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2012 REGULAR SESSION

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Transcribed by:

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Court Reporter

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

2 PRESIDENT HARIDOPOLOS: All right, we will now
3 continue with the daily business. Other reports or
4 committees?

5 THE SECRETARY: None on the desk, Mr. Press.

6 PRESIDENT HARIDOPOLOS: Are there motions
7 relating to the Committee's reference?

8 THE SECRETARY: None on the desk, Mr.
9 President.

10 PRESIDENT HARIDOPOLOS: Are there messages
11 from the Governor or other executive
12 communications?

13 THE SECRETARY: None on the desk, Mr.
14 President.

15 PRESIDENT HARIDOPOLOS: Are there messages
16 from the House of Representatives?

17 THE SECRETARY: On the desk, Mr. President.

18 PRESIDENT HARIDOPOLOS: Read the message.

19 THE SECRETARY: "The Honorable Mike
20 Haridopolos. President, I am directed to inform
21 the Senate that the House of Representatives has
22 passed Committee Substitute for Senate Bill 174
23 with amendments and request the concurrence of the
24 Senate. Committee substitute for Senate Bill 1174.

25 A Bill to be entitled, An Act Establishing the

1 Congressional Districts of the State. House
2 Amendment Bar Code 832579."

3 PRESIDENT HARIDOPOLOS: Senator from the
4 Fourth District, Senator Gaetz, you are recognized
5 to explain your message.

6 SENATOR GAETZ: Thank you very much, Mr.
7 President. Today what we will do is first talk
8 about the Congressional maps, and as the message
9 indicated, the House of Representatives accepted
10 the Senate's Congressional maps which you approved
11 on this floor and then added amendments. Those
12 amendments were negotiated and we will explain them
13 in detail today.

14 And then the second item of business which the
15 President has agreed to place on the agenda today
16 in a message from the House, is a return of the
17 legislative maps.

18 The Senate as you will recall passed the
19 Senate maps. There is no change in the Senate
20 maps. The House of Representatives accepted the
21 Senate maps without any amendment whatsoever, but
22 they added the House districts has been agreed to
23 and as I explained on this floor.

24 And so we will receive a second message later
25 in our conversation today having to do with

1 legislative maps.

2 I know that this Chamber and also Senators
3 were extremely patient and very kind as we took a
4 great deal of floor time with this discussion and
5 debate when it came before us for initial voting.
6 And I apologize to you in advance for taking
7 additional floor time today, but I ask your
8 indulgence because there are some things that we
9 need to say to make sure there on the record, give
10 everyone an opportunity to ask questions.

11 Our friends in the minority have a series of
12 questions that they intend to ask and we want to
13 give them every opportunity to ask those questions
14 and give thoroughgoing answers.

15 Mr. President, on January 17th of this year,
16 the Senate passed Committee Substitute for Senate
17 Bill 1174 and Committee Substitute for Senate Joint
18 Resolution 1176 with an overwhelming bipartisan
19 majority. Both measures were adopted by a vote of
20 34 to 6, with the majority of Democrats and all but
21 one Republicans voting in the affirmative.

22 By your votes then we sent the
23 Senate's redistricting plan for the Senate and the
24 Senate's redistricting plan for Congress to the
25 House of Representatives.

1 In the days following those actions on this
2 floor, the House and Senate professional staffs and
3 Chairman Weatherford and I met frequently to
4 negotiate final agreements on Congressional maps.

5 We already had an agreