what this 234-page  
10          opinion is, is that if you are not a minority  
11          access district, you'd better have visual  
12          compactness consistent with political and  
13          geographic boundaries. And if you don't meet  
14          that standard, you don't meet the next  
15          standard, which is called the smell test,  
16          because if you don't do that, it doesn't smell  
17          good, and so then you've got a real problem.  
18          And they even go to the point that even if the  
19          Reock is okay and the hull convex ruling is --  
20          analysis is okay, if you have an appendage on a  
21          non-minority district, you are in trouble.

22                     So with that analysis then, let's look at  
23          what Senator Latvala's amendment does, because  
24          let's go to the problem. The problem is that  
25          District 10 has an appendage. And that is true

1           irrespective of whether you are talking about  
2           the original 10 or the 10 that is before us  
3           today. There is an appendage there. Ten on  
4           the east is a mirror image of 10 on the west  
5           with still the appendage in the middle. And  
6           how do you solve something like an appendage in  
7           the middle? And here is the problem: The  
8           conundrum that this Committee and this  
9           Legislature is faced with is there is, in fact,  
10          a minority access, which is 12, district to the  
11          west, and there is a minority access, which is  
12          14 to the east. So there exists this corridor  
13          of white individuals between two minority  
14          access districts, and the Supreme Court has  
15          said no -- no appendage.

16                 So someone would say, "How do you solve  
17                 that problem?" Well, you don't solve it by  
18                 keeping the appendage, that is for sure,  
19                 because the instructions given to us are get  
20                 rid of the appendage. You can attach the  
21                 appendage from the south, that is not going to  
22                 work, to a non-minority district. You can  
23                 attach it to the north. Both of those are  
24                 problematic and equally as defective.

25                 But you can do this: You can do away with

1 the appendage. Do what the Florida Supreme  
2 Court said, do away with the appendage. And  
3 the way to do that is just sever it in the  
4 middle, bring -- open up to the north, open up  
5 to the south, and then you have solved this  
6 problem.

7 Is that the exclusive way of solving this  
8 problem? No, it is not the exclusive way to  
9 solve the problem, but it is a very rational  
10 and reasonable way, and that is what the record  
11 needs to reflect, that we have done something  
12 to comport with the instructions, the clear and  
13 unequivocal instructions of this Florida  
14 Supreme Court.

15 And so when you look at Senator Latvala's  
16 amendment, you will see that he has done away  
17 with the -- with this appendage that exists  
18 there. And, as a matter of fact, the choice  
19 that he made for splitting it in two and  
20 widening up to the south and widening up to the  
21 north is, in fact, a major thoroughfare, which  
22 is the East-West Expressway, and so there is a  
23 very logical place to remove this appendage.

24 Now, someone would say, "Well, why didn't  
25 the Florida Supreme Court choose what was



1 proposed by the League of Women Voters, the  
2 coalition," which remember when they looked at  
3 the northeastern part of Florida? They looked  
4 and said, "What do we do with the northeastern  
5 part of Florida," and they looked for something  
6 that was a way of attacking a problem. And  
7 here is what happens: If you look at what --  
8 in the central Florida, the Supreme Court did  
9 not revert to the coalition proposal. Why did  
10 they not go with the coalition proposal? And  
11 you can be assured they looked at it. This is  
12 one of the most thoroughly-analyzed decisions  
13 that anyone could ever have, but if you look at  
14 what the -- what the coalition proposal was,  
15 you will see that they have the same problem  
16 that the Florida Supreme Court rejected. If  
17 you look at the proposal by the coalition, it  
18 looks like a power drill that is pointed down  
19 like a pistol, just like this, members. That  
20 is the problem. And the same corridor exists  
21 in the League of Women Voters' proposal as  
22 exists in the Senate's originally passed bill.  
23 So if you've got a power drill or either a  
24 pistol that is facing down that retains this  
25 illicit, improper corridor, this appendage,

1           then that is the reason, I would suggest to  
2           you, that the Florida Supreme Court did not  
3           revert to the -- to the coalition proposal.

4                     So what else can you do, then, members?

5           Well, you go ahead and do what the Supreme  
6           Court tells you to do, and that says get rid of  
7           the appendage.

8                     In doing this, members, I think we should  
9           further follow what Senator Latvala has  
10          proposed, and that is that you look at what the  
11          Florida Supreme Court has told us, and the  
12          Florida Supreme Court has told us that with  
13          respect to District number 12, we need to do  
14          the functional analysis that is appropriate.  
15          And, of course, I asked the question about  
16          District 12 and District 19, and those are two  
17          examples of districts that are functionally  
18          identical, and all we need to do, all this body  
19          needs to do, is an appropriate functional  
20          analysis with respect to District 12, which is  
21          already sustained, the review by the Florida  
22          Supreme Court, and the Florida Supreme Court  
23          has said that, well, with respect to number 14,  
24          which is the Hispanic district, which is on the  
25          east side of this improper appendage, they have

1           said we need to come back and do a functional  
2           analysis with respect to it, but they did not  
3           find it invalid and it was not attacked by  
4           either side. With respect to District 12, it  
5           was attacked and the Florida Supreme Court did  
6           not find it invalid.

7           So, members, what do we do? We do get rid  
8           of the appendage like the Supreme Court asks us  
9           to do. And I am sure that there will be  
10          questions that somebody would ask about  
11          incumbents since that was raised. Well,  
12          members, this solves that problem, because it  
13          uses the appropriate demarcation line, being  
14          the East-West Expressway, 408, through that  
15          appendage, and it provides the rational  
16          explanation to anyone as to why the Senate did  
17          what it has done in doing what the Florida  
18          Supreme Court asked it to do, and that is get  
19          rid of the appendage.

20          And so, members, if you look at the  
21          functional analysis with respect to this plan  
22          that is submitted by Senator Latvala, you will  
23          find that District 12 is 52.7 percent Democrat,  
24          24.3 percent Republican, and in the Democrats,  
25          55.6 percent are black. And in the analysis of

1 voting age population, this proposal with  
2 respect to District 12 is 38.4 percent black.  
3 The original plan was 40 percent black. The  
4 Chairman's amendment, the Saturday amendment,  
5 is 37 percent black. The coalition plan was  
6 35.2 percent black. And if you compare it to  
7 District 6, which the Florida Supreme Court  
8 approved and said that the coalition plan was  
9 satisfactory, that was 42.4 percent black, and  
10 so the benchmark was 46.9 percent black. So,  
11 members, what you are looking at here in this  
12 plan is a very rational, reasonable way of  
13 approaching what has occurred.

14 With respect to the election results, with  
15 respect to this plan, the performance is  
16 63.5 percent for Sink in 2010 and 36.5 percent  
17 for Scott. The important thing to look at,  
18 members, is that there are probably around  
19 20 percent Hispanics in this district, and  
20 those can easily go with and create a coalition  
21 with non-blacks. So as to if there were a good  
22 Hispanic candidate that would cause a coalition  
23 between the Hispanics and the non-minorities,  
24 the result is that blacks suffer a severe,  
25 severe risk of being squeezed out. So it is

1           critically important to keep the number with  
2           respect to African-Americans in this District  
3           12 at a reasonable figure, and this amendment  
4           does that.

5           Members, this does take District 14 and  
6           keeps the Hispanics at 48.5 percent. The  
7           League of Women Voters' coalition plan was at  
8           43 percent. The District 10 analysis is  
9           Democrats, 36.1 percent; Republicans, 39.8  
10          percent. And District 13 is Democrats, 33.4  
11          percent, and Republicans, 42.0 percent,  
12          consistent with what they previously were.

13          And so, members, what we have done here --  
14          what Senator Latvala has done in this  
15          particular amendment is to address the issues  
16          raised by the Florida Supreme Court. One of  
17          them is that there better not be an appendage,  
18          and the second one is -- members, if you will  
19          look at the existing plan, the question is  
20          going to be raised with respect to the ribbon  
21          of approximately 10 miles on the north side of  
22          Seminole County. It does not follow any county  
23          lines, it is just a ribbon, a corridor of  
24          property on the north side of Seminole County.  
25          And then again, members, the Supreme Court said

1           that 12, 13 and 14 are not invalid, and the  
2           instructions by the Florida Supreme Court are  
3           to conform to the judgment.

4           And so, members, the reasoning by Senator  
5           Latvala I submit to you is sound, and the  
6           points that he is making by doing this are, in  
7           fact, in accordance with the instructions by  
8           the Florida Supreme Court.

9           SENATOR GAETZ: Senator Latvala, did you  
10          have any further introductory comments on the  
11          amendment?

12          SENATOR LATVALA: No, thank you. I am  
13          just amazed at how smart I am. Thank you very  
14          much.

15          SENATOR GAETZ: You are. Just by osmosis,  
16          just sitting next to the guy.

17          Questions for Senator Latvala or Senator  
18          Simmons?

19          SENATOR NEGRON: I have a question.

20          SENATOR GAETZ: Yes, Senator Negrón for a  
21          question.

22          SENATOR NEGRON: Thank you, and I'll  
23          address this, with your permission, to Senator  
24          Simmons.

25          SENATOR GAETZ: Please.

1           SENATOR NEGRON: In reading the opinion,  
2           it looks to me like the Court rejected 10  
3           because the appendage of about 160,000 people  
4           favored an incumbent, that is the ruling. Now,  
5           the Chairman's amendment that we are calling  
6           the PCB fundamentally reconfigured the makeup  
7           of the district, and it actually paired two  
8           incumbents in that district in response. Would  
9           you agree that the effect of amendment 9022  
10          that you presented, that you've simply widened  
11          the corridor, instead of eliminating it, you've  
12          widened it, and it's done so at the expense of  
13          reducing the number of Hispanic voters in  
14          Districts 14, I believe from about 50 percent  
15          to about 48.5 percent? For Senator Simmons or  
16          wherever the Chairman directs.

17                 SENATOR GAETZ: Senator Negrón, did you  
18                 wish to follow up?

19                 SENATOR NEGRON: No, Senator. Is it okay  
20                 if Senator Simmons answers the question?

21                 SENATOR GAETZ: Absolutely.

22                 SENATOR NEGRON: Okay, Senator Simmons.

23                 SENATOR SIMMONS: Yes, the answer to that,  
24                 Senator Negrón, is that the Florida Supreme  
25                 Court was very clear that there shall be no

1           appendage.  And if you look at the map from  
2           Saturday, there still is an appendage there.  
3           So the instructions are to get rid of the  
4           appendage, and so there's only one way to do  
5           it, and that is to split it in two, unless you  
6           want to actually merge the Hispanic district so  
7           that it is flush with the African-American  
8           district, which would therefore dilute  
9           unreasonably both sides.

10                   The proposal here does do what the Florida  
11           Supreme Court asks -- not only asks,  
12           instructs -- and that is to go ahead and get  
13           this accomplished, getting rid of the  
14           appendage, but at the same time, the minimal  
15           dilution that occurs is truly insignificant,  
16           because the League of Women Voters is -- for  
17           the Hispanic district is 43 percent Hispanic,  
18           and they were satisfied at 43 percent.  This  
19           proposal is 48.5 percent Hispanic, and if you  
20           want to compare it to the Supreme Court's  
21           analysis with respect to District 6, which is a  
22           district that they specifically discussed in  
23           detail in northeast Florida, they -- in the  
24           coalition district, with respect to blacks,  
25           they had 42.4 percent African-American.  So to



1           have 48.5 percent in this district is a  
2           tremendous accomplishment, it is rational, it  
3           preserves the rights of Hispanics, but at the  
4           same time deals with the improper and undue  
5           dilution that would occur if, in fact, the  
6           Hispanic district were merged up against the  
7           African-American district, which would result  
8           in an improper dilution of both of those  
9           districts.

10                    SENATOR GAETZ:  Senator Negron to follow  
11                    up, and then Senator Siplin and then Leader  
12                    Smith.

13                    SENATOR NEGRON:  Thank you very much for  
14                    that thorough answer, but you would acknowledge  
15                    that your amendment that you are explaining on  
16                    behalf of Senator Latvala does result in the  
17                    Hispanic population in the district going from  
18                    50 percent to 48.5 percent.  So compared to the  
19                    Gaetz plan, the plan you are advocating is --  
20                    has the expense -- comes at the expense of  
21                    District 14 to the number of 1.5 percent of  
22                    Hispanic votes, is that correct?

23                    SENATOR GAETZ:  Senator Simmons.

24                    SENATOR SIMMONS:  Mr. Chair, the answer to  
25                    that is absolutely not, because the way that

1           this is supposed to be done, just like the  
2           Florida Supreme Court said, is a functional  
3           analysis. It is a functional analysis in which  
4           you take into consideration all the concerns  
5           that have been posed, and particularly the  
6           concerns directed by the Florida Supreme Court,  
7           and so functionally, it is not going to make  
8           any difference. And so the purpose of this is,  
9           in fact, to achieve the express directive by  
10          the Florida Supreme Court as to the removal of  
11          that appendage, which under the existing plan  
12          still exists and it needs to be removed.

13                 SENATOR GAETZ: Sure, do a follow-up, and  
14                 then Leader Smith.

15                 SENATOR NEGRON: I can just, with your  
16                 permission, ask the staff director, Mr.  
17                 Guthrie, if you compare the 9022 amendment that  
18                 is being discussed right now with the  
19                 Chairman's plan, does it result in a diminution  
20                 of Hispanic votes? That is question one. And  
21                 then, if so, by what number?

22                 SENATOR GAETZ: Mr. Guthrie.

23                 MR. GUTHRIE: Mr. Chairman, with your  
24                 indulgence, maybe the debate could continue and  
25                 I will work at putting together an answer to

1           that question.

2           SENATOR GAETZ:  Is that satisfactory?

3           Leader Smith.

4           SENATOR SMITH:  Thank you.

5           I guess, Senator Simmons, you keep talking  
6           about the appendage as it relates to District  
7           14, but looking at this Plan 9022, could you  
8           please revisit the reason for an appendage to  
9           Senate District 12 as compared to, I guess, the  
10          Gaetz Plan, which eliminates -- which doesn't  
11          have an appendage on 12?

12          SENATOR GAETZ:  Senator Simmons.

13          SENATOR SIMMONS:  I certainly can.  That  
14          is an excellent question, Senator Smith, and  
15          the reason why is because of the distinction  
16          between being a minority access district and  
17          being a non-minority access district, one that  
18          is not a minority access district.  And the  
19          Florida Supreme Court has made it very clear  
20          that if it is not a minority access district,  
21          the compactness does not include an appendage  
22          that is addressed -- that is stuck to it,  
23          particularly an appendage of this size.  And so  
24          what you end up with under the existing  
25          analysis, the Florida Supreme Court in this

1 opinion was reviewing this with an attack that  
2 was made upon District 12, and they did not  
3 find District 12 to be invalid. They did,  
4 however, tell us because of its relationship to  
5 District 10 that we needed to go ahead and do  
6 the functional analysis with respect to  
7 District 12, and Senator Latvala did do the  
8 analysis with respect to District 12, and that  
9 analysis was the one that was presented. It is  
10 still 38.4 percent African-American compared to  
11 the League of Women Voters' coalition plan of  
12 35.2 percent African-American, and so there is  
13 a distinction between being a minority district  
14 and a non-minority district with respect to  
15 appendages.

16 SENATOR GAETZ: Now, Leader Smith to  
17 follow up.

18 SENATOR SMITH: At the end of your answer,  
19 you compared it to the League of Women Voters.  
20 I am asking for a comparison, maybe if Mr.  
21 Guthrie could give us a numerical -- a  
22 numerical comparison to the Gaetz plan, 9016,  
23 as compared to 9022, because it looks to me  
24 that 9016 doesn't have an appendage, which I  
25 would think would be the first on the table,

1 but retains a minority access seat, whereas  
2 9022 has an appendage. How did those numbers  
3 compare with each other?

4 SENATOR GAETZ: Mr. Guthrie, could we ask  
5 you to remark to that, please?

6 MR. GUTHRIE: And a point of  
7 clarification: Are we looking at the  
8 African-American district in the central  
9 Florida area, or the Hispanic district?

10 SENATOR SMITH: Twelve, the  
11 African-American.

12 SENATOR GAETZ: Please.

13 MR. GUTHRIE: The African-American  
14 district in the proposed committee substitute  
15 is 36.9 percent black VAP. In the Senator  
16 Latvala amendment, it is 38.4 percent black  
17 VAP. So it -- in terms of VAP, it is slightly  
18 higher.

19 If we conduct the functional type  
20 analysis, we see a similar slight increase of  
21 the black percentage in the -- in Senator  
22 Latvala's amendment. It is 58.2 percent of the  
23 primary voters are black in Latvala's  
24 amendment, versus 56.2 in the proposed  
25 committee substitute.

1           So black voters constitute a majority in  
2           the Democratic primary in both plans, but it is  
3           a slightly higher majority in Senator Latvala's  
4           amendment.

5           SENATOR GAETZ: While you have the podium,  
6           are you prepared to remark to Senator Negron's  
7           question?

8           MR. GUTHRIE: And that went to the  
9           functional analysis as to the Hispanic  
10          district, and what we can see in terms of  
11          Hispanic participation or Hispanic percentage  
12          of the Democratic primary election voters, in  
13          both cases, Hispanics make up 28.3 percent of  
14          the Democratic voters in the primary. In the  
15          PCS, Hispanic -- or, excuse me, those Hispanics  
16          also would be joined by blacks making up 19.7  
17          percent of the Democratic primary election  
18          voters, whereas in the Senator Latvala  
19          alternative, blacks would be 19.1 percent of  
20          your Democratic primary voters.

21          So a push on Hispanic primary voters and a  
22          slight advantage in the PCS in terms of the  
23          number of black primary voters. In both cases,  
24          the Hispanic voters are predominantly  
25          Democrats, and in both cases, Democrats are

1 successful by about the same numbers.

2 SENATOR GAETZ: Leader Smith to follow up.

3 SENATOR SMITH: Yes, could you tell us,  
4 going back to compactness of 12, Gaetz plan as  
5 compared to 9022 --

6 MR. GUTHRIE: Yes.

7 SENATOR SMITH: -- could you give us those  
8 scores, the compactness scores of the three  
9 tests that you applied?

10 SENATOR GAETZ: Mr. Guthrie, please.

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

12 In the PCS, the -- let's see. Let's  
13 compare them one at a time. So the convex hull  
14 in the PCS is .74, a pretty -- a very high  
15 compactness score. In the Latvala alternative,  
16 it is .45. The Reock score in the PCS is .40;  
17 in the Latvala alternative, it is .25. The  
18 Polsby-Popper perimeter test in the PCS is .31;  
19 in the Latvala alternative, it is .09.

20 SENATOR GAETZ: Okay. Senator Siplin,  
21 please.

22 SENATOR SIPLIN: I think that Senator --  
23 well, my only question was, I asked the  
24 question this morning of the attorney when we  
25 were comparing Senator Gibson's district with

1 my district as it was when we passed it in the  
2 Florida Senate, and I would like for him to  
3 revisit his opinion regarding my question.

4 SENATOR GAETZ: Of course you may. Would  
5 you please rearticulate the question, and Mr.  
6 Bardos is all ears.

7 SENATOR SIPLIN: Yes. Initially when we  
8 passed this bill out, there was -- my district  
9 went to Sanford and Orlando, Florida. And  
10 because of the decision by the Supreme Court,  
11 you filed your amendment, and as a result, the  
12 Sanford part of it was taken out, and I  
13 questioned that -- your intent this morning as  
14 to why would you take the Sanford part out of  
15 District 12 and then do a more compact district  
16 in terms of District 6 with Senator Gibson that  
17 also had the same kind of -- different type of  
18 shape and appendage. And I think Mr. -- the  
19 attorney, Mr. Bardos, with his legal advice,  
20 and I want him to share that advice again  
21 today.

22 SENATOR GAETZ: Okay. Mr. Bardos, would  
23 you like to respond?

24 MR. BARDOS: One thing that became clear  
25 from the Court's opinion is that where we can



1           comply with Tier 1 and Tier 2 simultaneously,  
2           we must do that. The Court invalidated  
3           District 6 and District 29 because they were  
4           not compact, and the Court concluded that  
5           minority voting strength can be preserved in a  
6           more compact district.

7           In regard to District 12, the Court did  
8           not strike it down, but it did note that we did  
9           not conduct the functional analysis there, and  
10          it did remark to the extension of the district  
11          into Sanford. It says that "The district  
12          extends into two counties, running it in a  
13          relatively narrow path on the west end of  
14          Orlando and extending upwards and to the east,  
15          hugging the top of the area with a few portions  
16          reaching out." So in light of all of that, we  
17          conducted the functional analysis. We believe  
18          that the -- that the district as drawn in the  
19          proposed committee substitute does satisfy the  
20          Tier 1 standards, and that was staff's attempt  
21          to reconcile Tier 1 and Tier 2 standards.

22                 SENATOR GAETZ: All right. Senator  
23                 Thrasher, you are up, sir.

24                 SENATOR SIPLIN: Senator --

25                 SENATOR GAETZ: I'm sorry, were you

1 finished?

2 SENATOR SIPLIN: No, Chairman, I am just  
3 reminding you that --

4 SENATOR GAETZ: Yeah, you are next. You  
5 are next, I got you.

6 Senator Thrasher.

7 SENATOR THRASHER: Thank you, Mr.  
8 Chairman, and I enjoyed listening to the  
9 changes in District 12s and 13 and 14 and all  
10 that. I notice, though, in comparing the maps,  
11 that fairly significant changes were made to --  
12 from the -- from the proposed committee bill in  
13 District 8, 11 and 9. Can you tell me why  
14 those districts, those three districts, needed  
15 to be changed so fairly dramatically?

16 SENATOR GAETZ: And, Senator Latvala, did  
17 either you or Senator Simmons wish to respond?

18 SENATOR LATVALA: I will respond.

19 SENATOR GAETZ: Yes, sir, Senator Latvala.

20 SENATOR LATVALA: I think --

21 SENATOR GAETZ: Senator, your mike --

22 SENATOR LATVALA: We need to get staff to  
23 tell us that, because my instructions were that  
24 this amendment was to comport with the  
25 Chairman's amendment in every place except the

1 Orlando area that we were targeting in on. And  
2 yesterday -- and I was told that it did.  
3 Yesterday we discovered a fairly significant  
4 area in District 24 which it didn't. And then  
5 I was told that they made a change in Putnam  
6 County, which I am not sure why that was  
7 included in this amendment, but that is really  
8 a question for staff to answer, because that  
9 was not my request and not my wish and that was  
10 included in the amendment that they prepared.

11 SENATOR GAETZ: Mr. Guthrie, could you --

12 A VOICE: Mr. Chairman, that was my  
13 question, so you don't have to call on me.

14 SENATOR GAETZ: Okay. Mr. Guthrie, can  
15 you respond to that, please?

16 MR. GUTHRIE: The person who was helping  
17 most with really controlling the mouse as this  
18 alternative was constructed was Mr. Schenckel  
19 cell. Perhaps we could recognize him for a  
20 minute to explain.

21 SENATOR GAETZ: Mr. Schenckel. Ben  
22 Schenckel is one of our staff attorneys. You  
23 are recognized.

24 MR. SCHENCKEL: Yes, sir, yes, Chairman.

25 The reason that 8, 9 and 11 are different

1 from the Chairman's amendment is based on the  
2 fact that District 10 in this amendment is --  
3 comes out on the west side, whereas in your  
4 amendment, it comes out on the east side, and  
5 this forces a rotation of population, which is  
6 the reason that 8 then is forced up and then 9  
7 can be -- come down completely into Putnam  
8 County and then 11 then moves further south and  
9 pushes into Lake County. But because 10 has to  
10 be where it is, that rotation can't happen in  
11 this amendment, just based on where District 10  
12 falls on one side of Orlando or the other. And  
13 so it was simply a decision based on  
14 population. The population has to be  
15 somewhere, and in your amendment, moving it to  
16 the east side displaces that population that  
17 would be in 8 up north and causes that  
18 rotation, which is different from continuing to  
19 have a District 10 on the west side of Orlando.

20 SENATOR GAETZ: But you realize,  
21 Mr. Schenckel, it was not Senator Latvala's  
22 intent necessarily to do this --

23 MR. SCHENCKEL: Yes, sir.

24 SENATOR GAETZ: -- and I would -- it was  
25 simply a consequence of the other movements

1           that you made?

2           MR. SCHENCKEL:   Yes, sir.

3           SENATOR GAETZ:   Is that your testimony?

4           MR. SCHENCKEL:   Yes, sir.

5           SENATOR GAETZ:   Senator Latvala, does that  
6           -- would you like to follow up on that, sir, at  
7           all?

8           SENATOR LATVALA:  No, we will let it go at  
9           that.

10          SENATOR GAETZ:   Okay.   Senator Thrasher.

11          SENATOR THRASHER:  It seems to me that we  
12          are sacrificing simply population now for  
13          compactness and geographical lines in these  
14          three districts, and that causes me some  
15          concern.   I think -- I think if we listen to  
16          what the Court says -- I understand Senator  
17          Simmons, and great explanation on what you are  
18          doing in District 10, but we are now impacting,  
19          I think adversely, at least three other  
20          districts.

21          SENATOR GAETZ:   I think we have morphed  
22          from questions to debate now.   Is there further  
23          debate -- I'm sorry, are there further  
24          questions?   Senator Gibson.

25          SENATOR GIBSON:   Thank you, Mr. Chair.

1           And so did the -- did we do the formula to  
2           test for the -- I don't know, it is getting  
3           late -- the -- you know, the three --

4           SENATOR GAETZ: For compactness?

5           SENATOR GIBSON: Yeah, for the new --  
6           newly drawn lines. And also, it looks as if 9  
7           got a little more compact. Did it lose voters  
8           also?

9           SENATOR GAETZ: Can you -- thank you very  
10          much, Senator Gibson.

11          Mr. Guthrie, can you respond to that  
12          factual question as to the compactness  
13          analysis, the PCB, over and against the Latvala  
14          amendment?

15          MR. GUTHRIE: Yes, I can. With District  
16          10, in the PCB, the convex hull score is .79, a  
17          very high score as -- and in the Latvala  
18          alternative, it is the same, .79. In terms of  
19          Reock or the dispersion ratio, in the PCB, it  
20          is .41; in the -- the Reock ratio in the  
21          Latvala alternative is .46, slightly higher.  
22          And with Polsby-Popper, it goes the opposite  
23          way. With the -- on District 10, it is .28,  
24          the perimeter ratio for District 10 in the PCS;  
25          in the Latvala alternative, it is .26.

1           SENATOR GAETZ: Are there further  
2 questions on the Latvala amendment? Senator  
3 Gibson, and then we will go to Senator  
4 Montford.

5           SENATOR GIBSON: Thank you. Thank you,  
6 Mr. Chair.

7           In the -- I know there is a distinct  
8 minority population in Volusia County. How is  
9 that dealt with in both of these maps? For  
10 example -- well, they both seem to cut the  
11 Bethune-Cookman University in half, but where  
12 -- what happens with the minority communities  
13 since Volusia seems to be dealt with a little  
14 differently?

15          SENATOR GAETZ: Well, in fairness to the  
16 amendment sponsor, would the amendment sponsor  
17 care to comment on that, or do you want staff  
18 to comment on that?

19          SENATOR LATVALA: You know, the decisions  
20 about conforming the map to the Orlando area  
21 and Seminole County area were made entirely by  
22 staff in terms of where they cut the lines.

23          SENATOR GAETZ: All right, then, Mr.  
24 Guthrie, could you respond to Senator Gibson's  
25 question?

1           MR. GUTHRIE: Well, let's go into the  
2           Daytona area and actually look at what -- where  
3           the line goes. So in the Latvala alternative,  
4           that is the map we are looking at right now,  
5           the African-American areas of Daytona Beach are  
6           in District 9, the district that goes to  
7           Flagler, St. Johns and part of Putnam County.  
8           In the -- and if we look at cities here, it  
9           might be helpful, too. So most or all of the  
10          City of -- it looks like all of the City of  
11          Daytona Beach and Daytona Beach Shores, as well  
12          as South Daytona, are in District 9 in the  
13          Latvala alternative, with the -- let's see,  
14          where do I go? Let me close some windows.  
15          Well, 9008 -- okay, I am there. With not --  
16          with the proposed committee substitute, we will  
17          look at the Daytona area. We see there the  
18          City of Daytona Beach in this map. Because of  
19          the population difference that Mr. Schenckel  
20          was talking about earlier is split, City of  
21          Daytona is split, and the border that the  
22          district follows here as it comes in on  
23          International Speedway Drive, then heads north  
24          on U.S. 1 and then east across the barrier  
25          island, so it goes through the downtown area,



1 and that has the result of having some  
2 African-American precincts in the District 9 to  
3 the north and some in District 8 to the south.

4 SENATOR GAETZ: Senator Altman.

5 SENATOR ALTMAN: Thank you, mr. Chairman,  
6 just quickly.

7 On the bottom of 8, that looks like an  
8 appendage to me. Would that be considered an  
9 appendage, or is that large enough to not be  
10 considered -- it is right below District 13,  
11 the appendage that comes over from Brevard over  
12 into Orange County.

13 SENATOR GAETZ: Again, I think appendage  
14 is a term of art, you know, perhaps with the  
15 Court, and it is a bit in the eyes of the  
16 beholder. Could I ask you, Senator Altman, to  
17 maybe rephrase that, because -- you know, is an  
18 appendage good, is it bad, is it big, is it  
19 small? Are you asking if it is legally  
20 compliant? What are you asking?

21 SENATOR ALTMAN: Yes, legally compliant.  
22 Would that be considered under --

23 SENATOR GAETZ: All right.

24 SENATOR ALTMAN: Because it does sort of  
25 look like it sticks out there.

1           SENATOR GAETZ: All right. Let's ask Mr.  
2 Bardos if he has any comment on that, and then  
3 Senator Latvala wishes recognition unless  
4 someone else has a question at this point.  
5 Senator Montford has a question, okay. Mr.  
6 Bardos, take a shot.

7           MR. BARDOS: Well, I really don't know. I  
8 don't think a law degree makes me anymore  
9 equipped to judge one appendage from another.

10          SENATOR GAETZ: Analogy maybe.

11          MR. BARDOS: It is a little broader than  
12 the other appendage. Also, it is bounded on  
13 the south by the beach line and on the west by  
14 the Econlockhatchee River. So it might be a  
15 little bit different, but perhaps someone would  
16 say that it is an appendage.

17          SENATOR GAETZ: Just a second. Senator  
18 Montford.

19          SENATOR MONTFORD: Thank you, Mr. Chair.

20                 This question may be somewhat out of  
21 order, and if you think it is that way, I am  
22 fine with that. The question I have is that  
23 the underlying question here is will this --  
24 will this pass muster? That is my question,  
25 and I don't know who to answer it to, and,

1           again, it may not be, Mr. Chair, an appropriate  
2           question at this time. If that's so, I will  
3           pass on it.

4           SENATOR GAETZ: Well, why don't we do  
5           this: Senator Latvala I think may be able to  
6           help us address the conversation as it goes  
7           forward, so I will recognize Senator Latvala.

8           SENATOR LATVALA: Thank you, Mr. Chairman.

9           It is obviously getting late in the  
10          afternoon. This is a concept that we felt  
11          strongly needed to be put in front of the  
12          Senate, and at least in Committee. You know,  
13          it is wonderful to have staff and, you know,  
14          lawyers and a chairman and so forth, but we  
15          also need to understand that, you know, when we  
16          get a product put in front of us that we as  
17          Senators have the final say over it, have the  
18          ability to amend it, need to understand what it  
19          is, have every right to make our contributions  
20          in the way of amendments, and, you know, that  
21          is what we were attempting to do. That is what  
22          Senator Diaz de la Portilla was attempting to  
23          do, and that is what Senator Simmons and I were  
24          attempting to do with this.

25          You know, that said, there's obviously,

1           you know, a -- there are some concerns about  
2           this, there are some questions about this, and  
3           I think what we will do is withdraw this today,  
4           but it could very well be that we will see this  
5           again tomorrow in a floor amendment or  
6           something similar to it, because, you know,  
7           it's -- the staff recommendations that we saw  
8           Saturday, that is one concept, and, you know,  
9           that is their best efforts, but we as Senators  
10          need to also -- we are the ones responsible for  
11          making the final decision and we need to be  
12          able to make our best efforts also.

13                 SENATOR GAETZ: Without objection, show  
14          the amendment withdrawn, and I think Senator  
15          Latvala makes an excellent point, and so,  
16          consequently, any amendments that are filed for  
17          the floor, we will ask for a signature of the  
18          sponsoring Senator to make sure that the entire  
19          map and all of the consequences are understood  
20          by the sponsoring Senator or approved by the  
21          sponsoring Senator, and that the Senator owns  
22          the amendment, so that there are absolutely no  
23          -- there's no confusion about what may or may  
24          not have been done by anybody else. So we will  
25          take up amendments on the floor, and I will ask

1 the Rules Chair to support me that we will want  
2 to see a sponsor's signature to know that the  
3 amendment has been fully vetted by the sponsor.

4 Now, Senators, we will take up amendment  
5 bar code 180520 by Senator Altman. And,  
6 Senator Altman, you are recognized on your  
7 amendment, sir.

8 SENATOR ALTMAN: Thank you, Mr. Chairman,  
9 and I know we have had some opportunity to  
10 talk, and I've looked at the language further  
11 and I would like to say a few things maybe to  
12 have some --

13 SENATOR GAETZ: Of course.

14 SENATOR ALTMAN: -- discussion, but I may  
15 take the same -- so, you know, I have to say  
16 that I strongly agree with the dissenting  
17 opinion that the numbering of the  
18 legislative -- Senator districts really has  
19 nothing to do with an Amendment 16. As a  
20 matter of fact, if you look -- if you read  
21 Amendment 16, it talks about "An Amendment 16  
22 in favoring or non-favoring incumbents relates  
23 to district boundaries." It has nothing to do  
24 with numbering. And that was just, I think, an  
25 act of judicial activism. Of course, we are

1           stuck with that. I would -- it would have been  
2           nicer if they would have followed the  
3           Constitution with the numbering scenario.

4           I know the amendment, the joint resolution  
5           as it stands today talks about using sort of a  
6           lottery, a game of chance system, and, you  
7           know, I personally don't particularly feel  
8           comfortable with that. I don't think anywhere  
9           in the Constitution there is a provision for us  
10          to relegate our conscious decision to award  
11          some sort of unknown lottery system, although  
12          after speaking with the Chairman, I can  
13          understand where he is coming from, given the  
14          slippery slope that the Court has put us on now  
15          by going outside of the Constitution and  
16          drawing in the numbering system in their  
17          ruling.

18          The amendment proposes that we just simply  
19          do as we have done historically, that we number  
20          districts consecutively from north to south.  
21          That is pretty much what we have done  
22          historically. As a matter of fact, the  
23          Constitution requires that we number our  
24          districts consecutively, that is really the  
25          guidance that they give us, which means --

1 consecutive basically means some logical order,  
2 some interrupted order. And if we were to go  
3 to a lottery system, I don't think that is  
4 necessarily what would happen.

5 Secondly, too, I fear that if we do a  
6 lottery system, even/odd, that we only have  
7 random -- we only have a random sample of 40  
8 Senate districts, and there would be a  
9 potential for clustering. We cannot be assured  
10 that we would have an even distribution, so  
11 certain regions could be treated fundamentally  
12 differently.

13 I have had an opportunity to talk to a  
14 number of the members. They voiced they would  
15 like to have a little more time to look at the  
16 effect of this amendment. So I would like to  
17 TP the amendment, unless there's any questions  
18 at the moment, giving us a little more  
19 dialogue, and very well could bring it up  
20 tomorrow or on the floor. It is a pretty  
21 simple up or down thing. Mr. Chairman, I would  
22 like to have an opportunity to speak with you a  
23 little further, too, because I have thought of  
24 some other options.

25 SENATOR GAETZ: Absolutely. Without

1 objection, show the amendment temporarily  
2 postponed.

3 We are now back on the bill, and Senator  
4 Thrasher, you are recognized.

5 SENATOR THRASHER: Yes, sir. In regard to  
6 what the Senator just said, I think when you  
7 read the opinion, particularly on page 184, the  
8 final conclusion, right before the conclusion,  
9 the Court says that, "Finally, we declare that  
10 the numbering system" -- or scheme, as they  
11 said it -- "is invalid because it is intended  
12 to benefit incumbents by making them eligible  
13 to serve for longer periods of time than they  
14 would have otherwise been eligible to serve."  
15 So, obviously, this is a very, very important  
16 thing to the Court. And while we have a  
17 numbering system based on the proposal that is  
18 before us, seems to me that further thought, as  
19 Senator Altman said might be appropriate. So,  
20 Mr. Chairman, I would move that the Chair  
21 prepare a floor amendment that provides a  
22 process by which the Senate can achieve an  
23 incumbent-neutral numbering system in the  
24 pending resolution.

25 SENATOR GAETZ: You have heard the motion.



1 Are there questions on the motion?

2 SENATOR RICH: Mr. Chairman?

3 SENATOR GAETZ: Leader Rich.

4 SENATOR RICH: Thank you, Mr. Chair.

5 I actually have a little different view  
6 than what Senator Altman stated. I really  
7 don't think it is judicial activism. Actually,  
8 I think we have competing amendments. We have  
9 an amendment passed by the voters that said  
10 eight years, eight is enough.

11 So I would like to suggest that as we move  
12 ahead -- I think Senator Thrasher has a very  
13 good suggestion, but I think that we should  
14 look at the fact that the Court would like us  
15 to figure out a way to observe the other  
16 amendment in our Constitution by having as many  
17 Senators as possible serve eight years.

18 SENATOR GAETZ: Thank you, Leader Rich.  
19 There were a couple of other people who had  
20 questions. Senator Latvala, and then Senator  
21 Storms.

22 SENATOR LATVALA: Mr. Chairman, I would  
23 like to just have a little discussion about  
24 what exactly Senator Thrasher means with regard  
25 to the Chair doing an amendment. Does that

1 mean we are obligating ourselves at this point  
2 to support what the Chair does? Does that mean  
3 that there will be an opportunity to substitute  
4 something for the amendment that you come up  
5 with? I mean, you know -- and let's just be  
6 blunt about it. There's a lot of sentiment in  
7 this Senate that a lottery is not what we want  
8 to see. There's a lot of sentiment that you  
9 can sequentially number with a pencil, without  
10 lifting off the paper, and some -- there's  
11 going to be some winners and losers. And I  
12 just would want to make sure with this motion  
13 that we are not obligating ourselves in some  
14 fashion that we can't have a further full  
15 conversation about this issue on the floor.

16 SENATOR GAETZ: Well, let me speak for  
17 myself. If the motion passes, the motion  
18 would -- as I understood it is that I would  
19 prepare an amendment, not that I would prepare  
20 a dispositive solution that nobody could  
21 disagree with. Any amendment that is prepared  
22 is presented to the full Senate, is questioned,  
23 is debated and is voted up or down, and that is  
24 the way I would expect we would proceed, but I  
25 yield -- recognize Senator Thrasher, he is the

1 motion-maker.

2 SENATOR THRASHER: No, I think that is  
3 exactly right. My concern, again, is that it  
4 be incumbent-neutral. What kind of system,  
5 Senator Latvala -- your system may be the  
6 better one, I don't know. It seems to me,  
7 though, that we are -- when we get to the floor  
8 after we have gone through the amendatory  
9 process, we ought to have a map to vote on, and  
10 we ought to vote on that map, and then we ought  
11 to come up with a system then that it places  
12 the districts, as the Court suggested, in an  
13 incumbent-neutral numbering system on the  
14 resolution so that -- to me, that gives us the  
15 best possible opportunity, if you will, to  
16 succeed in the Florida Supreme Court both on  
17 the resolution, as well as -- as well as the  
18 numbering system.

19 SENATOR GAETZ: Okay. Senator Latvala to  
20 follow up, and then Senator Storms.

21 SENATOR LATVALA: And I may have a couple  
22 -- you know, I mean, I would like to have a  
23 discussion about this, and there might be more  
24 than one question, you know.

25 My question is that if we -- as Senator

1 Thrasher says here, we vote on a plan, then we  
2 have a motion on the numbering, okay. What if  
3 the plan that is determined is going to be a  
4 sequential numbering and then we are going to  
5 leave town and somebody is going to  
6 sequentially number it? I mean, my concern is  
7 on Thursday, we ought to know what the numbers  
8 of the districts are on the plan when we vote  
9 for it and -- as opposed to leaving it and  
10 delegating it to staff or delegating it  
11 anywhere else. Whether or not we have the  
12 lottery, we ought to do it on Thursday. If we  
13 determine that we want it done sequentially, it  
14 needs to be done on Thursday. I mean,  
15 normally, when you vote on the map itself,  
16 there's numbers on it, and that is part of the  
17 bill that you adopt are the numbers. So it is  
18 just -- it is kind of like a no man's land here  
19 to -- to me, at least, in how this is going to  
20 work.

21 A VOICE: Mr. Chairman?

22 SENATOR GAETZ: Let's take it in order.  
23 We have other people who have asked for  
24 recognition. Senator Storms is next. We will  
25 get to everybody. Senator Storms.

1           SENATOR STORMS: Thank you. Thank you,  
2 Mr. Chair.

3           I don't disagree that -- I guess I am just  
4 questioning -- I have a couple of issues, Mr.  
5 Chair. One is I guess I am just questioning  
6 what exactly is meant by the motion that is on  
7 the floor -- that is before us right now,  
8 because the Chair can file -- the Chair is the  
9 Chair, so you can file any amendment that --  
10 you don't need our permission to do that,  
11 because, you know, you are the Chair. So that  
12 is issue one.

13           Issue two is any other member can file any  
14 amendment that we need to.

15           And then issue three is I absolutely think  
16 that whatever -- whatever map that we wind up  
17 voting on when we are done here should have  
18 both the map and the numbers taken care of,  
19 because that is what was referred back to us  
20 from the Supreme Court.

21           That being said, as I have said to you,  
22 Mr. Chair, and as I have said on the record  
23 previously, I have a number of concerns with  
24 the lottery format for a variety of reasons,  
25 and I will just specifically enumerate them

1           again.

2           Number one, I would like to be able to  
3           take the map to -- you know, to your neighbor,  
4           to my neighbor, to anybody's neighbor, Joe  
5           Smith, and say, "Here is the map," and he would  
6           be able -- he or she would be able to look at  
7           it and see that there's some rhyme or reason to  
8           the numbering of the map, and I am concerned  
9           that with some sort of random system, that it  
10          looks capricious and arbitrary to John Q. or  
11          Joanne Q. Public. So that is issue one.

12          Issue two is that previously, before we  
13          had any motive at all, before anybody could  
14          assign motive to us as to term limits,  
15          previously the map was sequentially numbered.  
16          It would seem to me that we would benefit by  
17          going back to what we did previously. That is  
18          my understanding.

19          Issue three is if you do a random system  
20          and somehow, who knows why or how, but somehow  
21          one particular group, be it the Hispanic  
22          minority or the African-American minority or  
23          anybody else as a block, that group is assigned  
24          either two year or four year, you are not going  
25          to be able to convince anybody that the fix --

1 we are not going to be able to convince anybody  
2 that that didn't happen by intent, that the fix  
3 wasn't in.

4 And then issue four, which I do think,  
5 although it is political, I think it is -- we  
6 have to consider this as an important point for  
7 the benefit of the state of Florida, and issue  
8 four is this: If you have a whole geographic  
9 location that just by luck of the draw, by  
10 random numbers assigned, all get either four or  
11 two years, it doesn't matter which, you just  
12 pick it -- for the purposes of my discussion, I  
13 will say that south Florida gets all four  
14 years -- what happens from -- everybody there  
15 gets assigned a four-year term. What happens  
16 is, for the benefit of those south Florida  
17 representatives, their power is concentrated,  
18 because they are there longer in the beginning  
19 years, but when they all rotate off, then their  
20 power is diluted. In either case, that does  
21 not inure to the benefit of all Floridians  
22 across the state. You are more likely to  
23 stagger that power, which is why we have the  
24 staggered limits. That is the intent of making  
25 sure that everybody isn't up to run at the same

1 time. And it is because I think that is more  
2 faithful to that intent, I think that we run  
3 the risk of violating that by going through --  
4 by going to a random system. We do not ever  
5 want for the benefit of the people of the state  
6 of Florida to have central Florida all have the  
7 same years, to have the Panhandle all have the  
8 same years or to have south Florida all have  
9 the same years, because it does not inure to  
10 the benefit of good policy-making for the state  
11 of Florida, and that is why we have staggered  
12 terms, that is the rationale for that.

13 So for those four reasons, Mr. Chair, I  
14 would not argue for a random -- for -- you  
15 know, for a random assignment of the numbers;  
16 instead, I would argue instead for or advocate  
17 instead for an assignment -- just an assignment  
18 by the numbers, you just write the numbers down  
19 and then you announce the way you -- sometimes  
20 you are going to have to turn the bend and go  
21 back. There are going to be some districts  
22 that intrude into another district, and so you  
23 are going to -- you may not exactly go right  
24 across the state, but the way you fix that, in  
25 my opinion, is you announce before you start



1 making your numbers, you say, "Okay, here's how  
2 we are going to do it, this is the rationale we  
3 are using, and now we are just going to put  
4 pencil to paper and number across the state."

5 And that is my view, Mr. Chair. Thank you  
6 for your indulgence.

7 SENATOR GAETZ: Absolutely, and maybe we  
8 take a moment or two, I think Senator Latvala  
9 is right, I know a lot of people want to talk  
10 about this, maybe we just take a breath here  
11 and let me -- if you look at the PCB, which is  
12 before you, look at Section 2. Section 2 is  
13 pretty clear: "The 40 Senatorial districts of  
14 the state shall be renumbered based on a  
15 random, incumbent-neutral process of assignment  
16 conducted in public."

17 First let me say a word or two about the  
18 problem, and then let me offer a perspective at  
19 least on the solution. Here is the problem:  
20 The problem is that the Supreme Court has  
21 imputed motive to the numbering system and the  
22 assignment thereby of terms, which was in the  
23 -- in the act, the joint resolution, which the  
24 Legislature passed. The Supreme Court went on,  
25 I think, for eight pages saying that there

1 needed to be an incumbent-neutral system, not a  
2 system that is designed or that could be  
3 interpreted because of its effect as having a  
4 preference for anyone. And, therefore, that is  
5 why many of you with whom I have spoken  
6 individually, I have asked, do you have a plan,  
7 do you have a suggestion, do you have a system?  
8 And Senator Altman, to his credit, has come up  
9 with one. But we have a real problem. The  
10 problem is we cannot have a result which can  
11 then be misinterpreted as to its intent. And,  
12 you know, a lot of us have struggled with this.  
13 Anytime you pick up the pencil and try to  
14 figure out how to do this, any system has the  
15 risk of having intent imputed to it, except a  
16 random system.

17 Now to Senator Storms' points. Does a  
18 random system mean non-sequential? No. A  
19 random system could simply mean that it is by a  
20 random selection, an incumbent-neutral  
21 selection, that it is determined whether the  
22 district that I live in will be an  
23 even-numbered or an odd-numbered district.  
24 There is nothing about a random system that  
25 requires it to be non-sequential when you look

1 at the map. There is nothing about the system  
2 that requires it to be weird or odd or  
3 difficult to explain at the Magnolia Grill with  
4 respect to the map. Let us give you an example  
5 or two about what a random system might look  
6 like. That may draw even more criticism and  
7 even more concern, and we will be happy to take  
8 it. But let me just say that having lived  
9 through this process now for many months, and  
10 having heard thousands of people speak and  
11 having heard hundreds of hours of testimony, I  
12 don't believe that we should vote for and send  
13 to the Supreme Court a system where motive can  
14 be imputed, where it can be inferred that there  
15 has been some sort of intent to get a result  
16 that favors or disfavors any incumbent. I  
17 think if we do that, there's going to be an  
18 aroma about our proposal that will then  
19 implicate the rest of the proposal,  
20 notwithstanding the fact that there are those  
21 on this panel who believe the Supreme Court  
22 shouldn't have talked about it in the first  
23 place. The fact is they did, and our job is to  
24 comply with the Court.

25 Now, Mr. Guthrie, you and I have talked

1 about a -- how a random system would work, and  
2 I would like if you would please explain it.  
3 It has been discussed with the Attorney  
4 General, who is willing to oversee it to make  
5 certain that it would be truly  
6 incumbent-neutral and truly objective. Mr.  
7 Guthrie, could you as simply as possible  
8 explain how a random system might work? And I  
9 would ask you to hold your questions until he  
10 explains, and then everyone can have an  
11 opportunity to talk. May I please have --

12 A VOICE: We are not going to -- with all  
13 due respect, we are not going to have time to  
14 talk. We have a time certain vote.

15 SENATOR GAETZ: Well, let's give Mr.  
16 Guthrie a couple of minutes, because it may --  
17 you may decide to vote no.

18 A VOICE: Well, I may have to if we don't  
19 get the numbering part. This is my question,  
20 if I may do that.

21 SENATOR GAETZ: Sure.

22 A VOICE: I love the maps. I would like  
23 to vote yes on the maps. I disagree with the  
24 numbering system, and so far I am in the just  
25 trust me, we will tell you later mode.

1           SENATOR GAETZ: No, no, no. If you will  
2 just allow an explanation, then you can decide  
3 to vote no for a reason.

4           A VOICE: Mr. Chairman, I also would like  
5 to -- it appears to me, and you -- please  
6 straighten me out if this is wrong. The  
7 sequential numbering does not necessarily have  
8 to be related to the lottery.

9           SENATOR GAETZ: That is exactly correct.

10          A VOICE: And I am asking you why we can't  
11 have a map with sequential, as close as you can  
12 get, numbers, and however everyone decides to  
13 do the four years, the eight or ten, whatever,  
14 that is a different situation, but if we had a  
15 map with sequential numbers, that would be the  
16 first thing. Then we could take an up or down  
17 vote. How the selection is made for the eight  
18 or ten years is something separate.

19          SENATOR GAETZ: Well -- and if you will  
20 permit, there is a way to have a random  
21 determination as to whether one has an odd or  
22 even district number and still have sequential  
23 numbering. Could we just allow Mr. Guthrie --

24          A VOICE: Could I ask a procedural  
25 question?

1           SENATOR GAETZ:    Sure.

2           SENATOR LATVALA:  Okay.  If we have this  
3           in the bill, why do we need Senator Thrasher's  
4           motion?

5           SENATOR GAETZ:  We -- I don't know.  We  
6           may not.  We may not.

7           SENATOR LATVALA:  Well, that is my  
8           question.  In other words, if this is in the  
9           bill, and this bill is going to be voted out of  
10          this Committee today, why do we need a further  
11          motion on the issue?

12          SENATOR THRASHER:  All I was trying to do,  
13          Senator Latvala, is do exactly what everybody  
14          is suggesting here, like we did with the PCB,  
15          authorize the Chairman to come up with an  
16          amendment, an amendment for the floor that  
17          basically says that we are going to number the  
18          districts in an incumbent-neutral way.  If we  
19          want to do it in the bill now, I am more than  
20          happy to do that.  I certainly don't want, as  
21          Senator Storms suggested, we leave here without  
22          a numbering system intact.  We definitely want  
23          to do that.  How we do it is -- this is just a  
24          suggestion that if we are not prepared to do it  
25          today, we authorize the Chairman to come up

1 with an amendment, we debate it on the floor.  
2 If you want to make changes to it just like we  
3 have done today, we will make changes to it. I  
4 think that is -- that was my intent, anyway,  
5 Mr. Chairman.

6 SENATOR LATVALA: Mr. Chairman?

7 SENATOR GAETZ: Yes, Senator Latvala,  
8 question.

9 SENATOR LATVALA: If Senator Altman had a  
10 mechanism --

11 SENATOR GAETZ: Uh-huh.

12 SENATOR LATVALA: -- and you asked him to  
13 withdraw the amendment, okay, and my  
14 understanding is somebody asked him to  
15 withdraw the amendment, that would have allowed  
16 us to vote on a mechanism. Now we are 14  
17 minutes before the end of the meeting, and you  
18 want us to sort of -- and then when we go to  
19 the floor, we're in a position where, you know,  
20 we have something that we have authorized and  
21 it will be a defense mode against anybody that  
22 is attacking whatever you come up with, just  
23 being blunt.

24 SENATOR GAETZ: No, let's not do that.

25 Obviously this whole issue is an issue of grave

1 concern. Leader Rich has made her point that  
2 whatever method we come up with, it ought to be  
3 respectful of the Constitution, and I think  
4 that Senator Lynn has made an excellent point,  
5 as has Senator Storms, that we have to have a  
6 sequential system. Clearly, the hour grows  
7 late, the day is long, the issue is important,  
8 I have made my case as best I can that this  
9 ought to be done in a truly random way without  
10 preference being able to be inferred, and,  
11 therefore, I would like to ask Senator Dean if  
12 he would please move to reconsider his motion.  
13 We will all be here at eight o'clock tomorrow  
14 morning, and we can have a long and involved  
15 and thorough discussion of the numbering system  
16 and answer anybody and everybody's question  
17 about it. We can -- we can deal with it in a  
18 can complete and thorough way tomorrow.

19 Senator Dean, would you move to  
20 reconsider?

21 Senator Dean moves to reconsider the time  
22 certain vote.

23 All in favor of the motion, say aye.

24 (Chorus of ayes.)

25 SENATOR GAETZ: All opposed to the motion.



1           The motion is carried, and Leader Rich  
2 moves we rise.

3           (Whereupon, the proceedings were  
4 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 155 through 374 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 4th day of April, 2012.

\_\_\_\_\_

CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2014

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SENATE REAPPORTIONMENT COMMITTEE HEARING  
WEDNESDAY, MARCH 21, 2012

Transcribed by:  
CLARA C. ROTRUCK  
Court Reporter

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

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

11 THE CLERK: Senator Gaetz?

12 SENATOR GAETZ: Here.

13 THE CLERK: Senator Margolis?

14 SENATOR MARGOLIS: Here.

15 THE CLERK: Senator Altman?

16 SENATOR ALTMAN: Here.

17 THE CLERK: Senator Benacquisto?

18 SENATOR BENACQUISTO: Here.

19 THE CLERK: Senator Braynon?

20 SENATOR BRAYNON: Here.

21 THE CLERK: Senator Bullard?

22 Senator Dean?

23 SENATOR DEAN: Here.

24 THE CLERK: Senator Detert?

25 SENATOR DETERT: Here.

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

1 THE CLERK: Senator Sachs?

2 SENATOR SACHS: Here.

3 THE CLERK: Senator Simmons?

4 SENATOR SIMMONS: Here.

5 THE CLERK: Senator Siplin?

6 SENATOR SIPLIN: Here.

7 THE CLERK: Senator Smith?

8 SENATOR SMITH: Here.

9 THE CLERK: Senator Sobel?

10 SENATOR SOBEL: Here.

11 THE CLERK: Senator Storms?

12 SENATOR STORMS: Here.

13 THE CLERK: Senator Thrasher?

14 SENATOR THRASHER: Here.

15 THE CLERK: Senator Wise?

16 SENATOR WISE: Here.

17 THE CLERK: Quorum present.

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

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

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

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

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

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

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

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

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

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



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

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

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

18                 SENATOR LATVALA: Thank you, Mr. Chairman.

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

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

12          Senator Sobel.

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

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

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

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

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

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

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

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

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

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

16           SENATOR GAETZ: Mr. Guthrie.

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

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

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

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

25           SENATOR GAETZ: It is being brought from

1 the 21 Club. It will be here.

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

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

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

25 Anything else? Yes, President Margolis.

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

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

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

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

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

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

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

12 SENATOR LYNN: Thank you.

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

14 SENATOR HAYS: Thank you, Mr. Chairman.

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



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

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

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

18 SENATOR DEAN: Thank you, Mr. Chairman.

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

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

18 SENATOR GAETZ: Thank you, Senator Dean.

19 Any other comments?

20 Senator Sobel.

21 SENATOR SOBEL: Thank you, Mr. Chair.

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

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

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

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

10 A VOICE: Fifteen -- 16.

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

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

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

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

2           SENATOR GAETZ: Please.

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

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

15          SENATOR SOBEL: One other follow-up?

16          SENATOR GAETZ: Sure.

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

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

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

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

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

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

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

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

1           adjoins 1, 2, 3, 4, 5 --

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

7           MR. GUTHRIE:    So after --

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

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

14          SENATOR GAETZ:   There we go.

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

23          SENATOR GAETZ:   There's our problem.

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

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

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



1           redistricting.

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

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

25          SENATOR GAETZ:  Leader Rich.

1           SENATOR RICH: Thank you, Mr. Chair.

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

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

10          Senator Sachs and Senator Montford.

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

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

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

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

10 SENATOR GAETZ: Well put. Senator  
11 Montford.

12 SENATOR MONTFORD: Thank you, Mr. Chair.

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

17 SENATOR GAETZ: Mr. Bardos.

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

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

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

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

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

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

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

13 Senator Latvala.

14 SENATOR LATVALA: Thank you, Mr. Chairman.

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

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

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

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

1 incumbents.

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

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

11 SENATOR GAETZ: Ms. Tunnickliff?

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

16 SENATOR LATVALA: Well -- Mr. Chairman?

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

20 MS. TUNNICLIFF: Sorry.

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

24 Senator Latvala.

25 SENATOR LATVALA: I do recall that in 1992

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

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

9 SENATOR LATVALA: Well, but --

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

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

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

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



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

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

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

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

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

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

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

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

7 SENATOR GAETZ: Of course you can, sure.

8 SENATOR LATVALA: Thank you.

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

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

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

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

25 It was also instructive the way that the

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

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

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

1 question?

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

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

6 SENATOR LATVALA: No, thank you.

7 SENATOR GAETZ: Okay. Leader Smith.

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

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

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

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

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

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

6           MS. TUNNICLIFF: I think what --

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

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

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

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

1 as an objective indicator of intent.

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

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

17 SENATOR ALTMAN: Thank you, Mr. Chairman.

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

1 Constitution.

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

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

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



1 John?

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

5 MR. GUTHRIE: I am not a lawyer.

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

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

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

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

3 SENATOR GAETZ: Madam President?

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

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

21 SENATOR SACHS: Mr. Chairman, sir?

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

1 it, but Senator Sachs, you are recognized.

2 SENATOR SACHS: Thank you, Mr. Chairman.

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

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

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

13 Leader Rich.

14 SENATOR RICH: Thank you, Mr. Chair.

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

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

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

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

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

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

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

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

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

20 SENATOR GAETZ: Relief.

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

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

5 SENATOR GAETZ: Mr. Guthrie.

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

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

11 SENATOR GARDINER: Sure.

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

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

16 SENATOR GAETZ: Of course, Leader.

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

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

25 SENATOR GARDINER: And I guess that is

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

7 SENATOR GAETZ: Mr. Guthrie.

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

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

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

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

6 And Senator Dean and then Speaker  
7 Thrasher.

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

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



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

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

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

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

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

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

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

20 SENATOR GAETZ: Senator Sobel.

21 SENATOR SOBEL: Thank you, Mr. Chair.

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

1 Chair.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 Yes, Senator Gibson.

25 SENATOR GIBSON: Yes, good morning, Mr.

1 Chair.

2 SENATOR GAETZ: Good morning.

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

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

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

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

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

21 SENATOR GAETZ: Okay.

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

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



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

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

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

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

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

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

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

24          SENATOR GAETZ: Mr. Guthrie.

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

1           disfavor anybody?

2           SENATOR GAETZ:   Mr. Guthrie.

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

7           SENATOR GIBSON:   I know.

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

10          SENATOR GIBSON:   Right.

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

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

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

9 SENATOR GIBSON: Uh-huh.

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

15 SENATOR GIBSON: Follow-up?

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

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

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

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

13 MR. GUTHRIE: I --

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

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

25 The consequence of applying that sort of a

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

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

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

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

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

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

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

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

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

15 SENATOR LATVALA: Thank you, Mr. Chairman.

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

22 SENATOR GAETZ: Well --

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

1           SENATOR GAETZ: Well, yeah --

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

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

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

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

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

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

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

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



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

25 When we are done with the odds or the

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

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

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

14          MR. MEYER: Yeah --

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

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

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

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

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

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

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

11                    SENATOR LATVALA: Mr. Chairman?

12                    SENATOR GAETZ: Senator Latvala.

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

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

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

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

3 MR. MEYER: We have District 7.

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

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

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

15 MR. MEYER: District 7 is odd.

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

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

1 would have drawn a green ball?

2 MR. MEYER: It would be even.

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

6 SENATOR GAETZ: Ah, but wait --

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

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

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

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

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

25 SENATOR LYNN: I have a question.

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

4           Senator Lynn, your are recognized.

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

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

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

24          SENATOR GAETZ: Same spot.

25          SENATOR LYNN: Right now what we have is 8

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

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

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

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

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

13                 SENATOR LYNN: Thank you.

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

17                 MR. MEYER: No. 4 stays even.

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

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



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

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

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

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

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

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

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

16 SENATOR SIMMONS: That is a great idea.

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

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

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

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

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

17 Senator Simmons.

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

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

14                 SENATOR GAETZ: Senator Hays.

15                 SENATOR HAYS: Thank you, Mr. Chairman.

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

21                 SENATOR GAETZ: Sadly, not.

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

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

1           SENATOR HAYS:  Oh, really?

2           SENATOR GAETZ:  Mr. Meyer.  Yeah.

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

16          SENATOR DETERT:  Mr. Chairman?

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

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

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

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

6 SENATOR GIBSON: Yes, yes.

7 SENATOR GAETZ: Senator Gibson.

8 SENATOR LYNN: Mr. Chairman?

9 SENATOR GAETZ: Senator Lynn will be next.

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

18 SENATOR GAETZ: Senator Simmons --

19 SENATOR SIMMONS: Certainly.

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

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



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

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

23 SENATOR GIBSON: Mr. Chair --

24 SENATOR LYNN: Mr. Chairman?

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

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

3 SENATOR GIBSON: Yes.

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

7 SENATOR GIBSON: Yes.

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

10 SENATOR GIBSON: Thank you, Mr. Chair.

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

14 SENATOR GAETZ: Senator Simmons.

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

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

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

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

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

16 Senator Lynn.

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

20 SENATOR GAETZ: Correct.

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

1           SENATOR GAETZ:  Yes, ma'am.

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

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

25          SENATOR SOBEL:  Thank you, Mr. Chair.

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

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

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

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

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

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

16 Senator Dean, then Senator Latvala.

17 SENATOR DEAN: Thank you, Mr. Chairman.

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

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

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

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

8 SENATOR GAETZ: Of course you may, sir.

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

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



1 filed today and taken up on the floor tomorrow.

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

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

25 SENATOR GAETZ: Okay, thank you very much.

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

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

22                 SENATOR HAYS: Mr. Chairman?

23                 SENATOR GAETZ: Yes, Senator Hays.

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

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

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

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

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

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

7 SENATOR HAYS: Okay.

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

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

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

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

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

13                 SENATOR GAETZ: Mr. Bardos, any comment?

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

1           wouldn't be immune from attack.

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

4                   SENATOR GAETZ:   A quick follow-up.

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

20                   SENATOR GAETZ:   Mr. Bardos, any comment?

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

1 chosen because of the results that it produces.

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

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

7 SENATOR GAETZ: Thank you, Madam Chair.

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

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

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

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

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

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

24 THE CLERK: Senator Altman?

25 SENATOR ALTMAN: Yes.



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

1 SENATOR LATVALA: Yes.  
2 THE CLERK: Senator Lynn?  
3 SENATOR LYNN: Yes.  
4 THE CLERK: Senator Montford?  
5 SENATOR MONTFORD: Yes.  
6 THE CLERK: Senator Negron?  
7 SENATOR NEGRON: Yes.  
8 THE CLERK: Senator Rich?  
9 SENATOR RICH: Yes.  
10 THE CLERK: Senator Sachs?  
11 SENATOR SACHS: Yes.  
12 THE CLERK: Senator Simmons?  
13 SENATOR SIMMONS: Yes.  
14 THE CLERK: Senator Siplin?  
15 SENATOR SIPLIN: Yes.  
16 THE CLERK: Senator Smith?  
17 SENATOR SMITH: Yes.  
18 THE CLERK: Senator Sobel?  
19 SENATOR SOBEL: Yes.  
20 THE CLERK: Senator Storms?  
21 SENATOR STORMS: Yes.  
22 THE CLERK: Senator Thrasher?  
23 SENATOR THRASHER: Yes.  
24 THE CLERK: Senator Wise?  
25 SENATOR WISE: Yes.

1 THE CLERK: Senator Margolis?

2 SENATOR MARGOLIS: Yes.

3 THE CLERK: Senator Gaetz?

4 SENATOR GAETZ: Yes.

5 SENATOR MARGOLIS: So the motion passes.

6 SENATOR GAETZ: Thank you, Madam Chair.

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

14 SENATOR DIAZ DE LA PORTILLA: Mr. Chair?

15 SENATOR GAETZ: Senator Diaz de la  
16 Portilla.

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

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

25 Are there any other amenders or proposers

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

5 SENATOR LATVALA: Show mine withdrawn.

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

8 SENATOR ALTMAN: Show mine withdrawn.

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

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

16 Senator Gibson.

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

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

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

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

1 recognized in debate, of course.

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

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

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

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

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

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

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

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

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

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

18 SENATOR GAETZ: Further in debate?

19 Senator Diaz de la Portilla.

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

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

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

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

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



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

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

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

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

1           SENATOR NEGRON: Thank you, Mr. Chairman.

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

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

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

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

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

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

19 SENATOR DETERT: Thank you, Mr. Chair.

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

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

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

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

25 SENATOR THRASHER: Thank you, Mr.

1 Chairman.

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

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

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

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

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

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



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

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

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

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

1           SENATOR GAETZ: Mr. Rules Chair.

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

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

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

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

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

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

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

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

16                 SENATOR GAETZ: 10:20 a.m.

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

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

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

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

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

1 points, let me respond just procedurally.

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

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

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

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



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

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

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

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

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

25 SENATOR GAETZ: Thank you very much.

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

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

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

9           SENATOR GARDINER: Okay.

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

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

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

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

18 SENATOR GAETZ: Thank you, Leader.

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

22 SENATOR RICH: Thank you, Mr. Chair.

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

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

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

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

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

20                 THE CLERK: Senator Altman?

21                 SENATOR ALTMAN: Yes.

22                 THE CLERK: Senator Benacquisto?

23                 SENATOR BENACQUISTO: Yes.

24                 THE CLERK: Senator Braynon?

25                 SENATOR BRAYNON: No.

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

1           SENATOR MONTFORD:  Yes.

2           THE CLERK:  Senator Negron?

3           SENATOR NEGRON:  Yes.

4           THE CLERK:  Senator Rich?

5           SENATOR RICH:  Yes.

6           THE CLERK:  Senator Sachs?

7           Senator Simmons?

8           SENATOR SIMMONS:  Yes.

9           THE CLERK:  Senator Siplin?

10          SENATOR SIPLIN:  Yes.

11          THE CLERK:  Senator Smith?

12          SENATOR SMITH:  No.

13          THE CLERK:  Senator Sobel?

14          SENATOR SOBEL:  Yes.

15          THE CLERK:  Senator Storms?

16          SENATOR STORMS:  Yes.

17          THE CLERK:  Senator Thrasher?

18          SENATOR THRASHER:  Yes.

19          THE CLERK:  Senator Wise?

20          SENATOR WISE:  Yes.

21          THE CLERK:  Senator Margolis?

22          SENATOR MARGOLIS:  Yes.

23          THE CLERK:  Senator Gaetz?

24          SENATOR GAETZ:  Yes.  Senators Sachs, the

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

1 be recorded yes or no on the PCB?

2 SENATOR SACHS: I wish to be recorded no.

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

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

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

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

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

23 SENATOR GAETZ: Okay.

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



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

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

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

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

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

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

14 SENATOR RICH: Yes, that is correct.

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

25 SENATOR THRASHER: It would, Mr. Chairman.

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

3 SENATOR GAETZ: Okay.

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

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

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

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

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

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

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

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

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

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

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

12 Senator Storms.

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

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

3 Thank you, Mr. Chair.

4 SENATOR GAETZ: Leader Gardiner.

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

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

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

1           SENATOR GAETZ: Thank you, Leader.

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

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

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



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

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

6 Senator Sobel and then Senator Latvala.

7 SENATOR SOBEL: Thank you, Mr. Chair.

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

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

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

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

1 Senator Latvala.

2 SENATOR LATVALA: Thank you, Mr. Chairman.

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

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

10 SENATOR DIAZ DE LA PORTILLA: Mr. Chair?

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

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

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

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

1 two-thirds vote.

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

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

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

18 SENATOR GAETZ: We have not --

19 SENATOR MONTFORD: Has that decision been  
20 made?

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

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

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

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

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

8 SENATOR GAETZ: Yes, you certainly may.

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

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

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

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

3           SENATOR MONTFORD:  Well, if we get --

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

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

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

24          SENATOR MONTFORD:  Thank you.

25          SENATOR GAETZ:  Senator Sachs for what

1 purpose?

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

25 SENATOR GAETZ: Okay. Leader Rich, so

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

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

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

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

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

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

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

20                   SENATOR THRASHER: 11:30.

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

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



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

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

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

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

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

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

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

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

1           SENATOR GAETZ: Pass those down, please.

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

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

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

3 Mr. Bardos.

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

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

15 SENATOR GAETZ: A very good point.

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

22 SENATOR GAETZ: Thank you very much.

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

25 SENATOR DIAZ DE LA PORTILLA: I have a

1 question.

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

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

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

13 SENATOR MARGOLIS: And it will be her --

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

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

18 SENATOR GAETZ: Yes, ma'am.

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

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

24 Senator Diaz de la Portilla.

25 SENATOR DIAZ DE LA PORTILLA: Thank you,

1 Mr. Chairman.

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

14 SENATOR GAETZ: Mr. Bardos.

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

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

1 further action.

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

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

7 THE CLERK: Senator Altman?

8 SENATOR ALTMAN: No.

9 THE CLERK: Senator Benacquisto?  
10 Senator Braynon?

11 SENATOR BRAYNON: Yes.

12 THE CLERK: Senator Bullard?  
13 Senator Dean?

14 SENATOR DEAN: Yes.

15 THE CLERK: Senator Detert?

16 SENATOR DETERT: Yes.

17 THE CLERK: Senator Diaz de la Portilla?

18 SENATOR DIAZ DE LA PORTILLA: No.

19 THE CLERK: Senator Evers?

20 SENATOR EVERS: No.

21 THE CLERK: Senator Flores?

22 SENATOR FLORES: Yes.

23 THE CLERK: Senator Garcia?

24 Senator Gardiner?

25 SENATOR GARDINER: Yes.

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

1 SENATOR SOBEL: Yes.

2 THE CLERK: Senator Storms?

3 SENATOR STORMS: No.

4 THE CLERK: Senator Thrasher?

5 SENATOR THRASHER: Yes.

6 THE CLERK: Senator Wise?

7 SENATOR WISE: Yes.

8 THE CLERK: Senator Margolis?

9 SENATOR MARGOLIS: Yes.

10 THE CLERK: Senator Gaetz?

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

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

20 (Brief recess taken.)

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

25 We welcome Secretary of the Senate and



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

6 Madam Secretary.

7 SECRETARY BROWN: Thank you, Mr. Chairman.

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

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

25 SENATOR RICH: Yes.

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

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

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

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

12           SENATOR THRASHER: Mr. Chairman?

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

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

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

19           THE CLERK: Senator Gaetz?

20           SENATOR GAETZ: Here.

21           THE CLERK: Senator Margolis?

22           SENATOR MARGOLIS: Here.

23           THE CLERK: Senator Altman?

24           SENATOR ALTMAN: Here.

25           THE CLERK: Senator Benacquisto?

1 SENATOR BENACQUISTO: Here.

2 THE CLERK: Senator Braynon?

3 SENATOR BRAYNON: Here.

4 THE CLERK: Senator Bullard?

5 Senator Dean?

6 SENATOR DEAN: Here.

7 THE CLERK: Senator Detert?

8 SENATOR DETERT: Here.

9 THE CLERK: Senator Diaz de la Portilla?

10 SENATOR DIAZ DE LA PORTILLA: Here.

11 THE CLERK: Senator Evers?

12 SENATOR EVERS: Here.

13 THE CLERK: Senator Flores?

14 SENATOR FLORES: Here.

15 THE CLERK: Senator Garcia?

16 Senator Gardiner?

17 SENATOR GARDINER: Here.

18 THE CLERK: Senator Gibson?

19 SENATOR GIBSON: Here.

20 THE CLERK: Senator Hays?

21 SENATOR HAYS: Here.

22 THE CLERK: Senator Joyner?

23 SENATOR JOYNER: Here.

24 THE CLERK: Senator Latvala?

25 SENATOR LATVALA: Here.

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

1 anyone has at this point?

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

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

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

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

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

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

20 SENATOR GAETZ: That is correct.

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

23 District 18 is green.

24 District 27 is white.

25 District 22 is green.

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

3           SENATOR GAETZ: What is the point?

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

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

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

23           Please continue, Madam Secretary.

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

1           SENATOR GAETZ: Excuse me, stop, stop.

2           Yes, Senator Storms.

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

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

12          Please continue.

13          SECRETARY BROWN: District 26 is white.

14          District 20 is green.

15          District 32 is green.

16          District 13 is green.

17          District 37 is green.

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

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

25          SENATOR GAETZ: We asked the Minority

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

6 Please continue.

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

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

12 Please continue.

13 SECRETARY BROWN: District 19 is white.

14 District 17 is green.

15 District 24 is green.

16 District 30 is white.

17 District 16 is white.

18 District 11 is white.

19 District 34 is white.

20 District 10 is white.

21 District 28 is green.

22 District 33 is green.

23 District 2 is white.

24 District 15 is white.

25 District 4 is green.



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

21                 SENATOR GAETZ: Thank you very much.

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

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

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

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

22                 SENATOR HAYS: Mr. Chairman?

23                 SENATOR GAETZ: Yes, sir.

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

1 two-year terms versus four-year terms?

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

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

10 SENATOR HAYS: We can't hear you.

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

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

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

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

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

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

24                    Are there any questions as to that?

25                    SENATOR THRASHER: Mr. Chairman, I assume

1           you then would rule the point out of order?

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

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

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

1 before we cast any votes tomorrow on the floor.

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

4 MR. GUTHRIE: Almost.

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

8 Yes. Senator Hays will now sing.

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

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

1 Leader Gardiner, Senator Montford moves we  
2 rise.  
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C E R T I F I C A T E

STATE OF FLORIDA )

COUNTY OF LEON )

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

That the foregoing pages 2 through 165 represent a true, correct, and complete transcript of the tape- recording;

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

Dated this 26th day of March, 2012.

\_\_\_\_\_

CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2014



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SENATE APPORTIONMENT SESSION  
THURSDAY, MARCH 22, 2012

Transcribed by:  
CLARA C. ROTRUCK  
Court Reporter

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

2 THE CLERK: All unauthorized persons will  
3 please leave the chamber. All Senators, please  
4 indicate your presence. A quorum is present,  
5 Mr. President.

6 PRESIDENT HARIDOPOLOS: The Senate is  
7 called to order. Senators and guests in the  
8 gallery will please rise for the opening prayer  
9 given this morning by Ray Cortese, pastor,  
10 Seven Rivers Presbyterian Church, Lecanto,  
11 sponsored by the Senator from the Third  
12 District, Senator Dean. Pastor Cortese is the  
13 father of Tony Cortese, the staff director in  
14 the Senate Majority Office. Welcome.

15 MR. CORTESE: Thank you. Thank you,  
16 Mr. President, Senators. I invite you to pray  
17 with me now.

18 Dear Father, the scriptures say that you  
19 oppose the proud and give grace to the humble.  
20 While we admit that humility is not our forte,  
21 we'd certainly need grace. We don't deserve  
22 your grace, but we need it, we need your favor.  
23 On this day, the Senate needs grace to deal  
24 wisely and equitably with redistricting. We  
25 need your grace to deal patiently with each

1 other. Senators need your grace to consider  
2 each other more important than themselves, and  
3 the Senators will need your grace to speak well  
4 of each other publicly and privately, so we ask  
5 for your grace, that you would give us your  
6 grace and abundance.

7 Lord, every day the Senators and their  
8 staff need your grace to love their spouses and  
9 their children and their grandchildren with the  
10 love and attention they so want to afford them,  
11 and Senators need your grace to deal with the  
12 vexing concerns of their constituents,  
13 particularly those without jobs and without  
14 homes and without hope.

15 And this morning, Lord, we pray for the  
16 people of Sanford, Florida, and we pray for the  
17 family of Trayvon Martin. They need your  
18 grace, justice and solace in this day.

19 So, Father, both the Senate and the  
20 citizens of our state desperately need your  
21 love and grace, and we ask for it in the name  
22 of the one who loves to give it, amen.

23 PRESIDENT HARIDOPOLOS: Amen. Thank you.  
24 Please rise, Senators, for the Pledge of  
25 Allegiance led by our Senator from the Seventh

1 District, Senator Lynn.

2 SENATOR LYNN: I pledge allegiance to the  
3 flag of the United States of America, and to  
4 the Republic for which it stands, one nation,  
5 under God, indivisible, with liberty and  
6 justice for all.

7 PRESIDENT HARIDOPOLOS: Senator Dean, did  
8 you want to -- you are recognized, and I think,  
9 Senators, if you would please give Senator Dean  
10 your attention. He has an unfortunate  
11 announcement he would like to make. Senator  
12 Dean, you are recognized.

13 SENATOR DEAN: Thank you, Mr. President.

14 Members, today it is with a heavy heart  
15 that I stand to tell you about a Sergeant Ruben  
16 Thomas of Columbia County, Lake City, Florida,  
17 who was killed in the line of duty as a  
18 correctional sergeant on Sunday, March 18th.  
19 He leaves behind an 18-month-old daughter and  
20 has an expectant, to be wife to have a son in  
21 August. I don't need to remind all of us about  
22 when we think about our law enforcement  
23 officers, we think about traffic stops, we  
24 think about the things that we encounter every  
25 day in our life, but the least of all do we

1 think about somebody being stabbed to death  
2 inside an institution on his duty, doing his  
3 job. I ask you to stand with me now and let's  
4 have a moment of silence for Sergeant Ruben  
5 Thomas.

6 (Brief pause.)

7 PRESIDENT HARIDOPOLOS: Thank you, Senator  
8 Dean.

9 We will now continue with the order of  
10 business. Are there reports of the committees?

11 THE CLERK: None on the desk,  
12 Mr. President.

13 PRESIDENT HARIDOPOLOS: Are there motions  
14 relating to committee reference?

15 THE CLERK: None on the desk,  
16 Mr. President.

17 PRESIDENT HARIDOPOLOS: Are there messages  
18 from the Governor and other executive  
19 communications?

20 THE CLERK: None on the desk,  
21 Mr. President.

22 PRESIDENT HARIDOPOLOS: Are there messages  
23 from the Florida House of Representatives?

24 THE CLERK: None on the desk,  
25 Mr. President.

1           PRESIDENT HARIDOPOLOS: Are there matters  
2 on reconsideration?

3           THE CLERK: None on the desk,  
4 Mr. President.

5           PRESIDENT HARIDOPOLOS: Take up the  
6 special order calendar. Read the bill.

7           THE CLERK: Committee substitute for  
8 Senate Joint Resolution 2-B, a joint resolution  
9 of apportionment.

10          PRESIDENT HARIDOPOLOS: Senator Gaetz,  
11 welcome back. You are -- you are recognized,  
12 and we will proceed at your pace today and take  
13 as long as we need to finish the good work of  
14 reapportionment. With that, Senator Gaetz, you  
15 are recognized for overall remarks. I know you  
16 are still waiting for the booklet, but you are  
17 recognized for general remarks.

18          SENATOR GAETZ: Thank you very much,  
19 Mr. President. We are waiting for some data  
20 that's been requested by some of our amendment  
21 sponsors and by me. It ought to be on the  
22 floor in just a few moments.

23                 So let me just begin by thanking those  
24 Senators who have been part of the  
25 Reapportionment Committee process for these

1 last few days as we have gone back at the  
2 challenge that the Supreme Court gave us to  
3 rectify ten problems, ten invalidities, that  
4 the Court pointed out, eight particular  
5 districts and then a problem in Lakeland which  
6 the Court said did not constitute an  
7 invalidity, but constituted a problem which  
8 while we were at it, we ought to try to fix,  
9 and I think we have, and then the issue of the  
10 numbering system. We have -- we have a report  
11 to give to you today that the Reapportionment  
12 Committee has developed over the last few days  
13 since we received the order from the Court.

14 Mr. President, I apologize for asking for  
15 a few moments now, but we are still waiting for  
16 data to come to the floor, and if you would  
17 allow us to be in informal recess for -- I  
18 would say 15 minutes until we can get  
19 everything to the floor, I apologize that our  
20 staff has been working literally around the  
21 clock, they have not slept, and so we are --  
22 you know, we are just about 15 minutes late,  
23 sir.

24 PRESIDENT HARIDOPOLOS: Okay. Senate is  
25 in recess for 15 minutes.

1 (Brief recess taken.)

2 PRESIDENT HARIDOPOLOS: Senator Gaetz.

3 SENATOR GAETZ: Mr. President --

4 PRESIDENT HARIDOPOLOS: If Senators would  
5 please take their seats as we begin the process  
6 this morning, and Senator Gaetz will be  
7 recognized to present the plan, and, of course,  
8 we will be open for questions.

9 Senator Gaetz, you are recognized.

10 SENATOR GAETZ: Thank you, Mr. President,  
11 and thank you for your indulgence.

12 As I said, our professional staff has been  
13 -- is small and has been working not just  
14 overtime, but overnight, and so we wanted to  
15 make sure we had the data on the floor that  
16 would be helpful to Senators as they deliberate  
17 on this important matter.

18 Mr. President, if we could first just  
19 remind ourselves as to what the Constitution  
20 says. I know we have all studied this many  
21 times, but the Constitution is clear that no  
22 apportionment plan or district should be drawn  
23 with the intent to favor or disfavor a  
24 political party or an incumbent, the districts  
25 should not be drawn with the intent or result



1 of denying or abridging equal equality of  
2 racial or language minorities to participate in  
3 the process or diminish their ability to elect  
4 representatives of their choice, and districts  
5 shall consist of contiguous territory. And  
6 then when you go on to the Tier 2 standards,  
7 that is where you get into the whole issue of  
8 equal population, of course, which is also a  
9 requirement in federal law, that districts  
10 should be compact and, where feasible, utilize  
11 existing political and geographic boundaries.

12 We believed when this Senate with an  
13 overwhelming bipartisan majority sent a  
14 redistricting proposal to our friends in the  
15 House and then on to the Supreme Court that we  
16 had complied with these and other redistricting  
17 standards. We had a thorough and complete  
18 debate on this floor, which was predated by an  
19 extensive and open and inclusive process across  
20 the state. The Supreme Court came back with an  
21 opinion which validated some of our work, but  
22 invalidated other parts of our work.

23 The good news is that the Supreme Court  
24 found no fault with the efforts of this Senate  
25 in ensuring that racial and language

1 minorities' rights are not abridged, and for  
2 that, I think we can be proud, and we ought to  
3 be. However, the Supreme Court's conclusions  
4 also required us to go back to work, and the  
5 Legislature's job is to adopt a joint  
6 resolution of apportionment, it is our job to  
7 do so, and the Court, in their opinion, if you  
8 read it, and I am sure all members did at least  
9 once, the Court indicated that it is not the  
10 Court's preference to draw these maps and to  
11 create this plan, but it is, rather, our  
12 obligation to do so.

13 The Supreme Court's conclusions, and now  
14 we're quoting from the opinion, are that  
15 Districts 1, 3, 6, 9, 10, 29, 30 and 34 are  
16 constitutionally invalid, and that the  
17 invalidity ought to be remedied by redrawing  
18 the districts and any affected districts in  
19 accordance with the standards defined by the  
20 Court.

21 Now, as we have discussed on this floor  
22 and as we have discussed in committee, Florida  
23 is not a geometric shape that allows you to  
24 make adjustments in eight districts and affect  
25 none others. There was never an intent or

1 belief that by simply tweaking the boundaries  
2 of eight districts, that all would be well.  
3 Instead, we knew that we would need to make  
4 fundamental changes to comply with the Court,  
5 and that those fundamental changes would affect  
6 other districts. And so, therefore, in the  
7 report which you have had before you, which is  
8 the proposed committee substitute, you will see  
9 that 24 districts are actually affected to a  
10 greater or lesser extent by our response to the  
11 Court.

12 If you will also recall, the Court asked  
13 us as to the City of Lakeland to determine  
14 whether it is feasible to utilize the municipal  
15 boundaries of Lakeland after applying the  
16 standards defined by the Court, and we have  
17 worked to do so, and I believe that the plan  
18 that is before you today is faithful to the  
19 Court's request, but while we were at it, but  
20 even though they didn't find the Lakeland part  
21 of our plan invalid, they asked us to take  
22 another look to see if we could do a better  
23 job. And I thank Senator Dockery for her  
24 assistance in that regard, and later today you  
25 will see an amendment on this topic as well.

1           And then, finally, the eight districts,  
2           the Lakeland issue, and then finally the Court  
3           said, and this was very important, that the  
4           Legislature should renumber the districts in an  
5           incumbent-neutral manner. Now, we thought that  
6           the numbering system that was included in the  
7           plan that passed this chamber was  
8           incumbent-neutral, but the Court found in its  
9           opinion that effect implies intent, and,  
10          therefore, if there is an effect which would  
11          suggest any kind of motive that could be  
12          imputed, whether it was a good motive or an  
13          impure motive, the effect has to be judged  
14          in -- or the intent has to be judged based on  
15          the effect. It is hard to do that in logic,  
16          but the Court has held us to that standard.  
17          And so, therefore, later in the process, as you  
18          have seen and as you are aware, your  
19          Reapportionment Committee, Mr. President, has  
20          recommended an incumbent-neutral, random system  
21          for numbering districts. We have gone as I  
22          think through a process of elimination to a  
23          place where we believe that there is no bias  
24          and where no political intent can be inferred,  
25          because there was certainly none implied and

1           there is no political result in the numbering  
2           system.

3           So if we may, Mr. President, what I would  
4           like to do is briefly, not extensively, not as  
5           extensively as we did the last time we were on  
6           this floor going through districts, we will go  
7           through the eight problems that the Court  
8           identified, the eight districts that were  
9           problematic, and also point out to you areas  
10          where there was an effect on contiguous  
11          districts.

12          Let's begin, if we can, in northwest  
13          Florida. And, Mr. Guthrie, would you come down  
14          and be with me here on the floor? John Guthrie  
15          is the greatest living expert on  
16          reapportionment, and he is not -- not just a  
17          help, but he is the brains of the outfit. So  
18          if you will look at -- if you will just sit  
19          there, please. If you will look at northwest  
20          Florida, that was the map that came off this  
21          floor. However, the Court found that the  
22          horizontal orientation of Panhandle districts  
23          violates compactness and utilization of  
24          political and geographic boundaries. The Court  
25          found that the drawing of the districts as they

1 are now, as they were in the plan that we  
2 submitted, sacrificed compactness, which is a  
3 constitutional imperative, to keep coastal  
4 communities together.

5 Now, I will tell you, living in that area,  
6 that there are all sorts of people who called  
7 me on the phone and said, you know, gosh, I --  
8 we should have invited members of the Supreme  
9 Court to come to northwest Florida, and they  
10 would have known what many people in our area  
11 know, and that is that there is -- as Senator  
12 Evers has pointed out many times, as we heard  
13 in our hearings, there are substantial  
14 differences between the rural areas that are by  
15 the Alabama border, and the coastal areas that  
16 border the Gulf of Mexico, that they are  
17 distinct geographic areas separated by bodies  
18 of water, by major rivers, by the Eglin  
19 Reservation, we should have invited one of our  
20 officials from northwest Florida said to me, we  
21 should have invited the Supreme Court to come  
22 and spend a weekend in the Panhandle, they  
23 would have understood this problem.

24 But the fact is that the Court found that  
25 county lines are more important and compactness

1 is more important than, first of all,  
2 communities of interest, which are not  
3 mentioned in the Constitution, and secondly,  
4 that county lines, the Court found, are a more  
5 valid determination of political boundaries and  
6 geographic boundaries than what one might find  
7 on the ground. Now, all of us know that  
8 political boundaries are imaginary lines drawn  
9 by politicians. They don't always follow where  
10 people live, how they work, where they worship  
11 and what kind of folks they are, but we are  
12 going to follow the dictates of the Supreme  
13 Court. We are going to conform our plan to  
14 their ruling as opposed to arguing with them.  
15 It is not our job to argue with them.

16 The Court found further that though the  
17 Senate followed numerous boundaries when  
18 drawing Districts 1 and 3, that they said,  
19 "Look, you used the Eglin Reservation in some  
20 places, you used major highways and rivers in  
21 other places, and you sacrificed compactness."  
22 And, therefore, what we have done is to  
23 propose, and your Reapportionment Committee,  
24 Mr. President, proposes to you that we use a  
25 different configuration for northwest Florida,

1 and you see it now before you. It is the  
2 configuration which largely follows the  
3 recommendations which the League of Women  
4 Voters and the coalition presented to the  
5 Supreme Court and which the Supreme Court  
6 referenced in saying here is how you ought to  
7 do it. And what has occurred here is that  
8 first the amendment renumbers these districts,  
9 then District 2 is in Escambia, Santa Rosa and  
10 the northern part of Okaloosa County, and  
11 District 1 is in southern Okaloosa, plus all of  
12 Walton, Holmes, Washington, Jackson and Bay  
13 Counties, but if you'll go back to the map,  
14 please, Jay, just point out to you that all of  
15 Escambia and Santa Rosa County are now in one  
16 Senate district, and northern Okaloosa  
17 County -- except you see a little bump up  
18 there. Let me tell you what the bump is. It  
19 is the City of Crestview, and this is what the  
20 League of Women Voters' plan recommended, that  
21 the City of Crestview be included for purposes  
22 of equalizing population in the district that  
23 includes south Okaloosa County. And so we  
24 largely followed, I think we improved upon to  
25 some extent, the recommendations from the



1 League of Women Voters and their plan, but we  
2 followed in general what they have recommended.

3 The east-west line that you see running  
4 through Okaloosa County is Highway 10, and the  
5 Supreme Court has indicated that major highways  
6 ought to be used and are recognized as major  
7 geographic boundaries. So, therefore, we  
8 believe that we have a configuration in  
9 northwest Florida which complies with the  
10 guidance that we have now been given by the  
11 Court.

12 The functional analysis for northwest  
13 Florida is not really applicable, because there  
14 is not a significant African-American or  
15 Hispanic population. So the functional  
16 political analysis that the Supreme Court  
17 recognized is not applicable, but the geometric  
18 compactness is an important issue to the Court.  
19 That is where they gipped us on the way that we  
20 drew northwest Florida. So if you'll look at  
21 the geographic compactness -- or geometric  
22 compactness analysis there, and I don't mean to  
23 take you deeply inside geometry, I think it was  
24 the worst grade I got in high school, I got a C  
25 in geometry, and that led me into the softer

1 sciences pretty fast, but there are -- there  
2 are three indices, three geometric indices that  
3 are used by the Court and also by the coalition  
4 to some extent in determining whether or not a  
5 district is compact. One is end-to-end  
6 distances, which are decreased in the proposed  
7 map from 148 miles to 102 miles. Secondly, the  
8 Reock score, which is basically a circle which  
9 would be compressed until it couldn't be  
10 compressed anymore, touching all the outward  
11 parts of the districts, the Reock score  
12 increases, and that is good, from 0.20 to 0.44,  
13 so that is a substantial increase in  
14 compactness. And then the convex hull ratio  
15 increases from .6 to .79. So, therefore, we  
16 believe that we have responded in a faithful  
17 manner to the Court's admonition as to  
18 compactness.

19 And so, consequently, when you look back  
20 at the result, the number of counties that are  
21 split by the two districts decreases from five  
22 to one, because we are not doing the horizontal  
23 line anymore, we are doing a vertical line with  
24 one split in Okaloosa County, and that conforms  
25 with what the Court has asked us to do. None

1 of the 45 municipalities in the western  
2 Panhandle is split, and the district borders  
3 follow political and geographic boundaries for  
4 99 percent of their length. So that is how we  
5 responded to the Court's direction as to  
6 northwest Florida.

7 Now if we could move to northeast Florida.  
8 There you will see that our proposed Senate  
9 District 6 was criticized by the Court and  
10 found to be invalid, and that affected District  
11 9. District 9, as the Court said, was not by  
12 itself invalid, but because its configuration  
13 was really driven by District 6, and District 6  
14 in the Court's view was invalid, we needed  
15 to -- we needed to address both of them.

16 So if you look at -- if you look at  
17 District 6 and 9 as we had proposed them, the  
18 Court said District 6 sacrificed compactness  
19 and utilizing boundaries when not necessary to  
20 do so to avoid conflict with minority voting  
21 protection provision. And I guess what the  
22 Court was saying here, and I am not a lawyer,  
23 but we certainly had excellent legal counsel in  
24 this matter, and our committee has discussed  
25 this at substantial length, the Court has asked

1           us to strike a balance to, first of all, ensure  
2           that minority voting rights are protected, but  
3           if we can do so while being more compact and  
4           thereby providing a functional analysis that  
5           demonstrates that minority voting rights have  
6           not been reduced, we ought to do so. And then  
7           the Court also said that a district based  
8           solely in Duval County would be much more  
9           compact, it certainly would, and likely afford  
10          black voters the ability to elect candidates of  
11          their choice. So that was the guidance we got  
12          from the Court there.

13                 And then, as I said, adjoining District 9,  
14          which while not being declared invalid, its  
15          reason for lack of compactness and failure to  
16          utilize political and geographic boundaries was  
17          its location next to District 6, so when we  
18          resolve the District 6 problem, we can resolve  
19          the compactness criticism that the Court had  
20          with respect to District 9.

21                 So if you'll look at the new map -- flip  
22          to the new map, please, Jay -- you will see  
23          that we have attempted to do that. We believe  
24          that we have a northeast Florida solution. You  
25          will notice that District 6 is contained

1 entirely in Duval County. You will notice that  
2 District 4 is a district which takes into  
3 account Nassau, which is all included in one  
4 district, as well as the rest of Duval County,  
5 and then District 9 on this map includes St.  
6 Johns, Flagler, Putnam and part of Volusia  
7 Counties. So it is substantially more compact  
8 and more functional, and let's look at the  
9 numbers that prove that.

10 The functional analysis -- and if you -- I  
11 know you have read the Supreme Court opinion.  
12 The Supreme Court is looking at a functional  
13 analysis as a way of really drilling down one  
14 more level past voting age population. When  
15 we've talked on the floor before, we've said,  
16 "Well, here's the African-American voting age  
17 population, here is the Hispanic voting age  
18 population, here is how we can assess the  
19 extent to which minorities have an opportunity  
20 to elect candidates of their choice." The  
21 Court has said drill down a little deeper and  
22 look at the likelihood, then, of those  
23 minorities going to the polls, being able to be  
24 effective in primaries and then having the  
25 primary victor, the primary election victor, be

1           successful in the general election. The  
2           functional analysis shows that in the new  
3           configuration of District 6, which, and we will  
4           get to the numbering system later, becomes  
5           District 9, African-American voters made up  
6           66.3 percent of the electorate in the 2010  
7           primary, and among blacks who are registered to  
8           vote, 90 percent of those in that district are  
9           Democrats, most voters are Democrats in the  
10          district, and most Democrats are black.  
11          Therefore, both a minority district and the  
12          adjacent coastal district could be more compact  
13          without diminishing opportunities for  
14          African-Americans to elect candidates of their  
15          own choosing.

16                 Now let's go to geometric compactness as  
17          to northeast Florida. The average end-to-end  
18          distance of those district -- of the district  
19          decreases from 97 to 55 miles. And then if you  
20          look at the geometric compactness, the other  
21          indices, you will see that the Reock score  
22          increases, which is good, from .014 to .045,  
23          and the convex hull ratio increases from .52 to  
24          .71.

25                 The random renumbering by the amendment

1           that is before us switches the numbers of these  
2           two districts. Six becomes 9, 9 becomes 6, we  
3           will get to that later, but we want you to  
4           understand visually and also as to the specific  
5           mathematical formulas how we've made a change.  
6           District 9 then is entirely in Duval County.  
7           District 6 is in the northern portion, as I  
8           said, of Volusia County, plus all of St. Johns,  
9           Putnam and Flagler Counties.

10                   So if you look at the other issues that  
11           are important to the Supreme Court as  
12           pertaining to northeast Florida, the number of  
13           counties that are kept in a single district  
14           increases from none under our previous plan to  
15           three. Substantial improvement. Among the 17  
16           separate municipalities in this part of the  
17           state, in northeast Florida, only the two  
18           largest, Jacksonville and Daytona Beach, are  
19           split by the district lines. The others are  
20           kept whole. And the district borders follow  
21           political and geographic boundaries for almost  
22           90 percent of their length. So that is how  
23           we've responded to the Court's admonition as to  
24           northeast Florida.

25                   Then if you will look at central Florida,

1 please. If you see the central Florida map,  
2 you notice that the central Florida map has two  
3 districts that are not shaped the way other  
4 districts are. That is District 12 and  
5 District 14 in the map that we sent to the  
6 Supreme Court. Remember that District 12 is a  
7 minority opportunity district, and District 14  
8 is the district which the Senate is committed  
9 to ensuring that Hispanics would have the  
10 opportunity to nominate and elect a candidate  
11 of their choice, that they would have a greater  
12 opportunity than they do now. And, of course,  
13 members of the Committee know well that we  
14 received extensive testimony from the Latino  
15 community asking for this, and the facts  
16 justified going forward with this district.  
17 However, the Supreme Court came back and said  
18 that District 10, which was affected by those  
19 two districts, District 10's geometry was  
20 driven by the two minority districts, and  
21 notwithstanding that fact, the Supreme Court  
22 came back and said, look, District 10 is --  
23 doesn't look visually compact as a result of  
24 what they called a bizarrely-shaped appendage  
25 in which 160,000 people live between Districts



1           12 and 14. So we had to address the problem of  
2           District 10 because we had two minority  
3           districts, but the Court has said you could  
4           have done a better job of addressing it and not  
5           have the problems with geometry that you had in  
6           District 10. The Court further said the  
7           dividing line between District 10 and the  
8           surrounding districts doesn't consistently  
9           follow any particular boundary, and, further,  
10          the Court found that District 10 violated  
11          constitutional mandates because it was visually  
12          non-compact, as we said, with an appendage  
13          which in the Court's view reached out to  
14          clearly encompass an incumbent. It also  
15          reached out to encompass 160,000 people.

16                 So if you will look at our proposed  
17          change, you will see that our change attempts  
18          to address these problems, again, within the  
19          context of the Tier 1 standards and within the  
20          context of our commitment to provide a Hispanic  
21          district in that area, or an opportunity for a  
22          Hispanic district. So District 10 borders a  
23          black opportunity district on the north and a  
24          Hispanic district on the south. Its borders  
25          are implicated by the fact that it does border

1           those two districts.  So if we apply the same  
2           method recommended by the Supreme Court for  
3           northeast Florida, for the Jacksonville  
4           district, a significantly more compact district  
5           can be drawn entirely in Orange County, and we  
6           believe that we have accomplished that.

7                     So now let's go to the numbers.  
8           Functional analysis shows that in the new  
9           configuration of District 12, black voters make  
10          up 66.3 percent of the electorate, that almost  
11          90 percent of those African-American voters are  
12          Democrats, that the Democratic candidates will  
13          win the elections.  That is the functional  
14          analysis that supports that district.

15                    For the Hispanic district on the south to  
16          which this Senate is committed, the functional  
17          analysis shows that in the new configuration of  
18          District 14, Hispanic voters made up 28.3  
19          percent of the electorate in the 2010  
20          Democratic primary, African-Americans add  
21          another almost 20 percent, and this is a level  
22          of participation which central Florida  
23          candidates preferred by Hispanic voters have  
24          had success.  So this provides an opportunity  
25          district where an opportunity district did not

1 exist before.

2 And then, shifting District 10, which is  
3 newly numbered as District 13, shifting it to  
4 the east of Orlando results in a district that  
5 gets only 12 percent of its population from the  
6 current Senate District 9. And so even though  
7 it is a substantial change in the configuration  
8 and geography of the district, we believe that  
9 it responds to the requirements of the Supreme  
10 Court for trying to improve the shape of  
11 central Florida districts.

12 So let's go to shape. In geometric  
13 compactness, end-to-end district of --  
14 end-to-end distance of District 12 decreases  
15 from 34 miles to 29, its Reock score increases  
16 substantially from .24 to .40, the convex hull  
17 ratio increases from .41 to .74, a substantial  
18 increase. And that is how we responded to the  
19 Court's criticism, the Court's invalidity of  
20 the central Florida district that I have just  
21 depicted for you.

22 And then if you will go to southwest  
23 Florida, please. You will see that in  
24 southwest Florida, we have a District 30, which  
25 this Senate proposed, which is a coastal

1 district, but which the Court found to be  
2 invalid. The Court's determination was that  
3 District 30 is visually non-compact, and that  
4 the mathematical measures of compactness --  
5 and, again, we will get to those measures and  
6 show you how the remedy addresses it -- support  
7 the conclusion that the district as we  
8 recommended it was not as compact as it could  
9 be. And then the Court also found that in  
10 addition to being non-compact, District 30  
11 splits the counties, municipalities and  
12 geographical features more than the Court would  
13 liked to have seen. So with the exception of  
14 the boundary it shares with District 40, the  
15 Court finds that District 30 does not need to  
16 be reconfigured to avoid diminishing minority  
17 voting strength.

18 And then -- well -- and we heard this from  
19 the Court in a couple of places. While the  
20 Legislature intended to tie coastal communities  
21 together, the Court found that this is not a  
22 valid constitutional justification for what  
23 they deem to be a departure from the two tier  
24 standards.

25 So, again, this is the way it looked in

1 the plan that we sent to the Court, and now if  
2 you will look at the new configuration, which  
3 your Reapportionment Committee, Mr. President,  
4 recommends to the full Senate, and with your  
5 sufferance to the Supreme Court, you will see  
6 that the changes provide a -- first there is a  
7 renumbering, and we will get to that in a  
8 minute, so District 30 becomes District 23 in  
9 the renumbering, but the border of the district  
10 now follows the Estero River, major roadways  
11 and the borders of Bonita Springs and Lehigh  
12 Acres to connect with Collier County  
13 territories immediately to the north. So we  
14 cure the criticism that the Court had with  
15 respect to the nature of the boundaries, but  
16 more importantly, in getting to the Court's  
17 issue of geometric compactness, the end-to-end  
18 district, the new District 23, formerly  
19 District 30, decreases from 95 miles to  
20 67 miles. The Reock score increases  
21 substantially again from .19 to .32, and the  
22 convex hull ratio increases from .56 to .67.  
23 So we make a substantial improvement in the  
24 compactness of that district, we make its  
25 borders and boundaries follow geographic and

1 political boundaries as the Court has asked,  
2 and that is the remedy that we propose for that  
3 district.

4 And now if you would turn your attention  
5 to southeast Florida, to Palm Beach County and  
6 Broward County, you will see that in Palm Beach  
7 and Broward, there is a -- there is District 34  
8 which we proposed to the Supreme Court, which  
9 runs from the Ft. Lauderdale area, actually  
10 almost the Dania Beach area almost, all the way  
11 to Riviera Beach in the north in Palm Beach  
12 County, and the Supreme Court said that we  
13 could do a better job of ensuring that we have  
14 a minority district, but at the same time  
15 having it doing a better job of compactness.

16 So the Court found that Districts 29 and  
17 34 were drawn to favor an incumbent and a  
18 political party by keeping 29 essentially the  
19 same as its predecessor district. They found  
20 that 29 leans Republican in an area of the  
21 state that is largely Democratic. And the  
22 Court found, as I noted, that the districts in  
23 this area might have been drawn to make the  
24 area as a whole more compact. If the  
25 Legislature, the Court said, had drawn logical,

1 compact districts in a neutral manner, the map  
2 would likely have reflected five Democratic  
3 districts.

4 And we certainly don't want to argue with  
5 the Court, but there is another variable in  
6 elections, and that variable is you, those who  
7 run and win for office. So we have people on  
8 this floor who are Republicans who have won in  
9 districts that have a higher Democratic  
10 registration than Republican registration, and  
11 my guess is that you don't have to look too far  
12 into the history of this body and perhaps into  
13 its future to find circumstances in which  
14 Democrats could win in districts that have more  
15 Republican voters. In fact, as we have pointed  
16 out before, that happened in the Presidential  
17 race in 2008 where President Obama won eight  
18 districts that were represented by Republican  
19 Senators.

20 But, notwithstanding that, again, our job  
21 is not to take issue with the Court, but rather  
22 to comply with the Court. So if you will look  
23 at the remedy that has been proposed, you will  
24 see that District 34 is now a district that is  
25 wholly within Broward County, and the other

1 districts are substantially more compact, and  
2 we attempt to cure what the Court saw as an  
3 attempt to lean one way or the other from a  
4 partisan standpoint.

5 So the functional analysis now shows that  
6 in the new configuration of District 34, which  
7 now is District 31, African-American voters  
8 make up 61.2 percent of the electorate in the  
9 most recent Democratic primary, and among  
10 African-Americans who were registered to vote,  
11 over 90 percent are Democrats, most voters in  
12 the district are Democrats and most Democrats  
13 are black. And, therefore, the functional  
14 analysis would suggest that we can make these  
15 changes without diminishing the opportunity for  
16 African-Americans to elect candidates of their  
17 choice.

18 The geometric compactness, let's look at  
19 those -- at those indices. The average  
20 end-to-end district of the five Palm Beach and  
21 north Broward districts now decreases from an  
22 average of 46 miles to 39 miles, so more  
23 compact visually just end to end. And then if  
24 you look at the geometric compactness scores,  
25 using the mathematical formulas that the



1 Supreme Court favors and uses and has held up,  
2 you will see that the Reock score increases,  
3 and that's again good, from 3.0 to 4.3, a  
4 significant increase, the convex hull ratio  
5 increases from .68 to .84. And then the random  
6 renumbering by the amendment that is before us  
7 switches the numbers of these two districts.  
8 As I said, 34 becomes 31 and 29 is absorbed  
9 primarily by 25, 27 and 34. But the important  
10 point is that District 31 is entirely within  
11 Broward County, and now in the plan that we  
12 would ask you to approve and we would hope to  
13 submit to the Court, only one district crosses  
14 the boundary between Broward and Palm Beach  
15 Counties, compared to three in the plan that  
16 you approved overwhelmingly on this floor. The  
17 number of counties kept in a single district  
18 increases from two to four, and among the 38  
19 municipalities in Palm Beach County, only three  
20 are split by districts.

21 Now if you will go to the City of  
22 Lakeland, and if you will remember in the  
23 previous map that was voted off this floor, the  
24 City of Lakeland was split, and there were  
25 concerns expressed about that split. And so,

1           therefore, since we have had a second bite at  
2           the apple, we wanted to go back and address  
3           those concerns in a positive fashion.

4           The Court found that the Senate failed to  
5           adhere to any consistent definition of  
6           political and geographic boundaries, especially  
7           in the case of District 24 where the Senate  
8           placed part of inland Lakeland with the coastal  
9           communities of Manatee County, and the Court  
10          asked us -- even though they didn't find this  
11          to be invalid, they asked us while we were at  
12          it, could we fix it.

13          So if you will turn to the -- if you will  
14          turn to the map that addresses the problem, you  
15          will see that now all of Lakeland is included  
16          in one Senate district, and you will see that  
17          Polk County is divided primarily in two, so  
18          that northern Polk is in District 16, southern  
19          Polk is in another district. You will see that  
20          the Hispanic opportunity district that we  
21          referenced before does come into Polk County  
22          into the Haines City area, and that is in order  
23          to provide the kind of minority opportunity  
24          that we described below, or we described  
25          before. But, in general, what you find is a

1 more -- in my view, a more logical map and a  
2 map that does not split Lakeland.

3 Now, as was pointed out in Committee, we  
4 have had some discussion on the floor, Plant  
5 City is included in this district with  
6 Lakeland. There will be an amendment later  
7 that will address this issue, and we can talk  
8 about that at that time.

9 So, in summary, Mr. President, if you look  
10 at the metrics, I think we have a plan, and  
11 your Reapportionment Committee believes  
12 overwhelmingly by a 21 to 6 vote that you have  
13 a plan which provides the metrics that are  
14 clearly in compliance with what the Supreme  
15 Court has ordered.

16 In the benchmark district -- by that we  
17 mean the districts we represent today -- 21  
18 whole counties are included in districts. In  
19 the map that was voted off this floor, 36. In  
20 the League of Women Voters' plan, which the  
21 Court held up in several instances as being an  
22 example of what we ought to try to get to, 45  
23 counties were maintained whole, and in our plan  
24 that is before you today, it is 43.

25 Whole cities, you will see that we make

1 significant improvements. In the benchmark  
2 plan, there are 284 whole cities; in what we  
3 voted off the floor, 356; the League of Women  
4 Voters said 369; the plan that we have comes  
5 very close to that with 364.

6 And then political and geographic borders,  
7 to what extent did districts follow those?  
8 Their benchmark plan where we -- those we  
9 represent today, about 74 percent of our  
10 borders of our district follow what the Court  
11 would describe as geographic and political  
12 boundaries. We voted off the floor a plan that  
13 provided almost 83 percent of district  
14 boundaries being geographic and political  
15 boundaries recognized by the Court, the League  
16 of Women Voters' plan, 81.4 percent, but the  
17 plan before you today, 83.4 percent. So it  
18 improves upon the work that we did before, as  
19 well as improving upon the recommendations of  
20 our friends from the League of Women Voters.

21 Then if you look at the average perimeter,  
22 which is an indication of compactness, you as  
23 well see significant improvement, going from  
24 286 to 249 -- these are miles -- down to  
25 244 miles as recommended by the League of Women

1           Voters, but the plan before you has average  
2           perimeter of 224 miles. By perimeter, we mean  
3           if you've got on your hiking boots and you walk  
4           all the way around our districts.

5           Average end to end, the districts that we  
6           have today on the average are 71 miles long.  
7           Some of us have districts that are shorter,  
8           smaller, because they are more urban. Some of  
9           us have districts, like Senator Montford and  
10          Senator Evers and I, that are substantially  
11          longer because they are less populated. But  
12          when you look together, they have about a  
13          71-mile average, end to end. In the resolution  
14          voted off this floor, 68 miles; the League of  
15          Women Voters, 64 miles; and we make the average  
16          end to end even shorten than the League of  
17          Women Voters does.

18          The convex hull metric, there is a  
19          significant improvement, as you can see,  
20          between the benchmark, what we voted off the  
21          floor, and the League of Women Voters, and what  
22          we recommend to you today provides a more  
23          compact set of districts than the League of  
24          Women Voters has recommended.

25          Same with the Reock score. Our Reock

1 score is better than what we have, better than  
2 what we recommended to the Court, better than  
3 the League of Women Voters has recommended,  
4 and, therefore, we believe that it provides us  
5 with a strong argument that we have done a  
6 better job in compactness.

7 And the Polsby-Popper metric, the same  
8 thing, that in every case the metrics show that  
9 we have made improvements in compactness,  
10 substantial improvements in compactness, and  
11 our districts are more compact even than our  
12 friends from the League of Women Voters have  
13 recommended.

14 Now, Mr. President, if we could go to the  
15 numbering issue. The Legislature, as we know,  
16 is prohibited from numbering districts with the  
17 intent to favor or disfavor. A system that  
18 significantly advantages incumbents by  
19 increasing the length of time that they may  
20 serve most assuredly favors incumbents. If you  
21 have a system that has as its purpose ensuring  
22 that incumbents would have longer terms and  
23 face fewer elections would favor incumbents,  
24 according to the Court. The Court further  
25 found that purposefully manipulating the

1 numbering of districts in order to allow  
2 incumbents to serve in excess of eight years  
3 would appear to frustrate the intent of the  
4 voters when term limit amendments were adopted,  
5 and we will get to that issue on an amendment  
6 in a few moments.

7 That is an explanation of where we are,  
8 how far we have come and the proposal that is  
9 before you today. Again, while we had ten  
10 issues that the Court asked us to address,  
11 eight specific districts, the Lakeland issue  
12 and the numbering issue, the result of  
13 addressing those problems was to affect to a  
14 greater or lesser extent the borders and  
15 configurations and makeups of 24 districts. So  
16 this was not an attempt to marginalize a  
17 response to the Supreme Court, but to in a full  
18 and faithful manner address the Supreme Court's  
19 opinion and to present to the Senate a plan  
20 which we believe is faithful to the  
21 Constitution and which can be defended before  
22 the Court. And that is my explanation,  
23 Mr. President.

24 SENATOR BENNETT: Questions? Senator  
25 Smith, you are recognized.

1           SENATOR SMITH: Thank you.

2           Senator Gaetz, when you were explaining  
3           Senate District -- the Jacksonville district,  
4           the access district in Jacksonville, and what  
5           you mentioned was that the City of Daytona  
6           Beach, by you making that district more  
7           compact, that the City of Daytona Beach was no  
8           longer split, and you had it on the screen. It  
9           is my understanding in looking at the committee  
10          map that the City of Daytona is still split  
11          between Senate Districts. Is that true?

12          SENATOR GAETZ: Mr. President?

13          SENATOR BENNETT: You are recognized.

14          SENATOR GAETZ: Thank you. I did not say  
15          that the City of Daytona Beach was not split.

16          SENATOR BENNETT: Senator Smith,  
17          additional questions?

18          Senator Oelrich, you are recognized.

19          SENATOR OELRICH: Thank you,  
20          Mr. President.

21          Senator Gaetz, you stated that it was not  
22          your position or position as the Chairman of  
23          the Redistricting Committee to take issue with  
24          the Supreme Court, so perhaps I will. I want  
25          to take some issue with the Courts as far as



1           what I see since I did not serve on the  
2           Redistricting Committee, and so some of this is  
3           new language to me, whatever you call the  
4           roly-poly or whatever that report. I wasn't  
5           sure what that meant. When you used in your  
6           early --

7           SENATOR GAETZ: Yes.

8           SENATOR OELRICH: When you used in your  
9           early slides "conclusions of the Supreme  
10          Court," was that your language or was that  
11          their language?

12          SENATOR BENNETT: Senator Gaetz.

13          SENATOR GAETZ: If it was -- thank you,  
14          Mr. President.

15          Senator Oelrich, if it was in quotes, it  
16          was the Supreme Court's language, sir, not  
17          mine.

18          SENATOR BENNETT: Senator Oelrich.

19          SENATOR OELRICH: Thank you,  
20          Mr. President.

21          So if it -- it was not in quotes, so that  
22          would be your language. I would submit to you  
23          that maybe the correct term might have been  
24          opinion of the Supreme Court.

25          And another question might be that

1 District 29 I saw on your list there,  
2 quote/unquote -- and I think this was in quotes  
3 -- "leans Republican in a Democratic part of  
4 the state." Now, under what authority would  
5 the Supreme Court -- was that anywhere in the  
6 amendments or in the Florida Constitution where  
7 they would say that -- find issue with your  
8 district -- redistricting if an election was  
9 held in perhaps a heavily Republican area and  
10 the voters chose to elect a Democrat, that is  
11 somehow improper, would you care to enlighten  
12 me on that?

13 SENATOR BENNETT: Senator Gaetz. Senator  
14 Gaetz.

15 SENATOR GAETZ: Thank you, Mr. President.

16 And, Senator Oelrich, you make a very good  
17 point, and it is true that southeast Florida  
18 largely, if you look at Republican and  
19 Democratic registration, southeast Florida in  
20 the main is an area of the state that has more  
21 Democrats registered than Republicans, and if  
22 you look at election results, you will see that  
23 Broward and Palm Beach Counties tend to vote  
24 Democratic in statewide elections and in  
25 national elections. The Court did say that

1 District 29 leans Republican in an area of the  
2 state that is largely Democratic, but I  
3 attempted to point out, and I think you are  
4 making an excellent point, I attempted to point  
5 out that there is an additional variable --  
6 there are two additional variables at least.  
7 One is the voters and what they decide to do  
8 when they go in the voting booth, and the other  
9 is the strength and message of an individual  
10 candidate. And so you find that President  
11 Obama was able to make ground in areas that  
12 elected Republican Senators, and you find that  
13 there can be Republican State Senators who can  
14 make ground in areas that -- including  
15 yourself, Sheriff, in areas that are largely  
16 Democratic. In fact, if I recall correctly, I  
17 believe in the district that you currently  
18 serve, Democrats are the plurality and then  
19 Independents are not affiliated voters and then  
20 Republicans. Notwithstanding that, you have  
21 won elections there as a constitutional officer  
22 at the county level, and, of course, you have  
23 won election to the Senate representing that  
24 area.

25 So I would agree with you as a -- as a

1 citizen that my rights to vote for a Democrat,  
2 a Republican or a Whig are mine, and I exercise  
3 those rights in the privacy of the voting  
4 booth, and then there is the variable of the  
5 candidate. The Supreme Court was, I think,  
6 making an empirical conclusion that there are  
7 more Democrats there, but that doesn't  
8 necessarily mean that Democrats have to vote  
9 for Democrats. It only means that,  
10 historically, Democrats tend to vote for  
11 Democrats. But you, sir, are a huge exception  
12 to that rule, and there are others on this  
13 floor.

14 SENATOR BENNETT: Senator Oelrich.

15 SENATOR OELRICH: Thank you.

16 In another area, and I am not exactly sure  
17 what page we were on, but you said that -- and  
18 I believe this -- I am not sure whether this  
19 was on quotes, voter turnout, the Court  
20 mentioned something about they took into  
21 consideration voter turnout in a particular  
22 area, and I would wonder under the -- whether  
23 the Supreme Court, under what document or  
24 doctrine or statute that they would take a  
25 determination to pick -- draw out the districts

1 of the state of Florida, where would voter  
2 turnout enter into that picture, or do you have  
3 an answer for that?

4 SENATOR BENNETT: Senator Gaetz.

5 SENATOR GAETZ: Well, I can't speak for  
6 the Court, Senator, and I am not a lawyer, but  
7 I can tell you that a layman's reading of the  
8 opinion and a more learned reading by more  
9 learned members of this body shows that the  
10 Court is interested in determining whether or  
11 not we are protecting the rights of minorities  
12 to elect candidates of their choice, that we  
13 look beyond merely whether there are more  
14 African-Americans or more Hispanics or more  
15 Democrats or more Republicans in an area, and  
16 look at whether or not these people actually  
17 show up at the polls so that you can determine  
18 functionally, practically, whether or not you  
19 have a district that truly performs. And that  
20 is what the Supreme Court meant by a functional  
21 analysis, and, therefore, the Supreme Court has  
22 asked that turnout be considered, because it  
23 determines, obviously, whether or not in a  
24 district that on paper may look  
25 African-American or Hispanic or Democrat or

1 Republican, that it truly is. And, again, I  
2 can't defend the Court or speak for the Court  
3 or criticize the Court in this regard, but that  
4 is my layman's reading of the Court's opinion.

5 SENATOR BENNETT: Senator Oelrich.

6 SENATOR OELRICH: Another area that I  
7 believe was the language of the Court, quote,  
8 says, "clearly reaches out to include an  
9 incumbent." Did they give you any indication  
10 what investigation they did where it clearly  
11 reached out where your Committee went with some  
12 sort of intent to include an incumbent, clearly  
13 include an incumbent? Would you care to  
14 respond to that?

15 SENATOR BENNETT: Senator Gaetz.

16 SENATOR GAETZ: Thank you, Mr. President.  
17 Thank you, Senator Oelrich.

18 It was -- it was the intent of the  
19 Committee and it was our operational method  
20 that we did not go looking for the addresses of  
21 either incumbents or challengers, because when  
22 we drew the lines for the plan that was voted  
23 off this floor, we wanted to be neutral as to  
24 incumbents and challengers or potential  
25 challengers. We wanted to draw our lines in a

1 way that we thought was constitutionally valid  
2 and made sense according to sound redistricting  
3 principles. But the Supreme Court was provided  
4 by other parties with the addresses of  
5 incumbents and perhaps challengers, and so the  
6 Court then inferred that because an incumbent  
7 lived in this area that had 160,000 voters  
8 which was sandwiched between two minority  
9 areas, that it was an appendage that favored or  
10 reached out to include the residents of an  
11 incumbent. We have cured that in this plan  
12 that is before you now, but I would just say  
13 this: The positioning of those 160,000 -- or  
14 the positioning of that part of the district  
15 was based upon the two minority districts that  
16 were found on either side of a series of  
17 neighborhoods that had 160,000 people, but I  
18 give you my word, Senator, that there was no  
19 intent on the part of the Reapportionment  
20 Committee or our professional staff to either  
21 include or exclude any incumbent or any  
22 challenger, but the Court found that the  
23 result, in their minds, provided an appendage  
24 that included an incumbent, and so we have  
25 cured that in the plan that is before you now.

1           SENATOR BENNETT:   Senator Oelrich.

2           SENATOR OELRICH:   So if I get it straight,  
3           that you did not, nor any of the members of  
4           your Committee, nor did staff get out a  
5           directory of the -- of where a particular  
6           incumbent lived and let's say -- and made sure  
7           that an incumbent was in that, but clearly, by  
8           that kind of reasoning, clearly the Court must  
9           have done that, because they must know where  
10          this particular incumbent lives, and they --  
11          therefore, they must have said, well, ha, ha,  
12          we have -- and I am -- this is my language, we  
13          have caught them putting an incumbent into a --  
14          into a district that would favor him.   Would  
15          that be --

16          SENATOR BENNETT:   Senator Gaetz.

17          SENATOR GAETZ:    I can't tell you what was  
18          in the Court's mind, but I can tell you this,  
19          that in all of the conversations, and there  
20          have been many, between Democratic members of  
21          this body and myself and professional staff and  
22          Republican members of this body, not one  
23          Democrat and not one Republican has said, "Here  
24          is where I live, make sure I am in -- on this  
25          side or that side of a particular line."   No



1 Democrat has asked for that, no Republican has  
2 asked for it, and the Reapportionment Committee  
3 and its professional staff have been careful to  
4 be incumbent-neutral. But the Court found  
5 that, in its opinion, the result of configuring  
6 a district that included that 160,000 people  
7 included where an incumbent lived. And so  
8 instead of arguing with the Court, we have  
9 acknowledged that, in their minds, effect  
10 proved intent, although we had no intent, but  
11 we have cured that with the plan that is before  
12 you now. And so there is not an attempt to  
13 place one incumbent or one challenger in that  
14 appendage or in any other part of the plan that  
15 is before you.

16 SENATOR BENNETT: Senator Oelrich.

17 SENATOR OELRICH: And I assure you,  
18 Mr. President, I am trying to get to the end of  
19 this.

20 One of the things that you referred to  
21 many, many times, and was even up on your  
22 chart, referred to what the plans of the League  
23 of Women Voters. Now, what authority or why  
24 would we or -- I don't know if the Courts took  
25 that into consideration or whatever. What

1 authority -- to my knowledge, the League of  
2 Women Voters is a completely non-governmental  
3 group of people that join up to -- that they  
4 are interested in politics and voting. What  
5 authority -- or why would you put that on a  
6 chart about what the League authority -- or the  
7 League of Women Voters wanted in theirs, under  
8 the question, who cares?

9 SENATOR BENNETT: Senator Gaetz.

10 SENATOR GAETZ: Well -- thank you,  
11 Mr. President. Thank you, Senator Oelrich.

12 The Supreme Court cared, and I think many  
13 of us on this floor believe that the League of  
14 Women Voters -- I believe the League of Women  
15 Voters is a responsible, respectable  
16 organization. They have taken a significant  
17 leadership role in the passage of Fair  
18 Districts. They took a significant leadership  
19 role in developing advice and input to this  
20 Senate and to this Legislature. And the only  
21 reason that they are referenced in the  
22 presentation that we make is because the  
23 Supreme Court referenced them. The Supreme  
24 Court said, in effect, in several places in  
25 their opinion, if you want to know what to do,

1 look at this configuration, which is presented  
2 by the -- what is called the coalition, but  
3 includes the League of Women Voters as a  
4 dominant player, look at this configuration as  
5 an example of what you ought to do. And so  
6 what we tried to do is be respectful of the  
7 Supreme Court's use of the League's maps as a  
8 point of reference, and to simply show that we  
9 have been respectful of that reference, and  
10 that in many cases, including in my own part of  
11 the state, we have largely done what the Court  
12 said the League of Women Voters recommended  
13 that should be done, and that in the Court's  
14 opinion represented a better way to address  
15 compactness than the way that was voted off  
16 this floor.

17 So I am not suggesting, Senator Oelrich,  
18 that the League of Women Voters has any  
19 governmental authority. I am simply saying  
20 that the Supreme Court referenced them from  
21 time to time in their opinion by saying, you  
22 know, if you want to know what we mean when we  
23 say you could do this differently in a  
24 particular area, look here at what the League  
25 of Women Voters has recommended, and that is

1 purpose of the reference.

2 SENATOR OELRICH: In conclusion.

3 SENATOR BENNETT: Senator Oelrich in  
4 conclusion.

5 SENATOR OELRICH: Thank you,  
6 Mr. President.

7 I think that it would be one Senator's  
8 opinion that the Supreme Court has traded your  
9 proposal, which I think that you were duly  
10 authorized and bound to present, and has put --  
11 or ordered you to replace it with one that they  
12 put in their own prejudices, their own bias and  
13 their own political agenda in there, and forced  
14 you into a situation where they are having us,  
15 meaning as a body, to gerrymander on their  
16 behalf. I find the findings based on this and  
17 study, the arrogance of the Florida Supreme  
18 Court to be astounding, and that is just one  
19 Senator's opinion.

20 SENATOR BENNETT: Senator Gaetz.

21 SENATOR GAETZ: Thank you, Mr. President,  
22 and I respect the opinion of Senator Oelrich  
23 and every member of this body, but, Jay, if you  
24 could take us back to the slide that came  
25 directly after the reference to the Florida

1           Constitution.  There is a long slide about what  
2           the constitutional standards are.  Can you take  
3           us back to that, Jay, please?  The next slide.

4                       This is in the Constitution, and this  
5           constitutional standard respects the balance of  
6           power among the three branches of government as  
7           crafted by our founders.  The Legislature's  
8           constitutional duty is to -- and this is a  
9           quote not from the Supreme Court, not from Don  
10          Gaetz, not from any member of the Senate,  
11          Democrat or Republican, but from the  
12          Constitution which we are sworn to uphold --  
13          that we must adopt a joint resolution of  
14          apportionment which conforms to the judgment of  
15          the Supreme Court.

16                      So while there may be members of this body  
17          who would have criticisms one way or the other  
18          about what the Supreme Court's judgment might  
19          be in a particular case, they are the Supreme  
20          Court, and we do swear an oath to preserve,  
21          protect and defend the Constitution of the  
22          State of Florida, and this is in the  
23          Constitution.  So our job now -- we may have  
24          personal opinions, and that is fine, we may  
25          have political opinions that we can take to the

1 stump, but we are now in a solemn -- we are  
2 bound by the solemn duty to conform our  
3 reapportionment plan to the judgment of the  
4 Supreme Court, and I believe that our plan does  
5 that.

6 Thank you, Mr. President.

7 SENATOR BENNETT: Senator Braynon.

8 SENATOR BRAYNON: Thank you,  
9 Mr. President.

10 Senator Gaetz, in District 14, which is  
11 the new -- in I guess the new map, which is the  
12 central Florida district, you talked a little  
13 bit about the functional analysis that was  
14 performed on that and showed its performance.  
15 How does that perform again? I maybe missed it  
16 or I didn't exactly hear exactly how it  
17 performed according to the functional analysis  
18 as it related to minority voters.

19 SENATOR GAETZ: I apologize --  
20 Mr. President?

21 SENATOR BENNETT: Senator.

22 SENATOR GAETZ: I apologize if I didn't  
23 make that as clear as I could have or should  
24 have. There was a slide, and if -- Jay, if you  
25 wouldn't mind, please, putting up that slide.

1           It is the central Florida metrics three out of  
2           five slide. And that is what I attempted to  
3           refer to in my explanation, that the functional  
4           analysis shows it in the new configuration of  
5           District 14, Hispanic voters make up 28.3  
6           percent of the electorate in that primary,  
7           blacks add another 19.7. These are people that  
8           actually showed up at the polls and voted. And  
9           so this is a level of participation which would  
10          allow central Florida to have an opportunity  
11          district that doesn't exist now.

12                    SENATOR BENNETT: Senator Braynon.

13                    SENATOR BRAYNON: Thank you,  
14           Mr. President.

15                    I want to switch to another topic that we  
16           only touched on a little bit. I know that  
17           there are several counties in Florida, I guess  
18           five, that are protected under the Voting  
19           Rights Act. And the Court opinion made  
20           reference to them a few times, but kind of  
21           didn't touch them at all, didn't want to say  
22           anything. Why do they do that? Is there going  
23           to be a federal challenge or something that --  
24           or that will relate to those?

25                    SENATOR BENNETT: Senator Gaetz.

1           SENATOR GAETZ: Thank you very much,  
2           Mr. President, and thank you for that question.  
3           That helps us explain sort of the other part of  
4           the approval process.

5           Any redistricting plan that would affect  
6           those counties has to be pre-cleared by either  
7           the Federal Justice Department or a three-judge  
8           federal panel. And so, of course, as you  
9           pointed out, we did not want to upset the  
10          Section 5 counties in any way that would cause  
11          a problem with pre-clearance, but the clear  
12          answer to your question is we also have to get  
13          federal pre-clearance of any plan that affects  
14          those Section 5 counties.

15          SENATOR BENNETT: Senator Braynon.

16          SENATOR BRAYNON: The -- also it mentions  
17          a little bit about retrogression, and when it  
18          deals with those Section 5 counties, there is a  
19          history with Section -- with the Voting Rights  
20          Act, and I was just wondering if anywhere in  
21          the history do they talk about some sort --  
22          some semblance of what the definition of  
23          retrogression is when it comes to those?

24          SENATOR BENNETT: Senator Gaetz.

25          SENATOR GAETZ: Thank you, Mr. President.



1           The approach we have taken is that we  
2 shouldn't lose ground. However, the Supreme  
3 Court has come back and offered us a  
4 permutation on you shouldn't lose ground, and  
5 they have said you shouldn't lose ground, but  
6 you should also keep in mind the necessity for  
7 compactness. And so if through a functional  
8 analysis you can show that minorities will  
9 still have the opportunity to elect candidates  
10 of their choice, if you can make the district  
11 more compact, you ought to try to do that.

12           SENATOR BENNETT: Senator Braynon.

13           SENATOR BRAYNON: Thank you.

14           Is that only in the Section 5 counties, or  
15 is that in any minority or minority access  
16 seats?

17           SENATOR BENNETT: Senator Gaetz.

18           SENATOR GAETZ: Thank you, Mr. President.

19           My reading of the -- again, I am a layman.  
20 My reading of the Supreme Court opinion is that  
21 the Supreme Court believes that we ought to try  
22 to balance those values wherever we make -- we  
23 make changes to the plan as those changes were  
24 articulated as being necessary by the Court,  
25 bearing in mind again that there is a Tier 1

1 standard and there is a Tier 2 standard.

2 SENATOR BENNETT: Senator Braynon.

3 SENATOR BRAYNON: Thank you, last  
4 question, and also I want to compliment you on  
5 your suit.

6 SENATOR GAETZ: Senator Alexander has left  
7 the floor, but he actually called me and told  
8 me that the Braynon/Alexander sartorial for the  
9 day was one I should aspire to.

10 SENATOR BRAYNON: Thank you, and last  
11 question.

12 You -- and I have asked this before, and  
13 you have somewhat -- you have mentioned it and  
14 you started talking about it a little bit, but  
15 I know in the opinion they asked us to go back  
16 over all of the minority seats and do a  
17 functional analysis. We did that, is that  
18 correct?

19 SENATOR BENNETT: Senator Gaetz.

20 SENATOR GAETZ: Thank you, Mr. President.

21 Yes, sir.

22 SENATOR BENNETT: Additional questions?

23 Before we get into that, members, I would  
24 like to welcome the members of the Tabernacle  
25 Christian Church from Sarasota, Florida.

1 Please give them a Senate welcome. Welcome to  
2 the Florida Senate. And since I represent  
3 Sarasota, it's got to be a good group of  
4 people.

5 Okay. Let's get it back on track.  
6 Additional questions? Additional questions? A  
7 comment? Comment, go ahead.

8 A VOICE: Mr. President, I think -- I just  
9 want it noted that I think Senator Gaetz and  
10 his committee failed miserably when they did  
11 not make that part of Monroe County that is  
12 about five miles or three miles or two miles,  
13 depending on where you are, and 150 miles long,  
14 that you did not make that a compact area.

15 SENATOR BENNETT: Senator Gaetz.

16 SENATOR GAETZ: The President *pro tem*  
17 using his fleet of boots is going to be working  
18 on that after he retires from the Senate, yes.

19 SENATOR BENNETT: Senator Thrasher.

20 SENATOR THRASHER: Thank you,  
21 Mr. President.

22 Senator Gaetz, I wanted to not get exactly  
23 into what Senator Oelrich said, because I am an  
24 officer of the Court and I might get disbarred  
25 if I said some of the things you said, so I

1 don't want to go that far, but a lot of what  
2 you said I don't disagree with. But I want to  
3 get back to -- just to about what the object of  
4 today is. We have gone through a year and a  
5 half of stuff, of meetings and talking and all  
6 that, a bunch of committee meetings, a lot of  
7 public input. So here we are today responding,  
8 as you said, to the Constitution and what the  
9 Supreme Court said we had to do. We went  
10 through two days of extensive committee  
11 hearings, talked a lot about the eight  
12 districts that were referenced in the Supreme  
13 Court, the Lakeland issue and, of course, the  
14 numbering issue, the ten -- the big ten as you  
15 described it. So they basically, as I read the  
16 opinion, said those were the areas we really  
17 had to concentrate on and make sure that we got  
18 right as we send this map back to them for  
19 further review.

20 So as we do that and as we get into today  
21 after questions, there are a number of  
22 amendments, timely filed, and we will hear them  
23 and I am all for listening to them. But as you  
24 went through the metrics of the eight districts  
25 that we dealt with, I hope today that as we get

1           into the amendatory process -- because I  
2           believe what we passed in the Committee is an  
3           appropriate response to what the Supreme Court  
4           says. So, to me, there ought to be a fairly  
5           significant burden on the proposers of  
6           amendments today to suggest that what they are  
7           suggesting, at least in respect to the eight  
8           districts, is better than what the Committee  
9           had, using the same metrics that you've  
10          described. Would you agree with that?

11                 SENATOR BENNETT: Senator Gaetz.

12                 SENATOR GAETZ: Thank you, Mr. President.

13                 Well, I have a -- I have an interest in  
14           the good work of the Committee. I believe that  
15           President Margolis and the Democrats on the  
16           Committee joined the Republicans on the  
17           Committee in a good faith effort to respond  
18           faithfully to the order of the Court, to the  
19           opinion of the Court.

20                 I also believe that every member of this  
21           Senate has a right to improve upon the work of  
22           any committee. Our work is not divinely  
23           inspired. Our work was done by human beings  
24           using the best analyses that we could. But I  
25           do agree with you, Senator Thrasher, that

1 amendments that come now do have a burden of  
2 proof, there needs to be a clear determination  
3 by the Senate that it is better to do what the  
4 amender proposes to do than what this Committee  
5 recommends. We have had a substantial majority  
6 of the Senate, thanks to the President, serves  
7 on this Committee. So we have had -- we've had  
8 not one opinion, but we've had many opinions  
9 melded together to form the recommendations  
10 that are before you. So I would agree that  
11 they're -- a heavy burden of proof lies on  
12 anybody who comes forward with an amendment,  
13 but at the same time, it is the right of any  
14 member of the Senate to attempt to improve upon  
15 the work of any committee or any Senator.

16 SENATOR BENNETT: Senator Thrasher.

17 SENATOR THRASHER: And I agree with that  
18 100 percent. All I am suggesting is that when  
19 we get into that process, that we have the  
20 same, I hope, opportunity to review the metrics  
21 as to whether or not we complied further with  
22 what the Supreme Court said we should do, or  
23 whether or not we are digressing from whether  
24 the Supreme Court said we'd do. I think that,  
25 to me, would be material in terms of evaluating

1 the benefit of any particular amendment,  
2 whether it actually improves on those metrics,  
3 gets closer to what the Supreme Court suggested  
4 or gets further away from it.

5 SENATOR BENNETT: Senator Gaetz.

6 SENATOR GAETZ: Thank you, Mr. President.

7 I would agree, Senator Thrasher. There is  
8 -- there is a practical issue that I would  
9 point out, and that is that we do have a small  
10 staff, and we do have a staff that has been  
11 working virtually around the clock, and our  
12 staff has tried without fear or favor to  
13 provide the same service to every Senator who  
14 has come forward with an amendment or a  
15 suggestion. We have had a number of Senators  
16 who have come forward with potential amendments  
17 and have wanted them worked through to  
18 determine whether or not the amendment would  
19 be -- would be suitable or would be an  
20 improvement on the plan. And so it may be the  
21 case, because of the fact that we do have a  
22 small staff that has been working very hard,  
23 that some Senators may be -- may have more  
24 information available to them than others, but  
25 certainly the Supreme Court is going to look at

1           whatever we do with these maps, and they are  
2           going to apply the standards that we have  
3           described. They are going to apply the  
4           functional analysis standards, they are going  
5           to apply the compactness standards and they are  
6           going to apply the standards of Tier 1 and Tier  
7           2 as they have articulated them. So I think  
8           that any amender has to be in an position to  
9           show how they are making an improvement.

10                   SENATOR BENNETT: Senator Latvala.

11                   SENATOR LATVALA: Thank you,  
12           Mr. President.

13                   As Senator Gaetz knows, you know, the  
14           amendment that I filed, for instance, was  
15           timely filed. I actually started working in  
16           the office yesterday with staff down there  
17           right after lunch. We filed -- we pushed the  
18           button to file the amendment around four  
19           o'clock, and this morning when I went looking  
20           for the reports which would be comparable to  
21           the reports, the Reock and the perimeter and  
22           that kind of thing on my amendment, it's still  
23           not available. Then it was my understanding  
24           that that is why we were late getting started,  
25           so they would be doing my statistics this



1 morning, but come to be advised that they still  
2 don't have my statistics done, you know.

3 So, therefore, I have a problem if Senator  
4 Thrasher or any of the other members are going  
5 to want data to justify that amendment, which  
6 is based on changes made in the Chairman's  
7 amendment, not from the original plan, but  
8 changes from the Chairman's amendment itself,  
9 that if we are going to want that data as a  
10 justification for making the change, then staff  
11 needs to produce that data in some fashion or  
12 the other. And it is not as an individual, so  
13 I don't know whether the other Senators that  
14 are proposing amendments have their reports,  
15 but I don't, and it is not my fault.

16 SENATOR BENNETT: Senator Gaetz.

17 SENATOR GAETZ: Thank you, Mr. President.

18 Senator Latvala makes a valid point that  
19 the staff is continuing to work on trying to  
20 provide an analytical -- try to provide  
21 analytical support for all Senators who have  
22 offered amendments. That is why the President  
23 and the Rules Chair have scheduled two days for  
24 our consideration of this matter, so that if  
25 there is information that is germane and that a

1 particular Senator wants to have produced, that  
2 within the realm of human possibility our team  
3 has worked all night last night, and until they  
4 drop they will work all night tonight, and that  
5 is also why Senator Latvala's amendment at my  
6 request is later in the day, so that we have  
7 the opportunity to produce as much data to help  
8 him support his amendment as possible. But I  
9 certainly will be happy to be here tomorrow to  
10 make sure that we have all the data necessary  
11 for any Senator to support her or his  
12 amendment.

13 SENATOR BENNETT: Additional questions?  
14 Senator Braynon.

15 SENATOR BRAYNON: Thank you,  
16 Mr. President, I just have one more question.

17 My last question was did we do a  
18 functional analysis of the minority districts?  
19 I know that there were some districts that we  
20 ended up drawing that -- and specifically  
21 District 29, the new District 29. Did we do a  
22 functional analysis on districts that we  
23 thought may perform like a minority district,  
24 and if we did, which ones were those, or did we  
25 do them on every district?

1           SENATOR GAETZ: Mr. President?

2           SENATOR BENNETT: Senator Gaetz.

3           SENATOR GAETZ: Thank you very much,  
4 Mr. President.

5           Senator Braynon, there is a functional  
6 analysis of District 29, and any part of that  
7 functional analysis that you wish to discuss,  
8 we can certainly -- I am sure that we can  
9 discuss it here in detail on the floor.

10          SENATOR BENNETT: Additional questions?

11          Before we go to the amendment process, I  
12 would like to recognize the students from  
13 William R. Boone High School in Orange County.  
14 They are honor level students who are  
15 interested in a career in law enforcement, and  
16 they are members of the Orlando Police  
17 Explorers, and for the past approximately six  
18 years, this group has taken a trip to  
19 Tallahassee to -- so the students could see the  
20 operation of the state level system firsthand.  
21 Welcome to the Florida Senate.

22          Senator Gardiner.

23          SENATOR GARDINER: Thank you,  
24 Mr. President, I will be very brief. I just  
25 want to add to that, I am a proud graduate of

1 Boone High School, class of 1987, and my  
2 legislative office is actually located just  
3 around the corner, and welcome to Tallahassee  
4 and go Braves.

5 SENATOR BENNETT: Welcome to the Florida  
6 Senate. And you all will do quite well in  
7 spite of your good Senator.

8 Okay. Let's go to the amendment process.  
9 Amendments on the desk?

10 THE CLERK: On the desk, Mr. President.

11 SENATOR BENNETT: Take them and read the  
12 first amendment.

13 THE CLERK: Bar code 472686, Senator  
14 Gaetz, lines 13 through 5927, into an  
15 amendment.

16 SENATOR BENNETT: Senator Gaetz.

17 SENATOR GAETZ: Thank you very much,  
18 Mr. President.

19 This amendment arises out of the good work  
20 of Senator Rich and Senator Gardiner as our  
21 Democratic and Republican Leaders. They  
22 oversaw a process yesterday where a random  
23 selection was done to assign Senatorial  
24 districts, and the Senatorial districts that  
25 are included in the amendment -- are included

1 in the amendment, and that is what is before  
2 you, a randomly -- a random selection of even  
3 and odd in order to determine numbers.

4 One of the concerns of the Supreme Court  
5 was that they inferred intent from the result  
6 that was in our numbering system before, and  
7 while I can assure you that there was no  
8 partisan intent or incumbent-favoring intent in  
9 what we submitted to the Court, notwithstanding  
10 that fact, the Court believed that we could do  
11 better, and so we went through, Mr. President,  
12 a large number of scenarios, not just in the  
13 last two days, but throughout the work of this  
14 Committee, a large number of scenarios for  
15 numbering districts and determining odd and  
16 even numbers. And it turned out that in every  
17 one of the cases that we looked at, we  
18 believed, or based upon the Court's opinion, it  
19 was obvious that intent could be inferred from  
20 the result. And so, consequently, it was the  
21 overwhelming determination of the  
22 Reapportionment Committee by a 21 to 6 vote  
23 that we ought to use a random process.

24 We did that yesterday, Mr. President, in a  
25 way that was oversight -- the Secretary of the

1 Senate oversaw it. She brought her employees  
2 to the Reapportionment Committee, and in front  
3 of the press and the public, the Secretary of  
4 the Senate, with direction from the Majority  
5 and Minority Leaders, through a random process,  
6 pulled numbers, and those numbers and odd/even  
7 assignments were made, and that is what is in  
8 the amendment.

9 SENATOR BENNETT: Questions on the  
10 amendment? Questions on the amendment?

11 Seeing no questions, all in favor of the  
12 amendment, say aye.

13 (Chorus of ayes.)

14 SENATOR BENNETT: Opposed, like sign.

15 A VOICE: No.

16 SENATOR BENNETT: Show the amendment  
17 adopted.

18 Take up and read the next amendment.

19 THE CLERK: Bar code 569836 by Senator  
20 Storms, lines 13 through 5918, into an  
21 amendment.

22 SENATOR BENNETT: Senator Storms, you are  
23 recognized.

24 SENATOR STORMS: Thank you, Mr. President.

25 So, members, the Supreme Court objected to

1 the numbering system on a variety of -- on a --  
2 for a variety of reasons, but the primary  
3 reason is because we -- the Supreme Court  
4 determined that we had sought to favor  
5 incumbents. So what the Supreme Court wants us  
6 to do is to number the system in such a way so  
7 as not to provide any benefit at all to  
8 incumbents.

9 Now, you all know that I had very  
10 significant objections to the process  
11 yesterday, to choosing a lottery. We initially  
12 thought we were going -- staff told us that  
13 they inquired of the Lottery if we could host  
14 it there, and I have very serious objections to  
15 that. I am not going to spend my time today  
16 talking about the objections to that process,  
17 except to tell you that this amendment does  
18 exactly what the Supreme Court asked. This  
19 provides zero benefit for any incumbent.  
20 Senators -- the Senator from -- I can't see  
21 you, Senator Sobel, let's see, you are -- the  
22 Senator from the 31st District suggested that  
23 we should all just give all the incumbents the  
24 two years and we will be done with it. Or was  
25 it Senator -- the Senator from the Seventh

1 District? So we should not provide any benefit  
2 to ourselves. Well, here's what I have done.  
3 You all can have this. I worked with staff  
4 yesterday afternoon. Here is my personal  
5 signed amendment that I worked on. It has all  
6 of your numbers, and based on this number,  
7 nobody, no incumbent, gets four years. None of  
8 the incumbents get four years. Every person  
9 who has -- who is a ten-year person, like I am  
10 a ten-year person, gets two years. Every  
11 single one of us gets two years. That it is an  
12 improvement from the lottery method, which is  
13 what the Supreme Court wants from us. The  
14 Supreme Court does not want us to do anything.  
15 There can be assigned no personal benefit, no  
16 intent to benefit the incumbents if none of us  
17 receive anything of value, and we didn't  
18 receive anything of value under this amendment.

19 Under my amendment -- and I will just read  
20 them, because all I did with this amendment is  
21 I took the Chair's amendment and I assigned  
22 all -- the only thing that I asked staff to do  
23 was to change the numbers. So everything else  
24 in the amendment is exactly the same, or should  
25 be. Naturally, I didn't do it myself, I asked



1 staff to do it, so I am trusting that staff did  
2 it exactly the same except changing the  
3 numbers.

4 This is what everybody gets: Chair Gaetz  
5 gets District 4. That gives him a two-year  
6 term -- a four-year term. Chair -- Senator  
7 Evers gets District 2, Senator Montford gets  
8 District 6, Senator Oelrich gets District 8,  
9 Senator Thrasher gets District 10, Senator Hays  
10 gets District 12, Senator Simmons gets District  
11 14, Senator Norman gets District 16, Senator  
12 Latvala gets District 18, Senator Arthenia gets  
13 District 20, Senator Storms gets District 22,  
14 Senator Benacquisto gets District 24, Senator  
15 Negron gets District 26, Senator Sachs gets  
16 District 28, Senator Bogdanoff gets District  
17 30, Senator Ring gets District 32, Senator  
18 Garcia gets District 34, Senator Margolis gets  
19 36, Senator Diaz de la Portilla gets 38,  
20 Senator Anitere Flores gets District 40. Evens  
21 get two years. I misspoke at the beginning.  
22 So that is two years, all of those incumbents  
23 only get two years, which is exactly what the  
24 Florida Supreme Court asked us to do. They  
25 asked us to come up with a plan that reduces

1 the benefit to incumbents, and that is what  
2 this plan does.

3 To continue, Senator Dean gets District 1,  
4 Senator Wise gets District 3, Senator Gibson  
5 gets District 5, Senator Lynn gets District 7,  
6 Senator Gardiner gets District 9, Senator  
7 Siplin gets District 11, Senator Haridopolos  
8 gets District 13, Senator Dockery gets District  
9 15, Senator Altman gets District 17, Senator  
10 Fasano gets District 19, Senator Jones gets  
11 District 21, Senator Bennett gets District 23,  
12 Senator Alexander gets District 25, Senator  
13 Detert gets District 27, Senator Richter gets  
14 District 29, Senator Rich gets 31, Senator  
15 Smith gets 33, Senator Sobel gets 35, Senator  
16 Braynon gets 37 and Senator Bullard gets 39.

17 Now, it is true that none of you all --  
18 those aren't your districts. But rather than  
19 reading -- the only reason why I used your name  
20 is because it is the closest approximation, so  
21 rather than reading the legal description of  
22 every single one of them, if you came in and  
23 you have -- and you are newly elected, you came  
24 in in 2010, you could still get a four-year  
25 term, but if you are like me who came in in

1           2006, none of us who came in in 2006 get a  
2           four-year term, not a one of us who came in in  
3           2006 get a four-year term. So I didn't draft  
4           it to help myself. I said all of the old  
5           folks, I am one of the old folks, none of us  
6           get four years.

7           The next thing is the people who would  
8           come, who would be here and would -- anybody  
9           would be entitled to a ten-year term. The sole  
10          difference is with Senator Dean, because, for  
11          example, with Senator Dean, the Senator from  
12          the Third District, if you came in at an odd  
13          term, you only got one year, there isn't any  
14          way for you to come up with just eight years,  
15          we are not kicking you out. You may get one  
16          extra year, but we can't do anything about  
17          people who got elected because somebody passed  
18          away or resigned.

19          I think this is -- addresses Senator  
20          Margolis' concern from the District -- from  
21          District 35, the Senator from the 35th  
22          District, and I think this addresses the  
23          Supreme Court's concerns, most importantly.  
24          And so I ask for your support, and I have the  
25          analysis. This tells you what your old

1 district is, what the current district, when  
2 you ran, and I have all of the analysis. Thank  
3 you, Mr. President.

4 PRESIDENT HARIDOPOLOS: Thank you. Let's  
5 go to Senator Bogdanoff, followed by Senator  
6 Latvala, Jones and Oelrich, all for questions.  
7 So let's start with Senator Bogdanoff for a  
8 question, and then we will go to Senator  
9 Latvala next.

10 Senator Bogdanoff for a question.

11 SENATOR BOGDANOFF: Thank you,  
12 Mr. President.

13 Senator Storms, I guess I am trying to  
14 figure this out. Based on the constitutional  
15 provision that says that we should not consider  
16 incumbency as a part of redrawing the maps, you  
17 have just indicated that any of us would  
18 receive a benefit under the old -- under the  
19 old scheme. I guess my question is, none of us  
20 have a guarantee of reelection. So, therefore,  
21 based on that alone and based on the fact that  
22 we have drawn new districts that are supposed  
23 to be blind when we drew them, how do we  
24 justify actually going and creating a numbering  
25 system that assumes that the incumbents will be

1 reelected and that we need to limit incumbents  
2 to certain terms?

3 PRESIDENT HARIDOPOLOS: Senator Storms,  
4 you are recognized to respond.

5 SENATOR STORMS: Thank you, Mr. President.

6 So the question is, is the numbering  
7 system, as opposed to Fair Districts, as you  
8 know, dealt with the actual drawing, putting  
9 the pencil to the paper, and those of us who  
10 found the Supreme Court -- who were surprised  
11 by the Supreme Court dealing with the numbering  
12 system, and I think the minority opinion dealt  
13 with that very well, we are surprised to see  
14 renumbering to be included in that, because  
15 renumbering in the eyes of the minority  
16 opinion -- and I count myself and it sounds  
17 like you probably are in the minority camp  
18 also -- think that the numbering system was not  
19 part of District 5 and 6. The Court didn't try  
20 to say that it is -- that it was -- that it was  
21 part of redrawing the lines. District -- fair  
22 Amendments 5 and 6 dealt with solely drawing  
23 the lines, that we should not draw the lines.  
24 It didn't deal with numbering. It dealt with  
25 drawing the lines. A separate constitutional

1 provision is the eight is enough segment of the  
2 Constitution, and on that basis, the Supreme  
3 Court said you have drawn these numbers in a  
4 way that benefits incumbents. And so what the  
5 Supreme Court asked us to do is renumber it in  
6 such a way as to not benefit the incumbents,  
7 and that was the sole basis for the lack of --  
8 for the finding that it was unconstitutional.  
9 That is the sole basis is that it appears that  
10 we were trying to skirt the eight is enough  
11 constitutional provisions in the eyes of the  
12 Florida Supreme Court. That is not a Fair  
13 District provision. That doesn't have anything  
14 to do with Amendments 5 and 6. That can be  
15 distinguished from the Court's analysis in 5  
16 and 6, because it goes to the constitutional  
17 provisions of the eight is enough segment of  
18 the Constitution. And so that is what we --  
19 that is what the Supreme Court ordered us to  
20 do, to come up with a system that numbers the  
21 districts in such a way as to only produce  
22 eight years in accordance with the  
23 Constitution, and that is what this does. This  
24 is completely compliant with the Constitution.  
25 None of us get more than eight years.

1           PRESIDENT HARIDOPoulos:  Senator Bogdanoff,  
2           you are recognized for a question.

3           SENATOR BOGDANOFF:  Thank you.

4           I want to try to follow the logic.  
5           Regardless, I guess, of the inconsistencies  
6           that are in the Court opinion, and regardless  
7           of the inconsistencies of what we believe the  
8           Court intended, the Court specifically has  
9           injected Amendments 5 and 6 into the numbering  
10          system, and that -- it would be my opinion, I  
11          guess I need to understand more to be able to  
12          support an amendment like this, is that based  
13          even on your testimony in terms of opening up  
14          the amendment and explaining it, you have  
15          specifically considered incumbency, which  
16          indicates to me is a direct violation of what  
17          the Supreme Court said.  Even though you and I  
18          might disagree with them, even though there  
19          are -- the entire opinion is riddled with  
20          inconsistencies, it is what the Court said.  
21          And going with Senator Gaetz' desire to just  
22          simply abide by the Court's ruling, it would  
23          seem to me that your amendment actually  
24          specifically violates what they asked us not to  
25          do, regardless of whether or not -- because you

1 are not supposed to, you know, benefit or not  
2 benefit an incumbent, benefit or not benefit a  
3 particular party, but the way you have  
4 described it, it specifically does. So if you  
5 can let me know, regardless of your  
6 interpretation, how that works with the Supreme  
7 Court's opinion.

8 PRESIDENT HARIDOPoulos: Senator Storms to  
9 respond.

10 SENATOR STORMS: Thank you, Mr. President.

11 The Supreme Court did not order us not to  
12 consider incumbents. The Supreme Court, in  
13 fact, specifically ordered us to renumber the  
14 plan in such a way to comply with the eight is  
15 enough. And so the -- the finding that -- or  
16 the opinion of apparently the Senator from the  
17 25th District that we should comply with 5 and  
18 6, that flies in the face of what the Supreme  
19 Court ordered us to do specifically. They  
20 specifically ordered us to redraw the line in a  
21 way that complies with the eight is enough  
22 amendment.

23 This provides exactly the eight is enough  
24 amendment, compliance with that. That is what  
25 the Court ordered us to do, and that is what



1           this amendment does. They did not tell us not  
2           to consider incumbents. They said comply with  
3           the eight is enough, and that is what I did.

4           PRESIDENT HARIDOPOLOS: Senator Latvala  
5           for a question.

6           SENATOR LATVALA: Mr. President.

7           The Senator from the Tenth is a lawyer and  
8           a smart lawyer, and I am just a plain old  
9           simple printer, but when I read this, Senator  
10          Storms, when I read Article III, Section 21 of  
11          the Constitution, it says, "In establishing  
12          legislative district boundaries, no  
13          apportionment plan or district shall be drawn  
14          with the intent to favor or disfavor a  
15          political party or an incumbent." Now, that is  
16          the basis in my simple mind that the Court gave  
17          us the decision that they did with regarding  
18          our numbering plan.

19          And I also had problems with doing it by a  
20          lottery, but I have a question about your  
21          amendment too, because it would seem like what  
22          you are doing with your amendment is basically  
23          disfavoring every incumbent. And instead of  
24          letting it be by chance or by some sort of  
25          sequence, which was the way I would have

1 preferred to do it, just start one end of the  
2 state and go to the other like we've always  
3 done it up until ten years ago, does not your  
4 amendment actually disfavor someone, eliminate  
5 them from the possibility of getting a ten-year  
6 term just because they happen to be an  
7 incumbent?

8 PRESIDENT HARIDOPOLOS: Senator Storms.

9 SENATOR STORMS: Thank you, Mr. President.

10 No. No, not under this analysis, because  
11 what the Supreme Court did -- and I am turning  
12 to page -- I am in page 136 of the opinion, and  
13 the Supreme Court says -- what the Supreme  
14 Court did was it used Amendments 5 and 6 as the  
15 vehicle to deal with the numbering system. It  
16 did not apply the favor/disfavor incumbents  
17 necessarily in its drafting in its order to us.  
18 It didn't order us to go back and redraw the  
19 numbers in such a way so as not to disfavor or  
20 favor. What it did was use 5 and 6 as a  
21 vehicle.

22 So on page 136, it says, "While the  
23 introductory clause of Article III, Section 21,  
24 states the provision applies in establishing  
25 legislative districts, subsection a then states

1           that no apportionment plan or district shall be  
2           drawn with the intent to favor or disfavor an  
3           incumbent," and the Court underlined the word  
4           "plan" there on page 136.

5           The Court goes on to say, "The numbers of  
6           the Senate districts are unquestionably part of  
7           the apportionment plan." That is the car that  
8           they drove in on. They said, okay, we have  
9           standing to deal with this, because in 5 and 6,  
10          numbering is part of the plan, and that is how  
11          we can get here.

12          And then they went on to use the analysis  
13          to say that the numbering system significantly  
14          advantages incumbents by increasing the length  
15          of time that may serve to two more years. So  
16          that is -- they are continuing to talk about  
17          the vehicle, using 5 and 6. But then they go  
18          on to talk about the term limit provisions of  
19          Article IV, Section 4B, and now I am on page  
20          138 of the opinion: "The interaction" -- and  
21          this is where the Court bifurcates the issues.  
22          They used the 5 and 6 as a vehicle, in my  
23          opinion, and now they bifurcate the issues to  
24          get to the other provision that they have to  
25          apply constitutionally to the numbering system,

1 and that is found in the last paragraph on page  
2 138: "The interaction between the term limit  
3 provisions of Article IV, Section 4B, and the  
4 staggering of Senate terms under Article III,  
5 Section 15A, determines the overall length of  
6 time a Senator will be eligible to serve.  
7 Under these provisions, most Senators who were  
8 first elected in general election years as  
9 scheduled by Article III, Section 15A, will be  
10 eligible to serve for a maximum of eight  
11 consecutive years. An exception applies to  
12 Senators who are first elected to two-year  
13 terms in the election following the  
14 reapportionment. These Senators, if  
15 subsequently reelected, will have served only  
16 six years at the conclusion of their second  
17 term." And at this point, the Court then  
18 begins to discuss the eight is enough, and that  
19 is what they found as unconstitutional.

20 PRESIDENT HARIDOPOLOS: Senator Latvala,  
21 you are recognized for a question.

22 SENATOR LATVALA: Thank you, Senator.

23 I would -- I would say that you really --  
24 and you are the last Senator in this place that  
25 I'd like to have this conversation with, you

1 know, because I have the utmost respect for  
2 your principles and your integrity, but you  
3 didn't really answer my question about how what  
4 you are doing here doesn't specifically  
5 disfavor incumbents by singling out the  
6 incumbents, as opposed to a random method that  
7 would treat everyone the same way. When I read  
8 the Constitution that says you can't favor or  
9 you can't disfavor, that would mean, to me,  
10 that everybody needs to be treated the same  
11 way. And what I see in your amendment is  
12 specifically not treating someone a certain way  
13 just because they are an incumbent, and that is  
14 the first question.

15 The second question is, you know, maybe  
16 you could enlighten us as to how you think this  
17 is a better plan of getting at what the Supreme  
18 Court told us to do than some sort of a random  
19 selection where everyone takes their chances,  
20 you know, on an eight or a ten-year type  
21 situation.

22 PRESIDENT HARIDOPOLOS: Senator Storms.

23 SENATOR STORMS: Thank you, Mr. President.

24 So we have a two-part question. The first  
25 question is whether it disfavors the incumbent.

1           And you could argue that it does favor -- it  
2           does disfavor the incumbents, and then that  
3           would be a violation of 5 and 6. I don't think  
4           the Supreme Court -- in my opinion, this is a  
5           balancing test from the Supreme Court. The  
6           Supreme Court doesn't say that of the two that  
7           they -- in their balancing test, like this, on  
8           one side they put Amendment 5 and 6,  
9           favor/disfavor the incumbents and favor or  
10          disfavor a political party. In their balancing  
11          test, on this side they put the eight is enough  
12          amendment -- the clause to the Constitution.  
13          In my opinion, the Supreme Court is saying they  
14          put on the elements of favor incumbents, but in  
15          my opinion, the Supreme Court weighs more  
16          heavily the provision of eight is enough, and  
17          they say even if it disfavors an incumbent,  
18          which takes priority in my -- in the balancing  
19          test, because they can't both balance, what  
20          would take priority in that balancing test?  
21          The Supreme Court, in my opinion, says what  
22          takes priority is the eight is enough. So even  
23          if it disfavors incumbents, what takes priority  
24          is eight is enough, because that is in the  
25          Constitution.

1           When you have competing elements to a  
2           Constitution that -- such as this where you  
3           would have an incumbent -- something that  
4           disfavors incumbents, what you set up is what  
5           is known as a balancing test. And so you put  
6           those elements beside each other and you say,  
7           which does the Court weigh more heavily? That  
8           is what the Court weighs more heavily.

9           Now, the second part of the question, you  
10          asked me why isn't a random system better. A  
11          random system would be better if at the outcome  
12          you could measure the results, and after all,  
13          that is what the Supreme Court objected to was  
14          the results. So when you put side by side the  
15          two amendments on numbering system and you say  
16          what are the results, which one of these  
17          elements more closely resemble what the Supreme  
18          Court tried to get us to do, based on the  
19          results, on that balancing test of the two  
20          amendments or the Chair's amendment and my  
21          amendment, which one most closely resembles  
22          what the Supreme Court tried to do? In my  
23          opinion, that is my amendment, because it is  
24          more faithful to the eight is enough provisions  
25          of the Constitution.

1           But, in addition, you asked why I -- why  
2           else I don't like, and I do like a random  
3           system. I thought there were some excellent  
4           random systems that were suggested, one by the  
5           Senator from the 22nd District. I would take  
6           all kinds of random systems. I did deeply  
7           object to the lottery system that we used. I  
8           was -- I was -- I was deeply offended on a  
9           variety of levels, including the whole image of  
10          having the Attorney General somehow come here  
11          and play some sort of ball hostess. That was  
12          very offensive to me. That -- set that aside.  
13          The lottery was deeply offensive to me, and I  
14          think to a lot of other people.

15                 I came and I raised a point, and the  
16          points were on the -- the Florida Statute  
17          849.08 where I thought that it was gambling,  
18          also eight point -- 849.09, where it  
19          specifically prohibits lotteries, any  
20          lotteries, and makes it a misdemeanor for us  
21          to -- for people to be having the accoutrements  
22          of a lottery. So, on those points, I think we  
23          can arrive at the conclusion that the Supreme  
24          Court wanted us to arrive at without -- without  
25          reducing the dignity and stature of this body,



1           which I really felt like -- I personally felt  
2           that that is what it did yesterday. And so I  
3           thought how can I draft something that I can  
4           support so that I can vote for the plan in the  
5           end without having the elements that are so  
6           deeply offensive to me.

7                     And so you asked me the question, so the  
8           answer to that question is on those points, I  
9           was personally offended. And so because of  
10          that, I felt like I had to -- and I appreciated  
11          what the Chair said. The Chair said so put up  
12          or shut up. Not really, he didn't say that,  
13          but he said -- but he said, you know, draft  
14          something, draft something. And I had hoped  
15          through the process that -- you know, that just  
16          kind of talking through it in committee and  
17          raising the objections -- and it seemed like we  
18          were making some headway there because the way  
19          I saw the amendments moving were that we were  
20          making some headway, we would have some other  
21          choices, but I wasn't prepared for 30 minutes  
22          later yesterday to see the thing happen. I was  
23          not prepared for that. I did not think that  
24          yesterday we would be, you know, twirling balls  
25          30 minutes later. So I was completely caught

1 off guard yesterday when that happened. You  
2 asked me the question, so I am answering that  
3 question, and that is what -- that is what  
4 happened. That is why I came up with this  
5 situation, and I feel like I have to do it  
6 because I -- I really feel like I was given no  
7 other alternative but to do this thing. Thank  
8 you.

9 PRESIDENT HARIDOPOLOS: Further questions?  
10 Senator Jones, did you want to ask a question,  
11 followed by Senator Oelrich.

12 Senator Jones, you are recognized for a  
13 question.

14 REPRESENTATIVE JONES: Thank you, Mr.  
15 President.

16 Well, half of my question has been  
17 answered, and the other half raised another  
18 question, but I wasn't here when you were  
19 discussing the lottery, but as Chairman of the  
20 Regulated Industries Committee, I don't know  
21 what the question or the problem would have  
22 been. To Senator Storms' question on gaming,  
23 gambling, clearly there is a precedent set in  
24 the state, gambling is a game of chance in  
25 which the participant risks money or property

1 on a outcome with expectation of gaining or  
2 losing as a result of the game, and that has  
3 been accepted by the standard jury  
4 instructions, and there are several criminal  
5 cases mention that, and then Black's Law  
6 Directory says, "gambling, the act of risking  
7 something of value, especially money for a  
8 chance to win a prize." So I don't think -- I  
9 wasn't here for that, but that shouldn't have  
10 probably even have been a question that came  
11 up.

12 I think the problem I have with this  
13 numbering system -- well, it was an observation  
14 to the previous discussion. I thought somehow  
15 that got off on a tangent with Senator  
16 Latvala's question, we got off into this area,  
17 so I tried to bring that back in for a landing.  
18 Now, what my question would have been is I was  
19 under the opinion, and I didn't serve on  
20 reapportionment this time, but I was under the  
21 opinion that really we should go into this  
22 drawing these lines by being blind. And I am  
23 concerned about, with this amendment, we are  
24 actually going the other direction. We are  
25 purposely trying to see who sits where and

1           where they live and if they should or shouldn't  
2           run. And, you know, it really -- and this is  
3           my question: Isn't it up to the voters, isn't  
4           it up to the voters when it comes to election  
5           time whether this particular new seat is going  
6           to be held by a Senator that is going to be  
7           there for two years, four years, six years,  
8           eight years, or possibly in some very  
9           extenuating circumstances, ten years? But  
10          these seats belong to the public, and they can  
11          become campaign issues in the future if there  
12          is a problem with somebody maybe going to be in  
13          that seat for ten years. The voters can know  
14          that, it can be a campaign seat. But if  
15          someone draws a two-year seat, they might be a  
16          lousy, lousy incumbent, they might only be in  
17          that seat two years and the voters turn them  
18          out the next time, so they would only be in  
19          that seat for two years.

20                 So really we look at this numbering, you  
21                 know, eight sounds -- eight is enough, but  
22                 there are circumstances where some members  
23                 could serve only two, some four, some six, some  
24                 eight, and, yes, a few ten. So I really think  
25                 by identifying -- going out of our way to

1 identify who sits where and when, that really  
2 we are just going outside of the spirit of what  
3 the Court wanted us to do to these districts.

4 PRESIDENT HARIDOPOLOS: Senator Storms.

5 SENATOR STORMS: Thank you, Mr. President.

6 So I didn't hear a question mark at the  
7 end, but because we are in questions, I am  
8 going to put a question mark at the end. The  
9 question was whether or not -- whether or not  
10 there is anything of value given and being  
11 exchanged. And under Florida Statute 849.08,  
12 you can make a case that it would not be  
13 gambling. I say that because we are -- the  
14 statute specifically says whoever plays or  
15 engages in any game, cards, keno, roulette, I  
16 think -- I don't know, you know better than I  
17 do, because I know you don't gamble, but you  
18 are in charge of it for the states -- for the  
19 Senate and as Chair of the Committee, so I  
20 guess that is roulette where you do the balls  
21 around is the roulette, and so it says at any  
22 place by any device -- or it says or --  
23 actually, or other game of chance, at any place  
24 by any device, whatever, for money or other  
25 thing of value. Or other thing of value, in my

1 opinion, what we laid on the table yesterday  
2 was two things, either two years or four years,  
3 that was the game, or the salary, the extra two  
4 years of the salary that you get. Then under  
5 849.09, lottery prohibited, it is unlawful for  
6 any person in this state to set up, promote or  
7 conduct any lottery for money or anything of  
8 value.

9 I am just answering the question, I am not  
10 trying to belabor it. I recognized, you know,  
11 yesterday I came running over from my office,  
12 and so I was out of breath when I presented it,  
13 and I lost. I mean, it was a big yawner to the  
14 Chair, you know. I mean, he didn't -- I didn't  
15 prevail on that, I understand that. I am not  
16 arguing my point today. I am just telling you  
17 the foundation as to why I believe and still  
18 believe today that that was inappropriate.

19 But as to the other point to your question  
20 on the numbering system, I don't think that  
21 we're entitled to object to eight is enough  
22 anymore, because it is the law, it is in the  
23 Constitution and we have to follow it. And so  
24 we are not supposed to be -- according to the  
25 Supreme Court, we are not supposed to be doing

1 anything that draws additional districts for  
2 anybody else to benefit, and so that is all I  
3 am trying to address. I am not trying to have  
4 the debate on eight is enough anymore. It is  
5 done, it is in the Constitution, and so I have  
6 drawn this, I have renumbered this district to  
7 do exactly what the Supreme Court said, and  
8 here it is, and you are welcome to it if you  
9 want it.

10 PRESIDENT HARIDOPoulos: It is -- at 12:00  
11 noon today we are going to take a lunch break  
12 for roughly an hour and a half so that some of  
13 the information that we want to gather and all  
14 the amendments will be available for the Senate  
15 to peruse before they make a vote on amendment,  
16 let alone the final bill. And so we will be  
17 taking a lunch break from 12:00 to 1:30 to make  
18 sure that all the information that has been  
19 requested can be provided by the staff and they  
20 have the sufficient time to not only handle and  
21 help the questions on the floor, but more  
22 importantly, to help make sure all the  
23 information is available to each of the  
24 amendments that will be considered today.

25 Also during the lunch hour, last Sunday

1 was Senator Sachs' birthday, her 29th, and  
2 there is a cake for her back there, so you can  
3 sing her happy birthday as well there.

4 So with that, I believe -- are there more  
5 questions before we go? Senator Oelrich, you  
6 are recognized for a question.

7 SENATOR OELRICH: Thank you,  
8 Mr. President.

9 I just wanted to -- having not served on  
10 the Committee and being kind of an outsider  
11 looking in, Senator Storms, is the Supreme  
12 Court saying there is something magical about  
13 the number -- certainly they can't be saying  
14 there is something magical about the numbers.  
15 In other words, whenever I think of District  
16 28, Joe Negron just comes to my mind, and so it  
17 just, 28, Joe Negron, you know, and that would  
18 be the incumbent thing about the numbering  
19 system. Or is the Supreme Court saying this  
20 numbering system comes with the incumbency, and  
21 we've got to shake all that up? Is that your  
22 take on the -- on the question when they say  
23 that a numbering system cannot favor or  
24 disfavor an incumbent?

25 PRESIDENT HARIDOPOLOS: Senator Storms.



1           SENATOR STORMS: Thank you, Mr. President.

2           So what the Supreme Court said on page 140  
3           and down to 141 is that on December 20th --  
4           December 30th, 2011, however, the Committee of  
5           Reapportionment published a committee  
6           substitute to the plan proposed on  
7           November 28th. Under the new plan, 39  
8           districts were assigned new numbers. The Court  
9           goes on to -- goes on to discuss what the  
10          coalition objected to, but in the bottom of  
11          that paragraph, the Court says, "Because the  
12          Court was not provided the addresses for every  
13          incumbent Senator, the Court cannot verify the  
14          correctness of the statement of the coalition."

15          It does go on on page 141, "We can verify  
16          that at least the 16 Senators that were  
17          previously eligible for eight years will now be  
18          eligible to serve a maximum of ten years, and  
19          that is what -- and the three incumbents  
20          originally eligible for nine years will be  
21          eligible to serve 11 years. None of the  
22          Senators for whom this Court was provided  
23          addresses will be limited to a maximum of eight  
24          years under the new numbering system." So the  
25          Court objected to that. It is not the

1 numbering, it is the fact that resulted -- that  
2 even and odd numbers that were assigned  
3 resulted in more years than Article IV of the  
4 Constitution provided.

5 PRESIDENT HARIDOPoulos: Let's move to --  
6 questions or do you want to do debate?

7 SENATOR OELRICH: Follow-up.

8 PRESIDENT HARIDOPoulos: Okay. For a  
9 question, you are recognized.

10 SENATOR OELRICH: So what they are saying  
11 is -- it is my understanding that everybody  
12 that is sitting in the Senate that is not  
13 termed out is going to have to run for  
14 reelection.

15 PRESIDENT HARIDOPoulos: Senator Storms.

16 SENATOR STORMS: Yes, sir.

17 SENATOR OELRICH: And all to that is  
18 that --

19 SENATOR STORMS: Excuse me, Mr. President.

20 PRESIDENT HARIDOPoulos: Senator Storms,  
21 you are recognized.

22 SENATOR STORMS: None of us have to run  
23 for reelection. None of us have to. You asked  
24 if all incumbents have to. Yeah, no, we don't  
25 have to. Yes, yes.

1           SENATOR OELRICH: To follow that up --

2           PRESIDENT HARIDOPOLOS: Senator Oelrich,  
3 you are recognized.

4           SENATOR OELRICH: Thank you.

5           And to follow up on that, and a point  
6 brought up by Senator Jones is that -- and here  
7 again, I am beating perhaps a very dead horse,  
8 but what would you see as the viability or  
9 involvement of the Florida Supreme Court in  
10 circumventing the will of the people when the  
11 folks that want to run for reelection either  
12 get elected or not elected? That would be the  
13 purview of the people to say that they want to  
14 favor the incumbent with their vote or they  
15 want to favor the challenger with their vote.  
16 What do you see is the Supreme Court -- how are  
17 we going to get around that? And the larger  
18 question is how -- why doesn't the Supreme  
19 Court just draw this all up and tell us what to  
20 do and we will have a two-part government as  
21 opposed to a three-part government?

22           PRESIDENT HARIDOPOLOS: Senator Storms,  
23 you are recognized to respond. Any -- no?  
24 Okay, let's go to debate, debate.

25           Senator Bogdanoff, you are recognized.

1           SENATOR BOGDANOFF: Thank you,  
2           Mr. President, and I just wanted to kind of  
3           address one of the issues that I believe in  
4           terms of the way to interpret the opinion of  
5           the Supreme Court and which I kind of alluded  
6           to in my question, and if you go to page 138 --  
7           and I am going to respectfully disagree with  
8           Senator Storms, and forgive me, I cannot see  
9           your number, so I am going to have to -- 10,  
10          the Senator from the Tenth.

11                 If you go to page 138, it says, "No  
12          person" -- and in citing the particular part of  
13          the Constitution that Senator Storms is  
14          referring to in terms of term limits, and it  
15          says, "No person may appear on the ballot for  
16          reelection to the office of Senator if at the  
17          end of the current term of office that person  
18          will have served basically eight consecutive  
19          years." It should be first emphasized that the  
20          Florida Constitution does not limit Senators to  
21          a maximum of eight consecutive years. Rather,  
22          the Constitution prohibits anyone who has  
23          already served for eight years for standing for  
24          reelection. So basically it is talking about  
25          what that provision provides, which means there

1 are some Senators who could have more than ten  
2 years.

3 So if you move over to page 143 and we  
4 talk about the holding in the case, which is  
5 where I believe the Supreme Court is directing  
6 this chamber to go, it says, "The Senate plan  
7 plainly favors certain incumbents by  
8 renumbering districts to allow them to serve  
9 longer than they would have otherwise be  
10 eligible to serve" -- under the Constitution,  
11 you could reasonably infer -- "Because we  
12 conclude that the plan was drawn with the  
13 intent to favor incumbents in violation of  
14 Article III, Section 21A, we declare the  
15 renumbering in the apportionment plan to be  
16 invalid." They specifically state that we did  
17 something to favor incumbents, which means we  
18 did not do the process blindly.

19 Whether I liked what happened yesterday or  
20 not, it certainly was entertaining watching it  
21 on video. It is separate and distinct from  
22 actually looking at Senators, looking at how  
23 many years that they served and limiting them,  
24 because we cannot favor or disfavor, and that  
25 clearly disfavors any incumbent that would

1 serve for reelection.

2 So I would respectfully -- I don't know  
3 that I necessarily disagree with the whole, you  
4 know, position of Senator Storms on doing the  
5 lottery versus maybe another method, but the  
6 lottery method was certainly objective. It  
7 certainly didn't take into consideration  
8 anybody in this chamber, and that is what I  
9 believe the Supreme Court's ruling asked us to  
10 do.

11 PRESIDENT HARIDOPOLOS: Senator Hays.

12 SENATOR HAYS: Mr. President, thank you.

13 I find us here today with one primary  
14 purpose, and that is to follow the instructions  
15 of the Florida Supreme Court relating to the  
16 redistricting of the Senate map.

17 On page 190, two sentences: "Finally, we  
18 have held that the numbering scheme of the  
19 Senate plan is invalid. Accordingly, the  
20 Legislature should renumber the districts in an  
21 incumbent-neutral manner."

22 I would submit to you, Senator Storms,  
23 that your amendment is not an incumbent-neutral  
24 manner; therefore, it is in violation of the  
25 instructions of the Florida Supreme Court, and

1 I would suggest to the members that we vote  
2 down this amendment.

3 PRESIDENT HARIDOPOLOS: Further in debate?  
4 Senator Oelrich in debate.

5 SENATOR OELRICH: Thank you,  
6 Mr. President.

7 I would go along with that, except that,  
8 Senator Hays, that what you are saying  
9 basically is that we are not in coequal  
10 division of government, that we are somehow  
11 subservient to the Supreme Court.

12 What they have done here is gerrymandered  
13 this thing on their standards, and they are  
14 asking us to verify their plan. I take  
15 exception to that, and I think it is also -- I  
16 take some minor exception that you say that it  
17 is not our sole purpose. I think we ought to  
18 look at the basis of where we are today based  
19 on a legislative body and facing a Supreme  
20 Court.

21 Now, you talk about what we need to think  
22 about, I won't be here, but others that will  
23 follow me and you all have got to think about  
24 this situation that we find this all-knowing  
25 Supreme Court in now. We talk about protection

1 of incumbency. The Supreme Court comes up for  
2 retention. They sit there, they are the  
3 incumbents, they are ultimate incumbents. They  
4 very seldom get turned out of office based on  
5 the retention method. And I think we need to  
6 give that very close scrutiny for the future,  
7 perhaps changing the Constitution to  
8 accommodate some sort of election process where  
9 they have to come up for more than just  
10 retention, but perhaps for reelection by the  
11 will of the people. And I think this situation  
12 that is right in front of me, from my personal  
13 opinion, I think it is very, very offensive  
14 what they have done.

15 PRESIDENT HARIDOPoulos: Okay, Senator  
16 Gaetz, followed by Senator Storms.

17 Senator Gaetz, you are recognized.

18 SENATOR GAETZ: Thank you very much.

19 Senator Bogdanoff gave, I believe, the  
20 appropriate legal argument as to why the  
21 amendment does not follow the Constitution and  
22 why it ought to be rejected.

23 I would just point out quickly that  
24 Senator Sachs yesterday gave us, I think, the  
25 appropriate format in which to discuss



1 districts, contrary to my good friend from the  
2 Tenth who talked about Senator Gaetz gets this  
3 district and Senator Sachs gets this district,  
4 Senator Joyner gets this district. Senator  
5 Sachs yesterday reminded us that the districts  
6 belong to the people of Florida, not to  
7 incumbents and not to challengers. Senators  
8 don't get districts. Voters and citizens own  
9 districts. And I believe, Mr. President, that  
10 the pending amendment would provide that voters  
11 in half the districts in the state would  
12 undergo three elections in eight years, half of  
13 the voters in the state would undergo two  
14 elections in eight years for the Senate, and,  
15 therefore, I believe that while the Senator  
16 from the Tenth is extraordinarily  
17 well-intentioned and I have high regard for  
18 her, I believe that her -- that her intent is  
19 not fulfilled by the amendment. I would agree  
20 that the amendment does not follow the  
21 Constitution, it does not follow the opinion of  
22 the Supreme Court, it would favor and disfavor  
23 in various places in the state. I would urge a  
24 no vote.

25 PRESIDENT HARIDOPoulos: Senator Storms,

1           you are recognized to close.

2           SENATOR STORMS: Thank you, Mr. President,  
3           and I -- and I know that as sometimes happens  
4           when I speak, my husband does the same thing to  
5           me, people who are listening sometime wander  
6           off in their mind. Even though they are  
7           looking at me, they are perhaps not actually  
8           listening. I have been married for over 25  
9           years, so I recognize a husband's intent look  
10          while not simultaneously listening. So  
11          perhaps -- so perhaps the Senator from the  
12          Fourth District did not hear me when I said  
13          that I was not saying that Senator Gaetz gets  
14          District 4, that Senator Evers gets District 2.  
15          What I said was that to prevent me from  
16          actually reading the legal description of each  
17          of the districts, I had to assign a name, and  
18          that is clearly in the record. I was not  
19          treating it as a property right, I was just  
20          doing it, not for my sake, because as you know,  
21          I could talk very long and it pains me in no  
22          way at all to talk longer and to describe  
23          actually the actual districts, so I would have  
24          been happy to do that, but for your benefit, I  
25          chose not do it and chose to take the more

1 expedited way. So -- thank you for that  
2 applause. And so I did not mean to refer to  
3 these districts as our personal property, but  
4 just for the sake of discussion today.

5 Members, I am laboring under no illusion  
6 as to the success of this amendment, but I do  
7 think that it is the right thing to do. I do  
8 think that what the Supreme Court does in their  
9 balancing test is put a greater priority on  
10 the -- on Article IV of the -- Article VI of  
11 the Constitution, Section 4B, and it says that  
12 "No person may appear on the ballot for  
13 reelection" -- I am reading from page 138 of  
14 the opinion -- "to the Florida -- to the office  
15 of Florida Senator if by the end of the current  
16 term of office the person will have served, or  
17 but for resignation would have served in that  
18 office for eight consecutive years."

19 The Supreme Court clearly states that it  
20 is not a prohibition that we -- that we serve  
21 more than eight years, and I am not suggesting  
22 that the Supreme Court does say that. What I  
23 am saying is that the Supreme Court and the  
24 reason why I disagree with the Senator from the  
25 25th District is that I know that the Supreme

1 Court clearly spoke about Amendments 5 and 6, I  
2 understand that, but in my opinion, the Court  
3 used Amendments 5 and 6 to talk about the issue  
4 found in Article VI, Section 4B, of the Florida  
5 Constitution. In order to address that issue,  
6 those two in the mind of the Court are  
7 inextricably intertwined, and so the Court  
8 unbraided those two things so that we could --  
9 so that we could deal with the issue of the  
10 numbering.

11 Furthermore, on page 137 of the Supreme  
12 Court, the Court goes on to say that "The  
13 Legislature is prohibited from numbering the  
14 districts with the intent to favor or disfavor  
15 an incumbent. Elected officials have no  
16 property rights to the office to which they  
17 were elected. To the contrary, it is the  
18 voters who have the rights in process by which  
19 the representatives are elected. The Senate  
20 plan clearly favors certain incumbents by  
21 renumbering districts to allow them to serve  
22 longer than they would otherwise be eligible to  
23 serve."

24 So according to the United -- to the  
25 Florida Supreme Court, they found that our plan

1 favored the incumbents, and we are not entitled  
2 to do that.

3 It is true that you could argue that a  
4 person could argue that by using my method we  
5 disfavor incumbents, but my answer to that is  
6 that in that balancing test, the Court would  
7 say that Article V, 4B, of the Constitution has  
8 the greater weight there, and so we should err  
9 in the side of -- in favor of Article IV --  
10 Article VI, Section 4B, and so that certain  
11 incumbent Senators would not be advantaged  
12 according to what the Supreme Court said to get  
13 around term limits. That is ultimately what  
14 the Supreme Court is concerned about. I think  
15 that is what the voters were concerned about  
16 when they adopted -- when they adopted their --  
17 the eight is enough amendment to the  
18 Constitution, and I would urge your support.  
19 And, Mr. President, I would note I am finishing  
20 three minutes early.

21 PRESIDENT HARIDOPOLOS: Very well, thank  
22 you.

23 All right. All those in favor of the  
24 amendment, say aye.

25 (Chorus of ayes.)

1           PRESIDENT HARIDOPOLOS: All those opposed,  
2 say nay.

3           (Chorus of nays.)

4           PRESIDENT HARIDOPOLOS: It is not adopted.

5           All right. We are going to go into  
6 recess, and when we return, we have the  
7 Senator -- two Senator Smith amendments we will  
8 be taking up first thing, and so the Senate is  
9 in recess until 1:30 p.m.

10           (Whereupon, the Senate was in recess.)

11           THE CLERK: All unauthorized persons will  
12 please leave the chamber. All Senators please  
13 indicate your presence. A quorum is present,  
14 Mr. President.

15           PRESIDENT HARIDOPOLOS: All right. As we  
16 continue to work on SJR-2, we have next bar  
17 code 824890 by Senator Smith. Please read the  
18 amendment.

19           THE CLERK: Bar code 824890 by Senator  
20 Smith, delete lines 13 through 5918, insert  
21 amendment.

22           PRESIDENT HARIDOPOLOS: Senator 29,  
23 Senator Smith, you are recognized on your  
24 amendment.

25           SENATOR SMITH: Thank you. Thank you,

1 Mr. President.

2 This morning during the conversation, I  
3 think I misquoted Senator Gaetz when I thought  
4 that he said that Daytona Beach wasn't broken  
5 up. I actually misquoted him. He stated that  
6 the only two cities after making the -- after  
7 making changes in this joint resolution is that  
8 the only two cities that are broken up are the  
9 two major cities, Jacksonville and Daytona  
10 Beach.

11 This amendment looks to alleviate some of  
12 that. This amendment seeks to do what the  
13 voters asked us to do. This amendment seeks to  
14 do what the Volusia County Commission asked us  
15 to do. This amendment seeks to make Volusia  
16 County as whole as possible. By doing this  
17 amendment, what it does is it takes Volusia  
18 County -- takes a portion of Volusia County and  
19 puts it into District 8 -- I am having a little  
20 trouble with the new numbers. It takes it and  
21 puts it in District 8, while replacing those  
22 100,000 people in District 6 from Clay County.  
23 Historically, the District 6 people have  
24 included the Clay County portion of the  
25 district, and Clay County has historically been

1 well-represented being in that district. So to  
2 replace those 100,000 people from Volusia  
3 County, we replace them with the Clay County  
4 people, and that affected District -- that  
5 affected the adjoining district, 400,000  
6 people, and we took those people from -- taking  
7 the district down to Ocala.

8 So, in essence, we affected only three  
9 Senate districts, three Senate districts. We  
10 did a circular swap of about 100,000 people  
11 into each district, and by doing this, we did a  
12 couple of things. We kept Volusia County as  
13 whole as possible, because the maps that's  
14 before us now cuts a unique community in half.  
15 The map, without this amendment, we cut the  
16 Bethune-Cookman community in half, an  
17 historically African-American community that  
18 has tremendous significance to this state. The  
19 way the maps are drawn now, it goes right in  
20 between Bethune-Cookman College and a strong  
21 African-American community right below  
22 Bethune-Cookman College that supports that  
23 college, and the map without this amendment  
24 will cut that community in half and  
25 disenfranchise those African-American voters



1           into two different Senate districts, one going  
2           all the way up to the Duval County line.

3           So to remedy that, we are putting Volusia  
4           County together -- putting as much of Volusia  
5           County together as the voters told us when we  
6           went there and listened to them, as the county  
7           commission told us through resolutions. We are  
8           shifting over to Clay County to make up for  
9           those people, and for the adjoining district,  
10          we are moving the Alachua County seat down to  
11          Ocala and connecting two communities that are  
12          -- historically have been close to each other,  
13          the Ocala community and the Alachua County  
14          community, affecting only three seats, but  
15          achieving so much more in making this a fair  
16          map by not cutting up Volusia County and  
17          cutting right in between a strong, historically  
18          African-American community like the  
19          Bethune-Cookman College community. And that,  
20          in essence, is the amendment.

21                 PRESIDENT HARIDOPoulos: Are there  
22                 questions? Leader Gardiner, you are recognized  
23                 for a question.

24                 SENATOR GARDINER: Thank you,  
25                 Mr. President.

1           Senator Smith, I appreciate your concerns  
2 about Volusia County, but I am curious, how  
3 many times do you split Marion County?

4           PRESIDENT HARIDOPOLOS: Senator Smith, you  
5 are recognized to respond.

6           SENATOR SMITH: I am bringing the map  
7 over. My amendment -- give me one second. I  
8 think in Marion County -- the amendment. My  
9 amendment map or whatever, the one that says  
10 "Smith" on top, the first one.

11           Marion County, I think, is split, under  
12 this, four ways, and the reason, Marion County  
13 was already split under the original map,  
14 Marion County was already split into different  
15 districts, so we didn't do anything unique to  
16 Marion County that wasn't already done to that  
17 county.

18           PRESIDENT HARIDOPOLOS: Further questions?  
19 Senator Gardiner for a question.

20           SENATOR GARDINER: Thank you,  
21 Mr. President, and on Clay County, I believe  
22 the Senator Gaetz amendment keeps Clay County  
23 whole?

24           SENATOR SMITH: Yes.

25           SENATOR GARDINER: And so you do another

1 split in Clay County?

2 SENATOR SMITH: Yes, I do a split in Clay  
3 County. Those portions of Clay County that are  
4 put into District 6 have historically been in  
5 that area and have historically been tied to  
6 those residents in that area, so it is not --  
7 it is not a huge encumbrance to have those  
8 communities with that District 6.

9 PRESIDENT HARIDOPOLOS: Senator Thrasher  
10 for a question.

11 SENATOR THRASHER: Senator Smith, I am  
12 moved to say that I want to support your  
13 amendment, but I am also going to look at what  
14 the Constitution says. Have you done a  
15 functional analysis of this, and can you give  
16 me the -- with say the new District 6, what the  
17 Republican registration would be, what the  
18 Republican performance in that particular  
19 district would be?

20 PRESIDENT HARIDOPOLOS: Senator Smith.

21 SENATOR SMITH: Well, it is mighty funny  
22 that you ask for that. Listening to Senator  
23 Gaetz this morning when discussing Districts 2  
24 and 1, and he was asked about functional  
25 analysis and he stated that because it is not a

1 minority access seat, that functional analysis  
2 is not really necessary. But to definitely  
3 answer your question, I will go ahead and do  
4 that for you, Senator Thrasher. Under the  
5 functional analysis, you asked for the  
6 percentage of Republicans in this seat.  
7 Governor Scott and the -- I take it you are  
8 asking for seat six, one, the district,  
9 64 percent.

10 PRESIDENT HARIDOPOLOS: Senator Thrasher  
11 for a follow-up.

12 SENATOR THRASHER: Well, do you have the  
13 breakdown, though, of Republican/Democrat in  
14 that particular area?

15 SENATOR SMITH: Registered voters who are  
16 Republican is 47 percent. Registered voters  
17 who are Democrat are 31 percent.

18 SENATOR THRASHER: What concerns me,  
19 Mr. President and Senator Smith, in one area of  
20 the opinion of the Court, as -- and they were  
21 obviously talking, and I want to make sure you  
22 understand, talking about Senate Districts 29  
23 and 34, they -- one of the groups that argued  
24 before the Supreme Court, the coalition,  
25 basically argued about packing, and I just

1 wonder if this is -- and, of course, in this  
2 context, it was packing of Democratic seats in  
3 a particular district to perhaps protect  
4 Republican seats, as they argued anyway. Could  
5 that same argument be made in the reverse? Are  
6 we packing Republicans into a particular seat  
7 in order to achieve a more Democratic majority  
8 in a couple of other seats?

9 PRESIDENT HARIDOPOLOS: Senator Smith.

10 SENATOR SMITH: No, sir, because the two  
11 other seats that are affected do not have a  
12 large Democratic majority. As a matter of  
13 fact, the other two seats that were created,  
14 the breakdown in the last Governor's race was  
15 in District 7, forty-seven -- 49.7 percent for  
16 one candidate, 50.3 percent for the other. In  
17 District 8, 51 percent against 48.9 percent.  
18 So a few more Republicans may be added to one  
19 district, but I think it achieves what the  
20 Supreme Court and I think the Florida voters  
21 would like. It achieves two districts, two  
22 districts, that is just like the state of  
23 Florida, right down the middle. So we may have  
24 added a few, but we achieved two districts,  
25 ladies and gentlemen, two districts, two

1 districts that the breakup of that district is  
2 like the makeup of the state of Florida, and I  
3 think that is a very good thing.

4 PRESIDENT HARIDOPOLOS: Further questions?  
5 Senator Dean for a question.

6 SENATOR DEAN: Thank you, Mr. President.

7 Senator Smith, I want to disagree with you  
8 about the fact that you are going back to  
9 Marion County and the part of Marion County  
10 that has always been that way. Those good  
11 folks -- when I came to the Senate in the old  
12 seat I am currently holding now, one of four  
13 Senators, and one of the issues that we had  
14 over the last year since I have been here is  
15 the fact that the people in Marion County feel  
16 as a whole that they deserve to be treated a  
17 little bit better and a little bit different  
18 than what we have done in the past.

19 By maneuvering these populations around  
20 that you are recommending in this maneuver, it  
21 is a lot more than just a community or just a  
22 little piece of a city. You are talking about  
23 the north half of Marion County. And in the  
24 approved -- the committee version of our map so  
25 far shows that we then made them whole again by

1           only having two Senators in that area, and  
2           which many counties do, they have two Senators,  
3           but that is a long -- that is an appropriate  
4           way down, as far as I am concerned, from four.  
5           And the district then would give Marion County  
6           as a whole a bigger piece of the pie in terms  
7           of them getting the vote to be represented.

8                     Without knowing all the functional  
9           analysis of the issue, I would dare say if we  
10          look at that -- the map that we are currently  
11          proposing as the Committee does, is a lot more  
12          fairer and a representation to the minority  
13          vote in that part of the county, and I would  
14          support the one that we have, which would  
15          increase that minority vote rather -- and the  
16          significance rather than this proposal.

17                    PRESIDENT HARIDOPOLOS:  Senator Smith in  
18          response.

19                    SENATOR SMITH:  In response, maybe I can  
20          have Mr. Guthrie help.  It looks like Marion  
21          County will only have three Senators.  Right  
22          now under the plan that passed out of  
23          committee, it has two Senators.  So, yes, it  
24          will increase to three Senators.

25                    In contrast, Volusia County, which has

1 three Senators, will go down to two. So there  
2 is a slight difference. Marion gets one other  
3 Senator district, and Volusia gets one less.  
4 And when we did the meetings around the state,  
5 and there is a lot on the record and even the  
6 Volusia County Commission sent a resolution  
7 asking for Volusia to try and be part of one  
8 district, and this is an attempt to try to  
9 listen to the will of the people.

10 PRESIDENT HARIDOPoulos: Senator Lynn for a  
11 question.

12 SENATOR LYNN: This whole area is near and  
13 dear to my heart, and I have lived there in  
14 Volusia County for a long time, and I have  
15 almost lived in Marion County near -- almost  
16 all the time, if I am not in Volusia.

17 Number one, you said we are splitting  
18 Bethune-Cookman College. Now, you may be  
19 saying we are splitting bodies, but there is a  
20 difference between that and splitting  
21 Bethune-Cookman College. Bethune-Cookman  
22 College is to the north of 92. It has two  
23 buildings to the south of 92. If you are  
24 talking about actual numbers of people who give  
25 money and who actually go teach there and



1 support there, I would venture to say you are  
2 not accurate, because you've got huge groups up  
3 in Ormond Beach. You haven't talked about them  
4 at all, you are only talking about Daytona  
5 Beach. You have that number that you say is  
6 south that includes a lot that not necessarily  
7 connected in any way to Bethune-Cookman  
8 College. And as a huge, huge supporter of  
9 Bethune-Cookman College for all of the 18 years  
10 I have been here, and even before that, I will  
11 tell you that this is not a plan that is going  
12 to be for Bethune-Cookman College, not at all.

13 Number two -- and I don't understand how  
14 you can even say that, because I can tell you,  
15 you do not have a list of the people who give  
16 money to the college, nor do you have a list of  
17 the people who work there and find out where  
18 they live, so if you don't have that, then that  
19 is -- I don't know how -- I would like you to  
20 defend that statement. But in addition to  
21 that, Volusia has long waited to have fewer  
22 Senators. That is exactly what they have, so I  
23 don't -- you know, not that you are changing  
24 that part of it, but Volusia and going into  
25 Marion has been a dream. It has been a dream

1 for Volusia and the connections it's made. In  
2 fact, it is a Volusia County person who is now  
3 doing the development in Ocala downtown. So I  
4 don't know why, you would have to answer me  
5 that, why you are not saying Marion would  
6 benefit from this, but in addition, Marion and  
7 Volusia benefit from one another, because some  
8 of the culture, some of the arts and many other  
9 things. So why do you not see a connection  
10 between Volusia and Marion, and why would you  
11 change this -- what I think has been a  
12 tremendous -- in fact, with this current map, I  
13 was so excited and so pleased, because finally  
14 you are taking care of the people. You are not  
15 taking care of incumbents and you are not  
16 taking care of a party, you are taking care of  
17 the people, and that is what we are supposed to  
18 be doing here, taking care of the people. Does  
19 it matter that you've got a few more  
20 African-Americans to the north or to the south?  
21 You haven't included those in Ormond Beach.  
22 You haven't included those on the west side,  
23 and that is a whole, a whole large community of  
24 African-Americans.

25 So could you please explain to me how you

1 can defend, other than to say, oh, I got to  
2 keep Daytona Beach whole. That just doesn't  
3 make sense. Actually, everything should be  
4 whole, everything should be whole, but when  
5 you've only got two Senators -- and I guess I  
6 like what Senator Hays used to say, "Well,  
7 maybe if they have more Senators, maybe one of  
8 them will have more power and maybe get me more  
9 stuff for my county," but we know that people  
10 prefer to have fewer. So how on all of those  
11 counts can you defend this?

12 PRESIDENT HARIDOPOLOS: Senator Smith, you  
13 are recognized.

14 SENATOR SMITH: Easily, Senator. You are  
15 my inspiration. You stated so eloquently that  
16 you care so much about Bethune-Cookman College,  
17 that you have represented Bethune-Cookman  
18 College well for many years, and you have stood  
19 up and fought for Bethune-Cookman College. You  
20 are in Volusia County. You have a  
21 Volusia-based seat. You live near  
22 Bethune-Cookman College. You care about  
23 Bethune-Cookman College. What is done in the  
24 map that is before us, the other map puts  
25 Bethune-Cookman College in a different

1 district, in a district that goes all the way  
2 up to Duval County. Because you, a Volusia  
3 County resident and a Volusia County lover,  
4 have cared so much about Bethune-Cookman, I  
5 want to keep Bethune-Cookman with a Volusia  
6 County person.

7 And now when you talk about splitting the  
8 school, let me tell you, I may not know as much  
9 about Bethune-Cookman as you do, but I know a  
10 little something about black colleges, being a  
11 graduate of one. When there is a college,  
12 surrounding the college is a community that  
13 supports that school. When there is a black  
14 college, a lot of times the adjacent  
15 communities, if you go around Florida A&M  
16 University, those neighborhoods may not be on  
17 FAMU's campus, but you know what, the recent  
18 graduates, the graduates, live in those  
19 adjoining neighborhoods, the workers live in  
20 those adjoining neighborhoods. Those  
21 neighborhoods support the college in that way.  
22 I may not find them on a financial disclosure,  
23 but I can find them -- if you walk those  
24 neighborhoods, you will see, and I have walked  
25 those neighborhoods with Joyce Cusack in her

1 last election, you will see those graduates and  
2 those people that support the school in other  
3 ways live in those adjoining communities. And  
4 what this map -- what the committee map does,  
5 it goes right below Bethune-Cookman, like you  
6 said, and it cuts out the neighborhood to the  
7 south that is a part of the Bethune-Cookman  
8 family. You cut that family in half.

9 So to answer your question, you have done  
10 such a phenomenal job supporting  
11 Bethune-Cookman, being a Volusia-based Senator,  
12 I want the next Volusia-based Senator to do as  
13 half as good as you, you have been the  
14 inspiration for this amendment.

15 PRESIDENT HARIDOPoulos: Senator Lynn, you  
16 are recognized for a question.

17 SENATOR LYNN: Are you insinuating that  
18 anyone who gets that seat would not be  
19 continuing on the protection of a historically  
20 black college?

21 PRESIDENT HARIDOPoulos: Senator Smith.

22 SENATOR SMITH: Not -- not in the least  
23 bit. I think everyone in this chamber has  
24 supported historically black colleges and  
25 universities. Our President, who does not

1 represent a historically black college or  
2 university, has fought for years to make sure  
3 that we keep them in the budget and keep those  
4 support. And I think the Senator from Senate  
5 District 6, if the incumbent was to somehow  
6 manage to win a reelection, I think the  
7 incumbent from there has shown a tremendous  
8 affinity to higher education and has done a  
9 tremendous job for Florida State University and  
10 others, and so I would think that that Senator  
11 would still continue to support  
12 Bethune-Cookman, but when Bethune-Cookman wants  
13 to talk to their Senator, when they want to  
14 reach out and grab and hold their Senator, it  
15 is a little easier if they are still in Daytona  
16 and Volusia County and not driving up to St.  
17 Johns or Putnam or the other counties so far  
18 north.

19 PRESIDENT HARIDOPOLOS: Senator Lynn for a  
20 question.

21 SENATOR LYNN: Would you believe that I am  
22 going to be the one that they come and hug?  
23 And would you believe that I am going to be the  
24 one who comes and kicks somebody in you know  
25 what if they don't take care of Bethune-Cookman

1 College, no matter who it ends up being?

2 PRESIDENT HARIDOPoulos: Senator Smith.

3 SENATOR SMITH: Based on your past  
4 experience, I know you will be, Senator.

5 PRESIDENT HARIDOPoulos: Further questions?  
6 Further questions?

7 Okay, we are in debate. Is there debate?  
8 Senator Braynon in debate.

9 SENATOR BRAYNON: Thank you,  
10 Mr. President.

11 I was just looking at the -- at the  
12 District Explorer that is so wonderfully done  
13 on our website that you and Senator Gaetz has  
14 set up, and I look at this community that we  
15 are talking about and I set the values to  
16 the -- it is a value ramp piece, and you set it  
17 and it shows you where the African-Americans  
18 and where the Hispanics live. And if you look  
19 at the southernmost line of this -- of the --  
20 where these -- the districts split in our map,  
21 you will see an African-American community by  
22 itself and a line going right down the middle  
23 of it. And I am pretty sure that, according to  
24 redistricting principles, we're not supposed to  
25 be doing anything like that. So I believe that

1 is something just simply unintended, and I  
2 think what Senator Smith is doing here is  
3 trying to remedy what looks like us cutting a  
4 very solidly African-American community in half  
5 and splitting them up into two majority  
6 districts.

7 So I would support this just on the mere  
8 fact that I am pretty sure that we are not  
9 supposed to be doing this after debating and  
10 reading all these things for these past few  
11 years. So I am going to support Senator  
12 Smith's good amendment, and I think that it  
13 works on sound redistricting principles and I  
14 think it will make this a much better map.  
15 Thank you.

16 PRESIDENT HARIDOPOLOS: Further in debate?  
17 Senator Gibson in debate.

18 SENATOR GIBSON: Thank you, Mr. President,  
19 and, I, too, stand to support Senator Smith's  
20 amendment. As the current Senator for  
21 Bethune-Cookman University, and certainly  
22 having very recently walked precincts in the  
23 area and developed a relationship with the  
24 community, I know full well that they would  
25 certainly appreciate this Legislature making



1           sure that they are a whole community, and it  
2           does comport with the redistricting standards,  
3           and I think with the Court's opinion.

4                   And even looking at Senator Smith's map,  
5           it doesn't exclude Ormond Beach from being  
6           included in the new District 8. It includes  
7           Ormond Beach, and then would put Daytona Beach,  
8           including Bethune-Cookman University, all  
9           within the same district. And considering that  
10          the people who are currently in the Daytona  
11          Beach area have been suddenly snatched from  
12          their old precinct where they did have a  
13          collective voice in a largely minority district  
14          and a largely Democratic district also, now  
15          they are going to have to wean themselves into  
16          an entire new configuration. And so to, I  
17          think, limit impact on that community and  
18          certainly on the university, this is the right  
19          thing to do.

20                   When you think about a new President that  
21          is going to be eventually coming to BCU,  
22          Senator Lynn, and having to deal with two  
23          Senators instead of one, and communicating with  
24          that Senator, who will be new representing that  
25          particular area and that particular university,

1           it bodes well to make sure that they have  
2           immediate contact with just the one, and that  
3           their needs are met and can be easily relayed  
4           to just one Senator and one Senator's staff, as  
5           opposed to two Senators. And so I certainly  
6           encourage you all as the current Senator for  
7           that area to support Senator Smith's good  
8           amendment. Thank you.

9           PRESIDENT HARIDOPOLOS: Further in debate?  
10          Further in debate? Senator Gaetz before we go  
11          to Senator Smith. Senator Gaetz, you are  
12          recognized in debate.

13          SENATOR GAETZ: Thank you very much. One  
14          moment, Mr. President, please.

15          The amendment that is before us I think  
16          has been well argued by Senator Lynn and others  
17          as to what it does to communities and what it  
18          does to Bethune-Cookman and the areas around  
19          Bethune-Cookman. Let me just point out why I  
20          believe a no vote is the appropriate vote.

21          The amendment shifts a county split from  
22          Volusia County to Marion County. In addition,  
23          the amendment splits Clay County, which is kept  
24          whole in the substitute which is before you.

25          But probably more importantly, as was indicated

1 by Speaker Thrasher's question to the sponsor,  
2 the amendment splits Marion County into four  
3 Senate districts instead of two. Ten years ago  
4 in Florida Senate v. Forman, the Legislature  
5 was sued because the Senate plan divided Marion  
6 County into four districts.

7 So I am sure the intent of the amendment  
8 is exactly as the sponsors have indicated, but  
9 the effect of the amendment would be  
10 extraordinary and I think would place us in a  
11 position of violating what the Supreme Court  
12 has told us throughout its opinion, and that is  
13 that we need to be as respectful as we can of  
14 county lines, political and geographic  
15 boundaries. So I would urge a no vote on the  
16 amendment.

17 PRESIDENT HARIDOPOLOS: Senator Smith, you  
18 are recognized to close on your amendment.

19 SENATOR SMITH: Well, I am a little  
20 confused. It looks like under the plan that  
21 passed the Senate, and maybe I can get staff's  
22 help, it looks like Marion County was already  
23 split into three seats, and not two as  
24 purported by the sponsor of the original  
25 amendment. Is that correct? Can I get staff

1 to speak to that?

2 PRESIDENT HARIDOPoulos: Senator Gaetz.

3 SENATOR GAETZ: Thank you, Mr. President.

4 Senator Smith, Leader Smith, you were  
5 correct, I misspoke. I was looking off a  
6 different note. You split Marion County four  
7 ways, and in the proposed committee substitute,  
8 Marion County has three Senators. You are  
9 exactly right, sir.

10 PRESIDENT HARIDOPoulos: Senator Smith, you  
11 are recognized.

12 SENATOR SMITH: Thank you, and I will take  
13 that as an endorsement of my amendment.

14 Mr. President, there's a couple of things  
15 we can achieve here. As pointed out by Senator  
16 Braynon, the current map splits an  
17 African-American community into two different  
18 Senate districts. It dilutes their vote. It  
19 takes half of a strong community, put it in one  
20 Senate district that goes all the way up to  
21 Duval County and keeps another half down in a  
22 Volusia seat. By doing this change, you keep  
23 that community -- you keep that group together  
24 so that they can vote together as a community  
25 instead of splitting -- I mean, it is just when

1           you look at the map, you see it splits so  
2           evenly.

3                    What it also does, it does what we talked  
4           about a lot and what we heard a lot, it puts  
5           Volusia County -- instead of having three, you  
6           know, Senators, it takes it down to two. Now,  
7           of course, in Clay County -- and that is -- and  
8           that is big, ladies and gentlemen, that Clay  
9           County is now split. But then in doing that,  
10          when looking at where should we do splits, I  
11          tried to look historically. I tried to look  
12          historically, you know, what has been done and  
13          how historically the community in Volusia  
14          County that we split had always been together.  
15          Historically, Clay County had been split. I  
16          remember the days, and I am sure Leader  
17          Gardiner will remember those days on the House  
18          floor listening to Speaker Thrasher just wax so  
19          eloquently about Clay County and about his love  
20          and devotion for Clay County. And in looking  
21          at and remembering those quite eloquent words  
22          about his love for Clay County, in looking at  
23          these districts, I remember how Clay County was  
24          with that part of the district. So when we had  
25          to remedy one and we looked for a way to remedy

1           it, we went historically. And I thought about  
2           those great days of listening in the House.

3                   And what this lastly does, some -- and it  
4           is the same way with a lot of -- as we have  
5           mentioned, some communities now get another  
6           Senator, some communities get less, but when  
7           you add them all together, it all equals out,  
8           it all equals out, and this is what  
9           redistricting is about. It is not about going  
10          in and changing everything. It is about  
11          looking at a problem.

12                   And I want to thank staff. As we sat  
13          down, John Guthrie and I sat down and we looked  
14          for a remedy. We didn't look to -- we didn't  
15          look at performance or anything, we looked at  
16          what is natural. I said, "I want to put  
17          Volusia County together, I want to listen to  
18          the folks of Volusia County, I want to listen  
19          to the elected officials of Volusia County,  
20          let's put them together." So he did on the  
21          computer and we put Volusia together, and then  
22          it was, okay, we are down 100,000 people.  
23          Well, where can we grab 100,000 people? Well,  
24          Clay County has historically been a part of  
25          that, so let's move into Clay County, keep

1 cities together, keep natural boundaries, and  
2 put them there. And that left District 7  
3 without 100,000 people, and we said, you know  
4 what, let's go down so that we affect only  
5 three districts and go down -- Ocala and  
6 Gainesville have been sister cities throughout  
7 history, Ocala and Gainesville. You cannot get  
8 to Gainesville without going through Ocala.  
9 They have always -- they are communities that  
10 make sense to be together. So to get to those  
11 -- from the south. So to get the extra 100,000  
12 people we came down and put Ocala with its  
13 beloved sister, Gainesville, and that makes  
14 this an easy fix. It achieves so many goals,  
15 and I think makes this map more constitutional.

16 So if we want to keep this map and make it  
17 more constitutional, I suggest -- and I am sure  
18 others can't articulate it verbally, but in  
19 their heart they know it's the right thing to  
20 do. I hope you follow their heart and vote yes  
21 on this map. Thank you.

22 PRESIDENT HARIDOPoulos: All those in favor  
23 of the amendment, say yea.

24 (Chorus of yeas.)

25 PRESIDENT HARIDOPoulos: All those opposed,

1 say nay.

2 (Chorus of nays.)

3 PRESIDENT HARIDOPoulos: Not adopted.

4 Let's move to the next amendment also by  
5 Senator Smith. It is 627250. Read the  
6 amendment.

7 THE CLERK: Bar code 627250 by Senator  
8 Smith, delete lines 13 through 5918 into an  
9 amendment.

10 PRESIDENT HARIDOPoulos: Senator Smith, you  
11 are recognized on your amendment.

12 SENATOR SMITH: Thank you, Mr. President.

13 Here is a chance of also helping out this  
14 district is making it population consistency in  
15 Palm Beach County. Two of the three districts  
16 in Palm Beach County are changed to result in  
17 smaller population deviations and more  
18 equitable. What this will do is take a natural  
19 boundary -- when you look at the map, when you  
20 just give it the look test, you see that there  
21 is a little curve in it. There is not a  
22 natural boundary to finish off -- to finish off  
23 the district. What this will do is run the --  
24 run the border up 441, which runs the length of  
25 our state, and make a natural border to this



1 map, and thus making this map more  
2 constitutional.

3 PRESIDENT HARIDOPoulos: Questions on the  
4 amendment? Questions on the amendment?

5 All right. Seeing no questions, we are in  
6 debate. In debate. Senator Gaetz in debate,  
7 you are recognized.

8 SENATOR GAETZ: Thank you very much,  
9 Mr. President.

10 With great regret, I have to encourage a  
11 no vote on this amendment. The amendment  
12 splits the Cities of Lake Park, Riviera Beach  
13 and Ocean Ridge in Palm Beach County. The  
14 committee substitute before you does not split  
15 any of these areas. The functional analysis  
16 for this amendment shows that it reduces black  
17 voting age population, it reduces the  
18 percentage of registered voters in the area who  
19 are Democrats, which I can't understand why  
20 Leader Smith would do, given what his  
21 arguments. It reduces the percentage of  
22 registered Democrats who are black. It reduces  
23 the percentage of 2010 registered voters who  
24 were Democrats. It reduces the percentage of  
25 Democratic 2010 primary voters who were black.

1 And in committee, some members questioned  
2 whether this coalition district would, in fact,  
3 even have the ability to elect a minority  
4 candidate of choice. The amendment would all  
5 but ensure that it would not elect a minority  
6 candidate of choice.

7 I think -- the amendment I am sure is  
8 well-intentioned, but the amendment does  
9 violence to city splits, and as well does  
10 violence, in my view, unintentionally, to Tier  
11 1 considerations, so I urge a no vote.

12 PRESIDENT HARIDOPOLOS: Senator Smith, you  
13 are recognized to close on your amendment.

14 SENATOR SMITH: Before I close, I would  
15 ask -- I mean, because we just heard some  
16 powerful argument come from the Chair of the  
17 Committee. I would ask that we re-look at his  
18 argument. Is he talking about -- my amendment  
19 deals with Senate District 32, not Senate  
20 District 29. The arguments that were made  
21 about the ability to elect a candidate of their  
22 choice was made about District 29, not District  
23 32. My amendment only affects District 32.

24 And as to the portions of lowering  
25 Democrats and so, you know, as a Democrat, I

1           didn't look -- I didn't look at that. I didn't  
2           look at party registration. As mentioned  
3           before, as mentioned by our Committee Chair,  
4           that in non-minority access seats, you don't  
5           look at that. So I did not look at the  
6           functional analysis when doing this, because  
7           this is a non-minority access -- this is not a  
8           minority access seat. So to use functional  
9           analysis in this seat when a couple of hours  
10          ago we heard in seats one and two, we don't do  
11          functional analysis because it is not a  
12          minority access seat, that is a concern that we  
13          would now use that argument for this seat,  
14          which was not a minority access seat.

15                 But I am glad that that functional  
16                 analysis was done, and I am glad that members  
17                 on this floor see that as the incoming  
18                 Democratic Leader, to do the right thing, to do  
19                 the correct thing, to do the constitutional  
20                 thing, I am willing to give up Democrats in a  
21                 district because I believe in the Constitution.  
22                 When I stood there in front of the Supreme  
23                 Court Justice, I put my hand on the Bible and  
24                 swore to uphold the Constitution, not to uphold  
25                 the Democratic Party, and this amendment does

1 that, as pointed out by our Committee Chair. I  
2 sacrificed members of my own party and maybe  
3 political aspirations to stand up for the  
4 Constitution and do the right thing, and I ask  
5 members to stand up for the Constitution and  
6 vote this good amendment. Thank you.

7 PRESIDENT HARIDOPOLOS: President Madison  
8 having closed, with that, all those in favor of  
9 the amendment, say yea.

10 (Chorus of yeas.)

11 PRESIDENT HARIDOPOLOS: All those opposed,  
12 say nay.

13 (Chorus of nays.)

14 PRESIDENT HARIDOPOLOS: Not adopted.

15 Okay. Let's go to the next amendment. It  
16 is timely filed, 920326, by Senator Diaz de la  
17 Portilla. Read the amendment.

18 THE CLERK: Bar code 920326 by Senator  
19 Diaz de la Portilla, delete lines 13 through  
20 5918 into an amendment.

21 PRESIDENT HARIDOPOLOS: Senator from the  
22 36th, you are recognized.

23 SENATOR DIAZ DE LA PORTILLA: Thank you,  
24 Mr. President, and thank you, members.

25 What you have before you is an amendment

1 that seeks to take advantage of a demographic  
2 reality, and of an important -- an important,  
3 historic opportunity to enfranchise people in  
4 south Florida.

5 You may have heard the numbers three, two,  
6 one. It is not a countdown and it is not a  
7 commercial for some fast food item, but three,  
8 two, one is the makeup, if you will, of the  
9 south Florida Senate districts. You have three  
10 so-called Hispanic seats, you have two  
11 African-American seats, black seats, and you  
12 have one so-called Anglo seat, or white seat.

13 The demographic reality of south Florida  
14 and because south Florida has changed makes it  
15 very, very, very clear that there is an  
16 apparent need for a fourth Hispanic seat. What  
17 this plan that is before you seeks to  
18 accomplish is create that opportunity for  
19 Hispanics in south Florida to be able to elect  
20 a candidate of their choice.

21 I want to bring to your attention that  
22 what we have before us in the Senate Joint  
23 Resolution 2-B are three seats, three so-called  
24 Hispanic seats, that have, on average, about  
25 85 percent Hispanic voting age population.

1           They are quite packed.

2           The plan that is before you as an  
3           amendment creates the fourth Hispanic seat, and  
4           does so with the following Hispanic voting age  
5           populations: In District 35, you have a  
6           Hispanic voting age population of 56.5 percent;  
7           in District 37, under the amendment, you have a  
8           Hispanic voting age population of 77 percent;  
9           in District 38, a Hispanic voting age  
10          population of 81.6 percent; and in District 40,  
11          under the amendment that I am proposing, you  
12          have a Hispanic voting age population of 82.4,  
13          quite easily demonstrating that you can achieve  
14          that fourth Hispanic seat and still have  
15          anywhere from 56 to 82 percent Hispanic voting  
16          age population. It shows the demographic  
17          reality of our community in south Florida.

18          And so to that end, the Spanish-American  
19          League Against Discrimination has sent you all  
20          a letter. I have a copy of it, I am going to  
21          read in pertinent part why they strongly  
22          support the plan that I am proposing today, why  
23          they strongly support the creation of this  
24          fourth Hispanic seat, which does nothing more  
25          than recognize the demographic reality. And

1 sometimes, you know, the reality may not be  
2 what some may want, but as Senator Gaetz loves  
3 to say, facts are stubborn things. And so  
4 these stubborn facts argue, and they argue  
5 quite strongly for that fourth seat. And  
6 SALAD, which is the acronym, it is not a food  
7 item, the Spanish-American League Against  
8 Discrimination said as follows in their letter  
9 to us dated March the 20th, 2012: "The  
10 Spanish-American League against Discrimination  
11 has a long history of fighting in Florida for  
12 rights of Hispanic Americans, and we strongly  
13 support the creation of an additional Hispanic  
14 majority Senate district in south Florida.  
15 Adding an additional Hispanic State Senate  
16 district to the existing three districts would  
17 conform to the demographic makeup of Miami-Dade  
18 County, as well as maximize the opportunity for  
19 Hispanic-Americans to elect officials of their  
20 choice, not only a Tier 1 requirement under  
21 Florida's Constitution, but also an argument  
22 and an advancement of the idea, the letter and  
23 the spirit of the Voting Rights Act as found in  
24 federal law."

25 The Spanish-American League against

1 Discrimination goes on to say, "While many are  
2 solely concerned with the political aspect of  
3 reapportionment, our chief concern remains at  
4 its core to ensure Hispanic-Americans are  
5 fairly and adequately represented in the  
6 Florida Senate. It is unimaginable that  
7 members of this distinguished body would  
8 prioritize political considerations over  
9 guaranteeing that all Floridians, including  
10 those of Hispanic descent, are given an  
11 opportunity to voice -- to have a voice in our  
12 democratic form of government. If the Florida  
13 Senate is committed to diversity and fair  
14 representation under your reapportionment  
15 process, then SALAD respectfully asks that its  
16 members approve an additional fourth Hispanic  
17 majority State Senate district in Miami-Dade  
18 County."

19 I have heard the voice of the people in  
20 south Florida. The people in Miami-Dade County  
21 say we need additional representation, we need  
22 to have the opportunity to elect a candidate of  
23 our choice in the Florida Senate and have our  
24 voices heard and not feel like we are  
25 underrepresented. This map that I am



1 presenting to you, this amendment, would  
2 accomplish -- would accomplish that.

3 I want to briefly talk about some of the  
4 objective measures in the Tier 2 category that  
5 we have to look at in doing our analysis,  
6 particularly the one criterion in the Tier 2  
7 analysis that isn't qualified, because as you  
8 all know, as we have heard many, many times  
9 from Senator Gaetz and others, in the Tier 2  
10 analysis -- and we are talking now about equal  
11 population, compactness and following  
12 geographic and political boundaries. When you  
13 do a Tier 2 analysis under Florida's  
14 Constitution, you want to achieve, or you are  
15 instructed to achieve by the Constitution as  
16 equal as pos- -- equal population as is  
17 practicable. That is qualified by "as is  
18 practicable." You want to follow geographic  
19 and political boundaries, if feasible,  
20 qualified by, "if feasible," but it says  
21 districts shall be compact. And so what we've  
22 achieved here and the measurables in terms of  
23 convex hull, Reock and Polsby-Popper scales,  
24 which are the objective metrics that are used  
25 to determine and prove compactness, also show

1           that the districts that are being depicted and  
2           presented in the amendment that I am proposing  
3           are compact districts with high measurables in  
4           terms of compactness. And I could go into the  
5           details of that, but I won't at this juncture  
6           unless it comes up as we move forward.

7           Having done this and having looked at  
8           this, I have also taken the opportunity to talk  
9           to members of the Florida House of  
10          Representatives and others who were interested  
11          in this process, and, quite frankly, in going  
12          over this exercise of drawing the four seats,  
13          the four Hispanic seats that are shown in the  
14          amendment that I brought forward, we found that  
15          there were at least three or four ways that you  
16          could achieve that fourth seat, proving yet  
17          again how the numbers and the demographics  
18          don't lie and how facts are stubborn things, as  
19          Senator Gaetz says. And so there are at least  
20          two or three other maps that if time permitted  
21          and if the will were here to consider fully and  
22          completely, we could probably even bring  
23          forward to demonstrate the reality that there  
24          is a need and that we can create that fourth  
25          Hispanic seat.

1           I have been around this process for only  
2           two years now. I am a freshman Senator. I  
3           have been in the Reapportionment Committee and  
4           I have tried to present a similar map. It had  
5           some flaws and we had to tweak it with the  
6           staff, and we did, and this plan that you have  
7           before you does not touch any area outside of  
8           the Miami-Dade County seats. And so some of  
9           the issues that came up during Committee have  
10          been addressed here, but having participated in  
11          the process, having been in the Committee,  
12          understanding where the will of the majority of  
13          the Senate is, I am not going to move forward  
14          with this map at this time. I am going to  
15          withdraw this amendment. I wanted to be able  
16          to just say for the record that I believe that  
17          the numbers are there, that facts are stubborn  
18          things and that eventually we may have to  
19          deal -- we may have to deal with this reality,  
20          perhaps not in this forum, but in another  
21          forum, perhaps not under a Florida  
22          constitutional analysis, but perhaps in a  
23          federal court under an analysis based on  
24          federal law and the Voting Rights Act.

25                   And so because I believe that this is just

1 the first chapter in what will be and promises  
2 to be an ongoing reapportionment saga, I will  
3 withdraw the amendment at this time and would  
4 just tell you all and ask you all to please  
5 keep your eyes on Miami-Dade County, because  
6 there will be soon that fourth Hispanic seat  
7 that the community is clamoring for and  
8 demanding.

9 And with that, Mr. President, I thank you  
10 for the opportunity of indulging me and making  
11 this presentation before all of you and my  
12 colleagues. Thank you.

13 SENATOR BENNETT: Show the amendment  
14 withdrawn. Take up and read the next  
15 amendment.

16 THE CLERK: Bar code 655266 for Senator  
17 Latvala, delete lines 13 through 5918, insert  
18 amendment.

19 SENATOR BENNETT: Senator Latvala, you are  
20 recognized.

21 SENATOR LATVALA: Thank you very much,  
22 Mr. President.

23 First of all, I want to apologize that we  
24 did not have this amendment ready in Committee.  
25 As you know, with the Chairman's amendment

1 coming out over the weekend and a lot of folks  
2 not really focusing on it until Monday, it was  
3 about the middle of the day Monday before I  
4 started getting calls on this issue, and so we  
5 have put this amendment together. I tried to  
6 give notice in the Committee the other day that  
7 I would have this amendment on the floor.

8 Basically this amendment is restricted and  
9 only deals with Senate Districts 15, 21, 24 and  
10 26. That is the area of eastern Hillsborough  
11 County, down to Manatee County, over into the  
12 interior of the state and up in Polk County.

13 Contrary to newspaper reports today, this  
14 does not do anything, does not change one line  
15 or involve one population shift, one person, in  
16 the Orlando area, in Orange County. One of  
17 these districts goes into Orange County, but  
18 the share of the population and the area  
19 covered is the same in that county as in the  
20 Chairman's amendment.

21 Basically the bottom line with this  
22 amendment is it was brought to my attention by  
23 the City of Plant City when the Chairman's  
24 amendment came out that the city limits of  
25 Plant City were encompassed in a -- I won't say

1           appendage, better not use the word I used  
2           yesterday in Committee, let's just say a hump  
3           or a bump on the side of Polk County into  
4           Hillsborough County up in the -- up in the neck  
5           of the woods of Plant City. It includes, you  
6           know, about 42,000 people, and those of you  
7           that have a map in front of you will see up in  
8           the northeast part of the county that little  
9           weird-looking shape there. Well, that is where  
10          42,000 people in Plant City live, and those  
11          people are very proud residents of Hillsborough  
12          County, very involved in their county and very  
13          interested in being represented from within  
14          their county.

15                 And I got this letter on Monday,  
16          Mr. President, as I think did the Chairman and  
17          you are also copied on this. I want to just  
18          read just a couple of paragraphs. It says, "As  
19          the only incorporated area in eastern  
20          Hillsborough County, most of the surrounding  
21          unincorporated area residents both closely  
22          identify with the city and also have  
23          corresponding Plant City mailing addresses. In  
24          fact, the majority of the agricultural  
25          businesses we serve, and specifically the

1 strawberry farmlands which have earned Plant  
2 City the reputation as the winter strawberry  
3 capital of the world, are actually located in  
4 the surrounding unincorporated area. For these  
5 reasons, I feel that both eastern Hillsborough  
6 County and the City of Plant City would be best  
7 served by continuing to be included within the  
8 same Florida Senate district." And that is  
9 signed by the Mayor of Plant City, Daniel D.  
10 Raulerson.

11 Also heard from a number of other folks in  
12 Plant City who basically asked me to do an  
13 amendment that would -- would try to alleviate  
14 this problem and put these good folks from  
15 Plant City back in eastern Hillsborough County  
16 Senate district.

17 So that is the effect of this amendment.  
18 We take these 42,000 people who are currently  
19 in -- in Senator Gaetz' amendment would be in  
20 the new Senate District 26 -- I'm sorry, 24,  
21 and we push them into Polk County, and then  
22 there is, of course, a clockwise effect, so the  
23 district -- the new District 15 grows by that  
24 amount of people and then has to push some  
25 people off of the bottom of that district down

1           into District 21, and then we come back around  
2           to the bottom of Hillsborough County to an  
3           unincorporated area that is exactly adjacent to  
4           Manatee County and covers the entire length of  
5           the Manatee County border that is shared with  
6           Hillsborough County in a rectangle, and kind of  
7           match it all up.

8                     Those folks down there are a combination  
9                     of two things: The southern area of Sun City  
10                    is in that district, which are retirees closely  
11                    resembling the folks that live in Manatee  
12                    County, the retiree -- the retired population  
13                    of Manatee County on the coast, and there is a  
14                    lot of to tomato farms down there, too, that  
15                    just kind of are adjacent, you don't really  
16                    know where Hillsborough County stops and  
17                    Manatee County starts out in the middle of  
18                    those fields. So it is very, very homogenous  
19                    in terms of the community.

20                    The scores -- we were able in doing this  
21                    to -- very proud to say that we got really good  
22                    metrics, Senator Thrasher. In three of the  
23                    four districts after our surgery on them, we  
24                    improved the Reock scores. In two of the four  
25                    districts, we reduced the perimeters, and in



1 one district, we were able to keep it the same.  
2 And likewise, with the convex hull ratios, we  
3 were able to reduce in two of the districts. I  
4 think what we have done here is we have created  
5 a map that is actually a little bit  
6 better-looking.

7 The criticism of the map will be that we  
8 did split the City of Winter Haven. And there  
9 is really a very specific reason for that in  
10 that Winter Haven is one of those cities -- and  
11 I have in my district the City of Largo which  
12 is the same way -- which has a lot of tentacles  
13 that go out from the city which have basically  
14 been annexed, an incorporated area, and so you  
15 have to -- if you don't want a map that has all  
16 kinds of tentacles on it, you -- you know, and  
17 you want to stay compact, which the Court has  
18 told us to do, then you try to round those  
19 areas off. The vast majority of the City of  
20 Winter Haven is included with the other  
21 population center of Polk County into Senate  
22 District 15.

23 So the other effect is that Highlands  
24 County has been shaped up. Highlands County, I  
25 might add, is the smallest county in the state

1 of Florida to be split by our map-making  
2 process. Most of the counties that were split  
3 around the state were split because they were  
4 large counties; in many cases, because they  
5 were over the amount for one Senate district  
6 and then you had some excess. In Highlands  
7 County's case, it was just in the wrong place  
8 in the center of the state and ended up getting  
9 split down the middle vertically, and we  
10 thought as we added some population back to  
11 that county, we split it horizontally and kind  
12 of smoothed out the maps, and that is one the  
13 ways we achieved the better compactness scores.

14 So I think this is a good amendment.  
15 We -- I think the people in Plant City and -- I  
16 think they will be happy. I think the people  
17 in Highlands County will be happy. Polk County  
18 still represents 35 percent of the southern  
19 district there, the interior district, by far  
20 more than twice as much population from Polk  
21 County than any of the other counties in that  
22 interior district. We are keeping the interior  
23 agricultural areas together, not having them  
24 represented by a coastal retirement county, and  
25 I think, all in all, we've done a good job with

1           that.

2                   PRESIDENT HARIDOPOLOS: Questions?

3           Senator Negron for a question.

4                   SENATOR NEGRON: Thank you very much,  
5           Mr. President.

6                   Senator Latvala, the Florida Supreme Court  
7           asked us to address eight specific districts  
8           where they found something that was  
9           constitutionally infirm, and that was 1, 3, 6,  
10          9, 10, 29, 30 and 34 that Senator Gaetz went  
11          over with us this morning. Would you  
12          acknowledge that the amendment that you have  
13          filed and are presenting today goes outside of  
14          resolving any of those issues and addresses a  
15          part of the state that the Florida Supreme  
16          Court had not found any problems, is that  
17          correct?

18                   PRESIDENT HARIDOPOLOS: Senator Latvala,  
19          you are recognized to respond.

20                   SENATOR LATVALA: I don't think that is  
21          correct at all. The changes that were made to  
22          these districts here were made specifically as  
23          part of -- the Court didn't tell us that  
24          Lakeland was invalid, but as our Chairman has  
25          said, they basically gave us a strong

1 suggestion we'd better fix Lakeland. And if  
2 you will remember, the map originally had this  
3 column that came up from Manatee County over  
4 the eastern side of Hillsborough and the  
5 western side of Polk, kind of like a wide  
6 column that came up to Lakeland and split  
7 Lakeland. Well, when we were fixing that  
8 problem as a result of the Court telling us  
9 in -- or suggesting strongly that we needed to  
10 fix it, this little accident with Plant City  
11 happened. So I think that it is well within  
12 the purview of us in trying to address the  
13 concerns of the Supreme Court. The Chairman  
14 fixed it, I think perhaps overlooked the -- you  
15 know, the kinship between Plant City and the  
16 rest of Hillsborough County, and we are just  
17 trying to fix that little glitch.

18 PRESIDENT HARIDOPOLOS: Senator Negron for  
19 a question.

20 SENATOR NEGRON: Thank you. I wasn't  
21 involved in this, but my understanding was that  
22 Senator Dockery, who represents Polk County,  
23 was involved over the weekend in,  
24 quote/unquote, a fix for Polk County and  
25 Lakeland that the Supreme Court had suggested

1 while we were at fixing these eight districts,  
2 we may want to look at Lakeland, that with her  
3 input and input of staff and others, that the  
4 Chairman's amendment that we are on today  
5 resolved those problems. Could you identify  
6 what were the inadequacies in the changes that  
7 Senator Dockery initiated that needed to be  
8 resolved by the amendment you are offering  
9 today, and how does your amendment correct  
10 those deficiencies?

11 PRESIDENT HARIDOPOLOS: Senator Latvala,  
12 your are recognized.

13 SENATOR LATVALA: I can't -- I can't read  
14 Senator Dockery's mind as to what her -- the  
15 perceived deficiencies were in the plan, and I  
16 am sure we will hear about them.

17 I will say that what I recognize from  
18 reading the Supreme Court decision was the  
19 major deficiency was that the City of Lakeland  
20 was split. It is not split in this map. I  
21 think what we did is we -- you know, what -- in  
22 the process of keeping Lakeland whole, we split  
23 off an important section of Hillsborough County  
24 from the rest of the county, and these people  
25 don't want to be represented by Lakeland. So

1           it is kind of, you know, which community sings  
2           the loudest on these kind of situations, and  
3           this week, it is Plant City singing, but we  
4           haven't done anything whatsoever to hurt  
5           Lakeland.

6           PRESIDENT HARIDOPOLOS:   Senator Negrón for  
7           a question.

8           SENATOR NEGRÓN:   Thank you, just one final  
9           question.  Thank you, Mr. President.

10           It is my understanding that in the map  
11           that is being put forward today by Chairman  
12           Gaetz, this CS for SJR-2B, that there are two  
13           announced candidates in the area that would  
14           both be competing in one seat.  And my question  
15           to you is, in your amendment that you are  
16           offering today, is the result of that amendment  
17           that those two candidates will be in different  
18           districts?

19           SENATOR LATVALA:   I am not real --

20           PRESIDENT HARIDOPOLOS:   Senator Latvala,  
21           you are recognized.

22           SENATOR LATVALA:   I'm sorry.

23           I am not real familiar with where anybody  
24           lives.  I don't know where those candidates  
25           live.  Unlike the amendment that we just had,

1           which would have moved an incumbent into a  
2           district, it is also my understanding that the  
3           Constitution refers to incumbents and political  
4           parties, and a candidate is not an incumbent or  
5           a political party.

6           It is also my understanding that out in  
7           those particular districts, there are no  
8           Democratic candidates, there are just  
9           Republican candidates. So I can't imagine -- I  
10          don't know the particulars of where people  
11          live, but I can't imagine that since there is  
12          only candidates within one party, we are  
13          advantaging one party over another, and we  
14          certainly -- unless somebody lives out there  
15          that I don't know about, we don't have an  
16          incumbent that lives out there.

17          PRESIDENT HARIDOPoulos: Senator Alexander  
18          for a question or debate?

19          SENATOR ALEXANDER: I will wait.

20          PRESIDENT HARIDOPoulos: Okay. Senator  
21          Dockery, did you want to comment on the  
22          Lakeland issue in debate? Okay.

23          Let's go to debate. Senator Alexander, we  
24          will begin with you, if that is all right, and  
25          then we will proceed from there.

1           SENATOR ALEXANDER: Thank you,  
2           Mr. President.

3           I am going to support the amendment. I  
4           mean, it works okay either way, but  
5           representing much of this area that is  
6           affected, I do see the merit of having Plant  
7           City represented with Hillsborough County. I  
8           think it has more affinity to that area than  
9           does -- does, say -- and I think Winter Haven  
10          has a lot more affinity to the 15th seat than  
11          Plant City has. So, to me, that is generally a  
12          good trade, if you want to call that that. It  
13          allows the part in Polk County to -- that is  
14          not Lakeland to have a more equal voice in the  
15          selection of a candidate, it is not weighted  
16          one way or the other, but it allows a bit more  
17          equal voice in terms of whether or not a  
18          candidate is from Lakeland proper or from the  
19          other cities that make up Polk County. All in,  
20          there's 600,000 people in Polk County, so I  
21          think that it is important to -- although  
22          Lakeland went out and filed a lawsuit, the  
23          other cities who had a better way to come  
24          together to be represented were actually  
25          somewhat disenfranchised by giving Lakeland a



1 stronger voice within that district. So  
2 putting the majority of Winter Haven into it  
3 that has more affinity to Haines City and to  
4 Auburndale and to the other cities in that  
5 region, I think makes some good sense.

6 And then down in Highlands County, you  
7 know, I thought it was not a terrible idea, but  
8 I hate to see most of Highlands County put into  
9 a coastal district where Highlands, Hardee and  
10 DeSoto and Glades will make up 30 percent of a  
11 seat that is really dominated over on the  
12 coast.

13 So it isn't perfect in any way, shape or  
14 form. I don't believe you can make perfect  
15 maps that completely outline it, but I think to  
16 allow the major population center in Highlands  
17 County to stay within that area of Polk,  
18 Osceola, Okeechobee, that it has traditionally  
19 been associated with makes some sense. Back  
20 over a decade ago in reapportionment, 20 years  
21 ago, Hardee and DeSoto were associated with  
22 Manatee.

23 So there is no perfect world. I wish  
24 that, you know, it was a bit different, but I  
25 do think that the changes proposed in this

1           amendment will allow for a better alignment of  
2           the communities within this region to have  
3           their voices heard in each of these three  
4           districts.

5                   I also used to represent south  
6           Hillsborough County when I first came to the  
7           Legislature in 1998, and I represented Ruskin  
8           and Sun City Center, and I can tell you as a  
9           fact that folks -- folks in Ruskin and up to  
10          the edge of Apollo Beach probably have as much  
11          in common with Manatee County as they do the  
12          silk stocking folks in downtown Tampa. I mean,  
13          there's an awful lot of cross-trade that goes  
14          across between Manatee County and the Ruskin  
15          area. It is unfortunate that Sun City is split  
16          again, but if you go back 20 years, that is the  
17          way it was at that point. Sun City is a strong  
18          voice, I think they will be heard in both  
19          districts very well.

20                   So, you know, all in all, I would see this  
21          amendment as an overall improvement of the  
22          regional alignment of these communities to --  
23          in a way that is more consistent with the kind  
24          of on-the-ground alignment of these individual  
25          communities. So I would urge the support of

1 the amendment.

2 PRESIDENT HARIDOPoulos: Senator Norman in  
3 debate.

4 SENATOR NORMAN: Thank you, Mr. President.

5 I want to concur a couple of things.  
6 First of all, I also received a passionate call  
7 from the Mayor of Plant City urging this  
8 Legislature to please consider bringing Plant  
9 City back into Hillsborough County. I mean,  
10 the analysis he used for me was can you imagine  
11 if we ran an arm over and took Lake City and  
12 pulled it into Hillsborough County. There  
13 would be an outcry like you can't believe,  
14 because they would be out of their element.

15 What is happening here is you've got that  
16 little leg that just jumps out and takes Plant  
17 City over into Polk County. It is the same  
18 fairness issue for a small city that has been a  
19 part of Hillsborough, their tax base is there,  
20 you know, Hillsborough County is something that  
21 they have been associated with. Actually, I  
22 had an opportunity of representing them for a  
23 number of years. I just think it is an overall  
24 better balance of the region, especially with  
25 the association of Plant City and how they are

1 represented by their county in Hillsborough.

2 So I would urge support of the amendment, thank  
3 you.

4 PRESIDENT HARIDOPOLOS: Senator Thrasher.

5 SENATOR THRASHER: Thank you,  
6 Mr. President.

7 And I just want to start out by saying I  
8 respect -- I have been to Plant City, I love  
9 Plant City, it is a great place to go, and I  
10 understand the constituents there, how they --  
11 or at least the Mayor anyway, how he feels. I  
12 understood the concerns that Senator Smith  
13 raised about Volusia County, kind of the same  
14 thing. But I want to remind the members -- and  
15 I do this with great respect for what Senator  
16 Latvala is trying to do and I understand all  
17 the good arguments that Senator Alexander made,  
18 the emotional types of arguments, but as I said  
19 when I asked Senator Gaetz a question earlier,  
20 what are we here for today, what are we here  
21 for today? We are here to do, in my opinion,  
22 based upon my reading of the Supreme Court  
23 case, we are here to address eight districts  
24 that the Supreme Court found invalid, the  
25 Lakeland area and the numbering area. This was

1 not part of any of the concerns raised by the  
2 Supreme Court. And now to make these fairly  
3 dramatic shifts in this particular plan, or  
4 amendment to the overall plan, I believe puts  
5 the entire plan at jeopardy in front of the  
6 Supreme Court, because we did not -- they did  
7 not ask us to address it, and they simply said  
8 it looked okay to them apparently or they would  
9 have, I believe.

10 So we've got eight districts that they  
11 said to address that were invalid, we've got  
12 the numbering system and we've got the Lakeland  
13 area, and to do more than that today, we --  
14 every other amendment has not been accepted by  
15 this body, I think for the same reasons and the  
16 concerns that we have -- we are addressing  
17 specificity and what the Court asked us to do,  
18 and now we are going beyond that. And while I  
19 agree with a lot of the emotional arguments  
20 that have been made by the folks from those  
21 areas, you could almost make that in any area  
22 of the state that has been divided or has had  
23 their district changed, but I just think it is  
24 great risk for us at this point to adopt this  
25 particular amendment. Although I have great

1 respect for the sponsor and what his intentions  
2 are, I think it puts its entire plan at  
3 jeopardy, and, therefore, I would urge you not  
4 to vote on it favorably.

5 PRESIDENT HARIDOPOLOS: Okay. We have  
6 Senator Dockery, followed by Senator Storms,  
7 followed by Senator Bogdanoff.

8 Senator Dockery, you are recognized in  
9 debate.

10 SENATOR DOCKERY: Thank you,  
11 Mr. President, and members, I just want to make  
12 a couple of comments about this.

13 When this plan first came up on the floor  
14 during regular session, I made a lot of --  
15 asked a lot of questions of Senator Gaetz about  
16 how Lakeland was split in half, and his  
17 response to me was that I should have gotten  
18 with staff and worked things out.

19 So over the course of this second chance  
20 at the redistricting map, I did get with staff,  
21 spent an hour and a half on Friday morning  
22 while most of you had gone home, and staff came  
23 up with the Plant City portion of the district.  
24 But I am very grateful to staff, I am very  
25 grateful to Senator Gaetz for putting Lakeland

1 together and solving the issue that Lakeland  
2 addressed to the Courts and where the Courts  
3 asked us while we are taking a second look, to  
4 try and fix that boundary.

5 When I looked at the map as staff helped  
6 to form, what I did like about it is that it  
7 didn't split any other cities in Polk County in  
8 its effort to fix the Lakeland problem, and had  
9 Winter Haven together in one district.

10 I do have a letter I would like to read  
11 for the record from the City of Lakeland, and  
12 it is addressed to Senator Gaetz: "Dear  
13 Honorable Senator Gaetz, please consider this  
14 correspondence as an indication of the City of  
15 Lakeland's support for Senate Joint Resolution  
16 2-B in its current form. The Lakeland City  
17 Commission has been acutely aware of the  
18 reapportionment process and how it impacts the  
19 Lakeland community. They have repeatedly  
20 acknowledged your committee's complicated task  
21 in balancing all the variables that the recent  
22 order of the Supreme Court requires. Lakeland  
23 made its concerns known, and your committee  
24 listened. Senate Joint Resolution 2-B  
25 represents a fair and equitable result for

1 Lakeland citizens. The city commission asked  
2 me to convey their appreciation for the  
3 thoughtful and contemplative approach that the  
4 revised map represents, and commends your  
5 committee on its conscientious adherence to the  
6 direction from the Court. We are all public  
7 servants, and like you, the Lakeland City  
8 Commission works constantly to represent the  
9 interests of its constituents. Your committee  
10 has responded fairly and responsibly to its  
11 concerns. Your efforts are greatly  
12 appreciated."

13 So the City of Lakeland's issue had been  
14 taken care of. And I agree with Senator Negrón  
15 that this current amendment before us, while it  
16 does not re-split Lakeland, so it doesn't  
17 create a new problem, is not addressing  
18 anything that the Court had sent back to us to  
19 address.

20 While I represent the City of Lakeland, I  
21 also represent Polk County, and Polk County  
22 asked in resolution form for us to -- us who  
23 represent Polk County to have two resident Polk  
24 County Senate seats like we do today. This  
25 amendment by Senator Latvala takes away the



1 second seat, which had 58 percent, I believe,  
2 in Polk County, to 35 percent. And while I am  
3 a term-limited Senator, I have nothing  
4 personally to gain or lose from how these two  
5 Polk County districts are drawn, but the fact  
6 that this amendment only affects four  
7 districts, and two of them are in Polk County,  
8 Senator Latvala mentioned that he can't read  
9 Senator Dockery's mind. Well, he sits two  
10 seats down, he doesn't have to read my mind, he  
11 could have asked me, and he did not. Now,  
12 while I am happy that Lakeland, even under his  
13 amendment, is still whole and the Lakeland  
14 problem is fixed in Senator Gaetz' plan and in  
15 this one, I think you are introducing some new  
16 problems and new issues.

17 To the question about whether or not this  
18 helps some other candidates not be in the same  
19 district, I think we all know that that is the  
20 case. And I understand that people in here  
21 want to help their friends, some of the House  
22 members, to come over here, but that should not  
23 be done on the backs of citizens of Polk County  
24 when we had a map that went through many, many  
25 hours of deliberation over the past two days in

1           Committee that we all had plenty of opportunity  
2           to see and vet for a plan that is coming up  
3           today. So I would ask you on behalf of Polk  
4           County to please vote no on this amendment.

5           PRESIDENT HARIDOPOLOS: Senator Storms.

6           SENATOR STORMS: Thank you, Mr. President.

7           For the benefit of my constituents that I  
8           represent in Lakeland, for the benefit of my  
9           constituents that I represent in Plant City and  
10          for the benefit of my constituents that I  
11          represent in Sun City Center, I think that it  
12          would be wholly inappropriate and self-serving  
13          for me to opine one way or the other. My --  
14          this -- we are not supposed to say "my  
15          district," but this poor district, District 10,  
16          which is now District 21, has been pushed  
17          sideways, shoved to the north, shoved to the  
18          south, pinched and pulled in every which way,  
19          and at every turn some people are out, then new  
20          people are in, some people are this way, by  
21          every single one of the plans. And so I have  
22          tried to steadfastly say I am not trying to  
23          benefit one group or the other, not trying to  
24          harm one group or the other, and I don't intend  
25          to do it on this amendment, but I know that

1 people would like me to say one way or the  
2 other which I would prefer as the Senator who  
3 represents this area, but I am not going to do  
4 it to the detriment of some I know, and to the  
5 benefit of others. But for me to participate,  
6 it feels to me like -- and I am not generally  
7 speaking to members here, I am speaking to my  
8 constituents -- it feels like it is  
9 self-serving, and so I don't want to do that,  
10 but I did want to say that on the record for  
11 those people who are paying attention and  
12 saying, you know, why aren't you advocating one  
13 way or the other for people that I have  
14 represented for 15 years. I just feel like it  
15 would be inappropriate and completely  
16 self-serving on my part, so I am not going to  
17 do it for that reason.

18 PRESIDENT HARIDOPoulos: Senator Bogdanoff,  
19 you are recognized in debate.

20 SENATOR BOGDANOFF: Thank you,  
21 Mr. President, and I guess as Senator Thrasher  
22 said, I want to kind of bring it back to why we  
23 are here, and we are here to discuss, I guess,  
24 the specific districts or the issues that were  
25 opined by the Supreme Court with whether or not

1           they meet the constitutional mandates.  And I  
2           am not going to get into, you know, the  
3           communities of interest and whether or not the  
4           line has moved, because the arguments that I  
5           heard in moving the lines were basically  
6           because certain communities wanted to be where  
7           they wanted to be and splitting cities and  
8           what-not, and I don't know that area well  
9           enough to do that, but what I do want to talk  
10          about is to address some of the comments that  
11          were made on the floor to Senator Negrón.  We  
12          are not -- I mean, whether or not there are two  
13          potential candidates that are running, by the  
14          end of the day, there will probably be ten,  
15          because we know that that is probably going to  
16          happen.  And the Constitution does talk, in  
17          fact, as Senator Latvala said, about  
18          incumbents, and it talks about political party  
19          in terms of favoritism or dis-favoritism.  So  
20          when you look at it, all of that area, which  
21          most of us know happens to be a Republican  
22          area, whether Democrats run, that's -- so you  
23          are not really hurting anybody by moving any  
24          lines.  And incumbents -- non-incumbents are  
25          not a part of what we should be discussing here

1           today in any of the -- regardless of who  
2           thinks -- who wants to help who, that should  
3           not be a part of the discussions that we have  
4           on the Senate floor.

5           I guess, you know, with respect to why  
6           maybe perhaps maybe this amendment is  
7           acceptable is when we asked questions of  
8           Senator Smith with respect to the changes that  
9           he was trying to make, there were some specific  
10          items that Senator Gaetz went over that  
11          specifically said why it actually would bring  
12          us closer to not meeting the opinion of the  
13          Supreme Court, and that it could -- it could  
14          actually hurt. I have not heard any arguments  
15          here today or any statistics that would change  
16          the fact that Senator Latvala sees the  
17          community of interest a different way than the  
18          original map drawer when they fixed the  
19          Lakeland area. So this is not a new area.

20          And I would just make one other comment,  
21          and I think that we all are kind of missing  
22          this one particular point. The Supreme Court  
23          has an obligation under the Constitution to  
24          review the map in its entirety. It only seemed  
25          to address those districts that were challenged

1 by some of the people who filed suit. That  
2 doesn't mean that the Supreme Court doesn't  
3 have the right to go back and look at the map  
4 as a whole, whether it be Miami-Dade County for  
5 Hispanic districts, whether it be a line that  
6 was moved because we fixed Lakeland, or what  
7 happened in south Florida, which encompassed my  
8 old district, District 25. So I think that we  
9 all need to be cognizant to the fact that let's  
10 stick to the opinion of the Court, let's make  
11 sure that we look at the criteria that they  
12 created, and if Senator Latvala's amendment  
13 just simply moves a line and doesn't violate  
14 any of what they gave us an opinion on, then I  
15 think we should support it. Now, whether or  
16 not you agree with his line in terms of  
17 community of interest, that is a personal  
18 decision based on what you know of the area.  
19 Whether -- he's got folks that are calling him  
20 saying move the line, and perhaps Senator  
21 Dockery has people calling her saying don't  
22 move the line. I think that is the opinion  
23 that we all should have. But from what I can  
24 tell and the arguments that I have heard, it  
25 has nothing to do -- this -- if we accept this

1           amendment, it will not harm our ability to  
2           defend it in court.

3           PRESIDENT HARIDOPOLOS:   Senator Gaetz in  
4           debate.

5           SENATOR GAETZ:   Thank you very much,  
6           Mr. President.

7           And I want to thank Senator Latvala for  
8           working with the professional staff and with me  
9           in crafting his amendment.   The amendment could  
10          have gone different ways that it didn't go, but  
11          it went the way that it did, and I want to  
12          thank him for his cooperation and his  
13          willingness to work with us.

14          Senator Thrasher is right that we should  
15          not do harm to areas or parts of the state  
16          where harm was not indicated by the Court's  
17          opinion, but I am the reason why we are dealing  
18          with Plant City.   I am Chairman of the  
19          Committee, I will take the responsibility.   It  
20          was the Committee and the Committee's bill,  
21          which is before you, which got into the  
22          business of fixing, to use that term, the  
23          Lakeland problem, and then we began to try to  
24          calculate how we could achieve all of the other  
25          constitutional and demographic standards and

1 maintain good redistricting principles, and  
2 that is why Lake City and Plant City --  
3 Lakeland and Plant City wound up in the same  
4 district. So it was as a consequence of the  
5 work of the Committee that that occurred. It  
6 was not -- Senator Latvala's amendment is not  
7 cut out of whole cloth, it is not bringing up a  
8 new issue. It is addressing an issue which was  
9 addressed because of the committee bill.

10 Now, Senator Latvala and I have discussed  
11 this at great length, and as I said, there are  
12 many ways that he could have approached his  
13 amendment where I would have taken a different  
14 view, but today I urge you to support the  
15 Latvala amendment, and here is why: We have to  
16 go back, as I said at the beginning and as  
17 others have echoed throughout the day, to the  
18 reason we are here. We are here to make sure  
19 we respond to the Supreme Court's specific  
20 requirements, and one of their requirements  
21 was, whatever you do, first of all maintain all  
22 the Tier 1 requirements, be compliant with all  
23 the Tier 1 requirements, but secondly, try as  
24 you do that and in every other way to be as  
25 compact as you possibly can. Senator Latvala's



1 amendment makes this part of the state and the  
2 affected counties more compact. If it didn't,  
3 I would oppose the amendment regardless of what  
4 the Mayor of Plant City might have said.

5           However, there's also something else that  
6 came up. Senator Storms made a good point  
7 several days ago when she said are we still  
8 going to be listening to the public, or have we  
9 gone into a hermetically sealed chamber, my  
10 words, not hers, but her meaning. And our  
11 answer was we still want to hear from the  
12 public. So since this is not a divinely  
13 inspired plan, but it is a constitutionally  
14 valid plan, I think it is important that if a  
15 part of the state which was affected by the  
16 work of the Committee can be made better by an  
17 amendment, an amendment that was inspired by  
18 people who contacted a Senator and said, "Look,  
19 we view ourselves as being more inclined to be  
20 part of Hillsborough County than being viewed  
21 as part and parcel of a Senate district that  
22 includes Lakeland," if we can accommodate those  
23 local interests and keep listening to people  
24 right down to the moment of the final vote, and  
25 if we can create more compact districts and if

1 we can maintain the other constitutional  
2 principles in a cooperative way, then it seems  
3 to me that we ought to do so. So I would  
4 encourage a yes vote on the Latvala amendment.

5 PRESIDENT HARIDOPOLOS: Senator Latvala to  
6 close.

7 SENATOR LATVALA: Thank you,  
8 Mr. President.

9 I really can't say it much better than  
10 Senator Gaetz just said it, you know. I would  
11 like to reiterate, because I am very surprised  
12 at the comments that this is somehow a new  
13 issue. We know it is not a new issue. I mean,  
14 you know, we know that this particular  
15 amendment is stimulated by the work of the  
16 Committee, by the Chairman's amendment. This  
17 situation didn't exist in the old map, the map  
18 we passed off the Senate floor a month and a  
19 half ago. You know, the Lakeland situation was  
20 pointed out to us by the Supreme Court. From  
21 the day we got that order a week ago last  
22 Friday until this past Saturday, eight days,  
23 Senator Dockery worked hard to represent her  
24 people in the City of Lakeland and get it  
25 written, get the plan done to satisfy the City

1 of Lakeland, which is exactly what she should  
2 have done.

3 Now, the problem is, when that plan came  
4 out over the weekend, we created another small  
5 problem, and I think it is a pretty small  
6 problem, it is 42,000 people. I think in a  
7 state where we got 40 districts of 470,000  
8 people in each district, 42,000 people is a  
9 pretty small problem. But that problem was  
10 created over the weekend, and we went to work  
11 on it. Now, you know, I'm sorry because of --  
12 I didn't set the schedule for this week, the  
13 Constitution set the schedule, how quickly we  
14 have to turn this around. We have been busting  
15 our butts, Senator Gaetz particularly, and the  
16 staff, to get this done in the time frame that  
17 we have. So I'm sorry we didn't have two or  
18 three weeks to vet this out with the folks in  
19 Lakeland and everywhere else. We had to move,  
20 and that is what we are supposed to do on  
21 behalf of our constituents. I represent  
22 Hillsborough County. Senator Norman represents  
23 Hillsborough County. We care about  
24 Hillsborough County and what those people want,  
25 and that is what we are trying to respond to.

1           Now, I want to say one more thing, and  
2           this is a benefit of institutional knowledge.  
3           And, Senator Dockery, this is particularly said  
4           it for you. The notion that Polk County should  
5           have two Senate seats that are majority seats  
6           in Polk County stemmed out of something that  
7           happened ten years ago. You know, Polk County  
8           only has 600,000 in population; to be exact,  
9           602,095. We all know that a Senate district is  
10          470,000 people. So Polk County really has  
11          enough people for one Senate district and about  
12          a fourth, between 25 and 30 percent, of another  
13          district. But ten years ago, the guy on this  
14          chamber that sat in Senator Alexander's seat  
15          was a Senator by the name of Laurent. He was  
16          the Chairman of the Senate Reapportionment  
17          Committee for the Senate districts. He was  
18          from Polk County. His objective was -- despite  
19          the fact that Polk County didn't have enough  
20          for two full Senate seats, his objective was to  
21          split Polk County so it could dominate two  
22          Senate seats. You know, too bad that there  
23          hadn't been somebody here from Marion County,  
24          because Marion County has 329,000 people, and  
25          they don't have a Senate seat. Pasco County

1 has 464,000 people, and they are going to be  
2 split in this map. So, I mean, I really don't  
3 think it is a material point how -- what  
4 percentage of Polk County is in a new district.

5 And by the way, Senator Dockery, the  
6 correct number in Senator Gaetz' plan, 41.95  
7 percent of Senate District 21 was from Polk  
8 County, and in this plan, 35.3 percent. So we  
9 are six percentage points less from Polk County  
10 in this district with this small, miniscule  
11 42,000-people change in it.

12 And who is to say that the people in  
13 Highlands County or Osceola County or  
14 Okeechobee County don't have the right to elect  
15 one of their own and don't have the right not  
16 to be split just like Polk County doesn't want  
17 to be split? I mean, I just think we need to  
18 look at this. I think we are making a mountain  
19 out of a mole hill, and maybe the mole hill is  
20 a good way to describe that little -- that  
21 little extra thing that is on the side of Polk  
22 County on the Hillsborough County map. And  
23 that is all we are trying to do is make that  
24 little mole hill go away, and I hope that you  
25 will support us in that effort. Thank you very

1 much.

2 PRESIDENT HARIDOPOLOS: Okay. Having  
3 closed, all those in favor of the amendment,  
4 say yea.

5 (Chorus of yeas.)

6 PRESIDENT HARIDOPOLOS: All those opposed,  
7 say nay.

8 (Chorus of nays.)

9 PRESIDENT HARIDOPOLOS: Show the amendment  
10 adopted.

11 Seeing five hands, the Secretary will lock  
12 the board and Senators prepare to vote.

13 All Senators voted? Have all Senators  
14 voted? Secretary, lock the board and announce  
15 the vote.

16 THE CLERK: Twenty yeas, 15 nays,  
17 Mr. President.

18 PRESIDENT HARIDOPOLOS: And by your vote,  
19 the bill passes, the amendment passes.

20 We are now on the bill as amended. All  
21 right. The adoption of the Latvala substitute  
22 amendment 655266 replaces the adopted Gaetz  
23 amendment of 472686.

24 We are on the second reading. Are there  
25 further questions on the bill as amended before

1 we go to debate on rolling a third reading?

2 Okay. Seeing no further questions,  
3 without objection, show the bill rolled to  
4 third reading. We are now in third reading in  
5 debate. For those who like to be heard in  
6 debate -- I'm sorry, Senator Gibson, did you  
7 have a question? I'm sorry, Senator Joyner, do  
8 you have a question? For a question or in  
9 debate, Senator Gibson -- I mean Senator  
10 Joyner? I now am oh for two. Senator Joyner,  
11 would you like a question or in debate? What  
12 is your pleasure?

13 SENATOR JOYNER: No, I had my hand raised  
14 for a question.

15 PRESIDENT HARIDOPOLOS: Okay. Let's have  
16 a question of Senator Gaetz. Senator Joyner,  
17 your are recognized for a question.

18 SENATOR JOYNER: If I can remember.  
19 Senator Gaetz, we talked about functional  
20 analysis. Just for the record, would you go  
21 through what you did in performing the  
22 functional analysis on one of those districts  
23 related to minorities?

24 PRESIDENT HARIDOPOLOS: Senator Gaetz, you  
25 are recognized to respond.

1           SENATOR GAETZ: Yes, thank you,  
2           Mr. President.

3           A functional analysis starts with the  
4           voting age population, and then breaks that  
5           voting age population down into minority groups  
6           where applicable, but then we go a level deeper  
7           and you look at how primary elections turned  
8           out; in other words, were Democrats or  
9           Republicans -- in Democratic or Republican  
10          primaries, how did minority groups participate?  
11          Did they participate in a meaningful way in  
12          terms of voting percentage? Were they able to  
13          elect candidates of their choice in the  
14          primary, and then was the primary winner able  
15          to be competitive in the general election?  
16          That is how the functional analysis is done in  
17          terms of a political analysis. Obviously,  
18          ma'am, we also did a geometric analysis, but I  
19          believe that you were asking about the  
20          functional analysis.

21          PRESIDENT HARIDOPOLOS: Senator Joyner for  
22          a follow-up? Okay. Further questions before  
23          we roll to third reading?

24          All right. Seeing no further questions,  
25          without objection, read the bill for the third



1 time.

2 THE CLERK: Committee substitute for Joint  
3 Resolution 2-B, a joint resolution of  
4 reapportionment.

5 PRESIDENT HARIDOPoulos: All right. In  
6 debate, who would like to be heard in debate?  
7 Senator Joyner. Others in debate? Senator  
8 Gardiner. Others in debate? Okay. Let's go  
9 with Senator Joyner first. Senator Rich, okay.

10 SENATOR JOYNER: Thank you, Mr. President.

11 First, as an officer of the Court, I feel  
12 that it is incumbent upon me to take a moment  
13 to make a statement in response to a comment  
14 made about the Supreme Court before I speak to  
15 the map.

16 In our government, we have three branches,  
17 as has been stated by the Senator from the  
18 14th; however, being separate, coequal branches  
19 of government, each having been given defined  
20 roles under the Constitution. The executive  
21 branch enforces, the legislative makes the  
22 laws, and the judicial branch interprets the  
23 laws, and the Supreme Court in its role as a  
24 separate co- -- branch -- coequal, independent  
25 branch interpreted the law that we passed in

1 the form of the apportionment that we did that  
2 they ruled upon which necessitated our being  
3 here today to make changes in accordance with  
4 the opinion that they entered, and that is  
5 their defined role and responsibility, and that  
6 is why we have a system of checks and balances,  
7 so that we, as the legislative branch, are held  
8 accountable. And so the Court in doing its job  
9 made a ruling which some of us don't  
10 necessarily agree with. However, we are here  
11 to deal with it, and that is why the language  
12 that is in it that some are opposed to is  
13 there, because they were doing what the  
14 Constitution allows them to do, and I just  
15 thought that maybe that refresher was  
16 necessary.

17 Now, as to the map, I rise in opposition.  
18 I would begin with the undisputable notion that  
19 Floridians asked us by a 63 percent majority to  
20 quit treating their franchise as if it were our  
21 own, to quit manipulating electoral boundaries  
22 to benefit ourselves, to quit acting like their  
23 districts as if by some divine entitlement were  
24 our districts; in short, to be statesmen and  
25 stateswomen and not politicians. The Supreme

1 Court brought the point home in their opinion  
2 invalidating the map we produced. While some  
3 have tried to spin the opinion in the best  
4 possible light, it is sheer folly to do so.  
5 The highest court in Florida said that our map  
6 was rife with objective indicators of improper  
7 intent, rife with objective indicators of  
8 improper intent. Unfortunately, it appears  
9 that we didn't get the message, because the new  
10 map has some of the same shortcomings, just a  
11 few.

12 First, the new plan inexplicably bisects  
13 and thus disenfranchises the City of Daytona  
14 Beach by regarding its -- disregarding its  
15 municipal boundaries without justification. It  
16 appears that this was a naked partisan  
17 gerrymandering. It is intended to ensure that  
18 the Daytona Beach Democratic majority would be  
19 split into two separate districts, 8 and 13 on  
20 map 26, 20, 26, to reduce Democratic voting  
21 strength and guarantee that both of those  
22 districts will reliably perform for the  
23 Republican party, for Republican incumbents and  
24 Republican candidates.

25 The new District 13 is no better. It

1 remains as facially non-compact as it was  
2 before, and it lacks any constitutional  
3 justification for its lack of compactness.  
4 Like its unconstitutional predecessor, District  
5 13 in the new proposed Senate plan includes the  
6 same appendage that our Court held  
7 unconstitutional that reaches down among the  
8 eastern edge of Orlando, grabs an incumbent's  
9 residence for no apparent reason other than to  
10 draw that incumbent into a safe Republican  
11 seat.

12 District 22 in the proposed map  
13 egregiously violates political and geographic  
14 boundaries simultaneously. It unnecessarily  
15 crosses Tampa Bay and violates the  
16 Pinellas/Hillsborough County boundary. The  
17 League of Women Voters' alternate plan  
18 demonstrates that it was possible to draw  
19 constitutionally compliant districts in the  
20 Tampa Bay area that respect both the bay and  
21 the county boundaries. By contrast, the  
22 gerrymandered District 22 appears to have been  
23 drawn with the impermissible intent of  
24 dismembering an otherwise naturally-occurring  
25 Democratic-leaning district in the Tampa Bay

1 region. And that, to me, is some of the  
2 obvious excesses.

3 The Fair District criteria are not  
4 complex. They tell us to draw compact  
5 districts that respect political and geographic  
6 boundaries. The Court told us that when we  
7 fail to adhere to the requirement, it serves as  
8 an objective indicator of an impermissible  
9 legislative purpose. In this case, that  
10 impermissible purpose is to draw a map that  
11 advances the dominance of the majority party or  
12 advance the personal ambition of an incumbent.  
13 Enough is enough. This was our second and last  
14 bite at the apple. I hope the Court declares  
15 this map infirm, and does what we apparently  
16 were unable to do, to follow the rule of law  
17 and do the right thing.

18 PRESIDENT HARIDOPOLOS: Thank you, Senator  
19 Joyner.

20 Senator Altman in debate.

21 SENATOR ALTMAN: Thank you, Mr. President.

22 I, first of all, would like to commend our  
23 Chairman, Senator Gaetz, as well as the  
24 Redistricting Committee, as well as this body,  
25 which I think did a wonderful job in preparing

1 district boundaries at the first bite of the  
2 apple my good friend, Senator Joyner, had  
3 mentioned.

4 I believe we had a good plan, a plan that  
5 was passed with more public input in the  
6 history of this state, perhaps in the history  
7 of any state in the Union, and I believe those  
8 district boundaries were proper.

9 Based on a minority opinion, which I  
10 respect, our Supreme Court, which I do respect,  
11 made up of nine members, has a minority  
12 opinion -- and this was a split decision, by  
13 the way. Minority opinion said that the  
14 decision to rule these boundaries  
15 unconstitutional is based on nothing more than  
16 suspicion and surmise. The majority concluded  
17 that certain district lines were drawn with  
18 improper intent, and when there is an evident,  
19 rational, permissible basis for the drawing of  
20 those lines, the majority fails to recognize  
21 the structural limitations of our review  
22 process, which precludes the adjudication of  
23 false -- which precludes the adjudication of  
24 fact-intensive claims. I agree with that  
25 minority. But I also, again, want to commend

1           our Chairman and our Committee that realize our  
2           duty, even though we may have disagreed with  
3           that opinion, to do everything we could  
4           possibly do to meet the directives of the  
5           Court, and I think we have done that.

6                        Secondly, we spent a lot of time talking  
7           about district numbers, and I pointed out and I  
8           believe that the Court had no jurisdiction of  
9           addressing numbers. I will quote the minority  
10          opinion, Chief Justice Canady, again that said  
11          I will -- "I would reject the challenge to the  
12          numbering of districts in the Senate plan.  
13          Section 21 is a limitation on the power of the  
14          Legislature only with respect to establishing  
15          legislative district boundaries." That is in  
16          Article III, Section 21, of the Florida  
17          Constitution. The prohibition on action to  
18          favor or disfavor an incumbent applies only in  
19          the manner in which lines are drawn, but yet we  
20          found a way in the most fair and impartial way  
21          possible to number those districts in a way to  
22          meet the Court directives.

23                       I wanted to mention the minority opinion  
24          because in the open public -- public forum, I  
25          think the people of Florida need to know that

1 we are here to meet the demands of the Supreme  
2 Court, even though there was a split decision,  
3 even though there are justices that believe  
4 what we did was proper, fair and  
5 constitutional. I felt this plan was  
6 constitutional from the beginning, I believe it  
7 is constitutional now, and I hope that our  
8 Court listens to the people of Florida, its  
9 duly representatives who were given the  
10 constitutional duty to draw these plans to the  
11 best way possible and they affirm our decision  
12 here and accept our plan.

13 I would encourage you to vote for this  
14 plan. I think it is a good plan. I really  
15 appreciate what our staff has done, an amazing,  
16 amazing amount of work and effort, and all  
17 those thousands of public -- thousands of  
18 Floridians who chose to be a part of this  
19 process through speaking before our Committee,  
20 through drawing plans. I think this is a  
21 constitutional plan. This is a plan that meets  
22 the Constitution as approved and supported by  
23 the people of Florida, and this is a plan that  
24 was drawn in response to Floridians' input.

25 PRESIDENT HARIDOPOLOS: Senator Gardiner



1 in debate.

2 SENATOR GARDINER: Members, I will be very  
3 brief. I know that the hour is late.

4 There are just a couple things that --  
5 really just to reiterate what Senator Altman  
6 has so eloquently put, but the Court was very  
7 clear that there were eight areas, eight  
8 districts that they felt needed to be  
9 addressed, and they talked about a functional  
10 analysis to make sure that we were following  
11 the criteria. Senator Gaetz has set forth that  
12 criteria, and I think we have done a very, very  
13 good job of addressing the issues that the  
14 Court has put back in our hands. I think  
15 whether you are a Republican or a Democrat, you  
16 would agree that the lines should be drawn  
17 here, and we have worked very, very hard to  
18 come up with something that I believe we can be  
19 very proud of.

20 I also wanted to just briefly say -- and I  
21 don't want to take any of Senator Gaetz'  
22 thunder, but I wanted to publicly acknowledge  
23 and thank John Guthrie and his team for all of  
24 their hard work. There were several of us --  
25 if you see John fall asleep while he is leaning

1 up against the area there, he has been up all  
2 night, and every time we have come to them with  
3 questions and ideas, they have sat down with us  
4 and pulled out the maps or turned on the  
5 computer and have been very accessible. So,  
6 John, I want to personally thank you, because  
7 it has been -- it is one thing to talk about,  
8 well, let's do this or let's do that. It is  
9 another thing to turn on the computer and  
10 actually start moving the line, because it has  
11 an impact on the entire map. So, members, I  
12 think this is a product we can be proud of, and  
13 I look forward to hearing the comments and we  
14 look forward to the House taking it up next  
15 week and being done with it and us moving on.  
16 So thank you all and I hope you will support  
17 this good map.

18 PRESIDENT HARIDOPoulos: Senator Rich,  
19 followed by Senator Gaetz.

20 SENATOR RICH: Thank you, Mr. President,  
21 and I do want to remind everybody -- I am not  
22 going to go into reading a long portion of the  
23 opinion of the Supreme Court, but I do want to  
24 mention that the Court makes note of the fact  
25 that the review this time is different -- was

1 different for them, and continues to be because  
2 of the fact that the voters passed Amendments 5  
3 and 6. And now, according to their opinion,  
4 they state, "At the same time, we acknowledge  
5 and accept our paramount responsibility in  
6 apportionment and as set forth by the Florida  
7 Constitution to ensure that the adopted plans  
8 comply with the constitutionality required  
9 mandates. Where the Legislature -- legislative  
10 decision runs afoul of constitutional mandates,  
11 this Court has a constitutional obligation to  
12 invalidate the apportionment plan." And that,  
13 my colleagues, is what they did.

14 So just two weeks ago, the Florida Supreme  
15 Court issued the first major interpretation of  
16 the Fair Districts amendments. Their  
17 thoughtful and scholarly opinion noted that the  
18 Legislature didn't have the benefit of any  
19 prior opinions that might have provided  
20 guidelines under which we could operate. In a  
21 sense, the Court was, I think, quite generously  
22 giving us an excuse for drawing a Senate map  
23 that, in their words, I quote, "was rife with  
24 objective indicators of improper intent."

25 We may have had an excuse the first time,

1 but for this go-around, there simply is none.  
2 The plans we are voting on, I believe, seem to  
3 ignore much of what the Court opinion told us.

4 First, incumbent protection is written all  
5 over the map. As was mentioned by my  
6 colleague, Senator Joyner, District 13 still  
7 has issues with regard to an appendage whose  
8 only purpose can be to favor an incumbent and  
9 maintain a safe Republican seat. Districts 8  
10 and 10 were drawn to give an incumbent House  
11 member an easier road to election. And as was  
12 mentioned, there is a sense that in other cases  
13 there are some House incumbent members who are  
14 favored in these maps. Proposed District 32 in  
15 the new Senate plan also crosses a county line  
16 for no apparent reason other than to pull  
17 Republican voters into a Republican incumbent's  
18 district. Although this district could have  
19 included more territory from Martin and St.  
20 Lucie Counties as the League of Women Voters'  
21 alternate district did, the Legislature instead  
22 chose to break a county line.

23 We defeated amendments today, the body  
24 did, by Senator Smith, which actually would  
25 have kept an African-American community whole,

1 but, again, that was rejected.

2 The Supreme Court didn't just tell us the  
3 principles we must abide by in many of these  
4 regions and districts, they gave us the road  
5 map to get there. But I believe in this plan  
6 we have ignored their clear direction.

7 I am going to be voting against this map  
8 really basically -- I didn't think that was  
9 necessary -- for the simple reason that this  
10 map still has the effect of protecting  
11 incumbents. I did not want and I don't want  
12 the Supreme Court to finish the job that we  
13 were supposed to complete, and I don't think  
14 that they want to either. But the sad truth is  
15 when millions of Floridians resoundingly said  
16 that they want districts fairly drawn, they  
17 meant it, and that is why this plan does not  
18 meet their needs. I want Floridians to know  
19 that I am disappointed that we have been  
20 willing to place self-interest and partisanship  
21 gain over the intent of the voters of the state  
22 of Florida. Thank you.

23 PRESIDENT HARIDOPoulos: Senator Siplin,  
24 followed by Senator Gaetz.

25 SENATOR SIPLIN: Thank you, Mr. President,

1 and members, when this process first started, I  
2 was Chair of the Black Caucus here in  
3 Tallahassee, I believe, for almost three years  
4 ago, and my major concern at that time was to  
5 make sure that the people that I represented,  
6 Hispanics and African-Americans, did not lose  
7 their representation here in Tallahassee in  
8 both the Florida House and the Florida Senate.  
9 And as I have been a part of this process as it  
10 has matriculated through to this very point, I  
11 have been very proud to see that the  
12 African-American seats have been sustained, as  
13 well as advancing a new seat for a community  
14 that I have represented over the last 12 years,  
15 Hispanics.

16 So I wanted to commend both you,  
17 Mr. President, as well as Senator Gaetz for  
18 making sure that you all complied with the  
19 federal law, as well as the Fair Districts  
20 amendment and making sure that people who look  
21 like me, sound like me, who have the same  
22 concerns as myself, will continue to be  
23 represented in the state of Florida over the  
24 next ten years.

25 PRESIDENT HARIDOPOLOS: Senator Gaetz to

1 close.

2 SENATOR GAETZ: Thank you very much,  
3 Mr. President.

4 I don't believe that it is necessary to go  
5 into a point-by-point refutation of comments  
6 that have been made, except I do think there  
7 are a couple of facts that need to be  
8 corrected, because sometimes if words are said  
9 on the floor and they are not corrected, they  
10 take on the appearance of an unrefuted fact  
11 when that may not be the case.

12 Senator Joyner, my good friend, the  
13 Senator from the 18th, has made some statements  
14 today which I think we need to understand in  
15 context. In her eloquent statement opposing  
16 the committee substitute, she has said that an  
17 appendage still exists in central Florida that  
18 benefits an incumbent. There are two factual  
19 misstatements in her allegation.

20 First, at some point, my friends, we need  
21 to remember that the term "appendage" can be a  
22 pejorative term. The fact is these are human  
23 beings, one hundred sixty plus thousand people  
24 who live in Edgewood, Belle Isle, Conway,  
25 Winter Park and Maitland, they live in a

1 collection of communities that are legitimate,  
2 that aren't the function or the invention of  
3 map-makers, they are there. They live there.  
4 That is their home. Those are their towns.

5 It is not true that the district benefits  
6 an incumbent. The fact is that the district  
7 has been radically changed. If you look --  
8 assuming that the incumbent is reelected, he  
9 will have to face a district where only  
10 12 percent of the voting age population of that  
11 district has ever seen him on the ballot  
12 before. He has to take on a district -- if the  
13 incumbent chooses to run again and is  
14 reelected, that incumbent has to take on a  
15 district that is 88 percent different. As far  
16 as I can tell, only one other member of this  
17 body, and that is Senator Benacquisto, has a  
18 greater challenge in introducing himself or  
19 herself to new constituents. So this district  
20 was not designed for an incumbent. If  
21 anything, this incumbent could probably make  
22 the argument if he wanted to that he takes on a  
23 hardship based on the design of the district.

24 Secondly, it is not true that that  
25 district has but -- has one incumbent. The



1 fact is that there are two incumbent members of  
2 the Senate who are in that district. And so  
3 that district design pits two Republican  
4 incumbent Senators against each other.

5 So it is factually not true that the  
6 district has not been reconfigured, and it is  
7 not true that it benefits one incumbent, and  
8 let's remember that this area is made up of  
9 people who live there, and the reconfiguration  
10 of the district does not leave us with the  
11 same -- if you will pardon the expression that  
12 I hope I will never use again -- appendage.

13 Now, the only way that we could have had a  
14 different geometry, the only way we could not  
15 have had some imperfections in the geometry of  
16 central Florida would have been to dilute the  
17 minority members, the minority percentages, the  
18 minority voters in the Hispanic and  
19 African-American districts that bookend this  
20 part of the district that Senator Joyner  
21 described. But there has been no proposal from  
22 any member of the Senate to dilute either the  
23 Hispanic or the African-American district,  
24 which would have been the only way to achieve  
25 the geometric perfection that my good friend,

1           Senator Joyner, has accused us of not  
2           achieving. So the fact is that we placed Tier  
3           1 standards -- and that is protecting minority  
4           voting rights at the top -- and then we made  
5           substantial improvements in compactness. You  
6           heard the geometric scores read into the  
7           record. This district is now substantially,  
8           not a little bit, not sort of, but  
9           substantially more compact and more -- has more  
10          geometric integrity than before. I believe  
11          that we have been faithful to the  
12          constitutional responsibilities we have for  
13          reconfiguring central Florida as the Supreme  
14          Court has asked.

15                 The Court asked us to take on ten  
16          challenges, as Speaker Thrasher noted in his  
17          comments earlier today. There were ten  
18          invalidities, eight districts that were  
19          declared invalid, and then the Lakeland matter,  
20          which we have discussed at some length, and  
21          then a numbering system which the Court said  
22          favored incumbents because the result, in their  
23          view, suggested intent. Those are the problems  
24          that we took on.

25                 Now, in taking on those problems, we

1 affected 24 districts, 24 out of 40 Senate  
2 districts. Most Senate districts had some  
3 modification in this committee substitute  
4 compared to the plan that was submitted  
5 previously off this floor to the Supreme Court.  
6 So it is not factually true to say that we have  
7 simply treated the Supreme Court's opinion that  
8 we ought to look at problems as they  
9 systemically exist without seriousness. The  
10 fact is we have looked at those problems  
11 seriously and we have addressed them, and it's  
12 been -- and the addressing of those problems  
13 has affected 24 districts, and affected them  
14 positively, and we believe that we have  
15 demonstrated that by the use of functional  
16 analysis where appropriate and geometric  
17 analysis in every case.

18 Our districts are more compact than they  
19 were before, and they are more compact than the  
20 coalition districts, the League of Women Voter  
21 districts, that were held up as examples of  
22 what we ought to aspire to. Our districts are  
23 more compact than the League of Women Voters'  
24 districts, and compactness was held up by the  
25 Court, properly so, as a value to which we

1           ought to aspire.

2           By applying the functional analysis  
3           recognized by the Court, the Senate map  
4           preserves, protects and expands minority voting  
5           rights in an incumbent-neutral fashion. There  
6           are Republicans pitted against Republicans,  
7           there are Republicans pitted against Democrats,  
8           and when this Senate convenes again, there will  
9           be more minorities on this floor than ever  
10          before in Florida history. Imagine that. And  
11          there will be more Democrats, notwithstanding  
12          the efforts that some of us might make. If you  
13          look simply at the math, it is likely that  
14          there might be more Democrats than there are  
15          now. The media says that the Republican  
16          majority will be reduced by at least three, and  
17          if it is in the newspaper, it must be true,  
18          although there is the variable of candidates  
19          and message.

20          By using the most random and most  
21          mathematically random method of assignment  
22          possible, the committee substitute before you  
23          provides that district numbers are assigned in  
24          an entirely fair and incumbent-neutral manner,  
25          and notwithstanding the fact that the

1 distinguished Minority Leader has announced,  
2 unfortunately, that she is going to vote  
3 against the overall bill, the fact is that she  
4 was a full partner, cooperated in a completely  
5 faithful way in making sure that the  
6 incumbent-neutral random selection process by  
7 which districts were assigned, she oversaw it,  
8 she and the Majority Leader jointly made the  
9 motion that defined it.

10 So I believe, in summary, members of the  
11 Senate, that we have done our job, we have  
12 followed the Constitution, and as the Minority  
13 Leader so properly said, the Court acknowledged  
14 that this was the first time that we have had  
15 to look at all of these standards and apply  
16 them. And, frankly, it is the first time that  
17 any legislative body in America has had to  
18 apply all of these standards in this fashion  
19 all at once in a redistricting process. The  
20 fact that we got most of it right the first  
21 time isn't enough. The fact is we need to get  
22 all of it right the second time.

23 So, Mr. President, I thank the Committee.  
24 The members of this Committee have traveled  
25 across the state of Florida, they have put in

1 hundreds of hours. The members of this  
2 Committee, Republicans and Democrats alike,  
3 have studied the testimony, the pages of  
4 testimony by the thousands, have listened to  
5 people by the hundreds, have taken meetings by  
6 the scores so that we could understand how we  
7 could do our job better. And every member of  
8 our Committee, Democrat and Republican, has  
9 contributed to this plan. No matter how they  
10 vote, their DNA is in the improvements in this  
11 plan. I thank particularly President Margolis,  
12 who sat right next to me to try to keep me  
13 under control during this whole process, and  
14 who many, many times would lean over to me and  
15 explain to me what was going to happen next,  
16 because of her deep understanding of the  
17 Legislature and of the political process. And,  
18 Mr. President, I particularly thank you for  
19 appointing President Margolis to serve as  
20 Vice-Chair of our Committee, because she  
21 brought great credibility and gravitas to our  
22 deliberations.

23 Our Leader has already thanked -- Leader  
24 Gardiner has already thanked John Guthrie and  
25 the professional staff who have worked, not

1           only heroically, but they have worked  
2           effectively to provide members of this Senate  
3           the information that you need in order to make  
4           the vote that you are about to make. And I  
5           would thank every Senator. And I would again  
6           state for the record, whether a Democrat or  
7           Republican, every single Senator who has  
8           participated in this process has done so  
9           without asking for favoritism and without fear.  
10          They have simply provided their best analysis  
11          and offered criticism where appropriate, have  
12          offered suggestions when they thought the  
13          suggestions would improve the plan.

14                 And finally, Mr. President, I thank you  
15          for putting enough trust in the members of our  
16          Committee and President Margolis and me that  
17          you would give us this assignment, this  
18          once-in-a-decade assignment. It is very likely  
19          that none of us will be here the next time this  
20          assignment is handed out, and for that, sir, I  
21          must say I am relieved, but I appreciate the  
22          confidence that you have shown in us.

23                 So let us send our work now to our  
24          partners in the House of Representatives, a  
25          plan sensible to our constituents,

1           understandable to all the members of the Senate  
2           and faithful to the Constitution.

3           PRESIDENT HARIDOPOLOS: All right.  
4           Senator from the Fourth, Senator Gaetz having  
5           closed, the Secretary will unlock the machine  
6           and Senators will prepare to vote.

7           Have all Senators voted? Have all  
8           Senators voted? The Secretary will lock the  
9           board and announce the vote.

10          THE CLERK: Thirty-one yeas, six nays,  
11          Mr. President.

12          PRESIDENT HARIDOPOLOS: And by your vote,  
13          CS for SJR-2B passes by the required vote.  
14          Congratulations, Senator Gaetz, well done.

15          Senator from the Eighth, Senator Thrasher,  
16          for what purpose do you rise?

17          SENATOR THRASHER: Mr. President, we are  
18          ready to take it in, right? Unless there are  
19          any -- did you ask for any announcements,  
20          Mr. President? I assume there are none.

21          Mr. President, I move that the Senate  
22          stand in recess upon the call of the President  
23          for the purpose of conducting other Senate  
24          business.

25          PRESIDENT HARIDOPOLOS: Without objection,



1 the Senate is now in recess.

2 (Whereupon, the proceedings were

3 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 210 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 March, 2012.

\_\_\_\_\_

CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2014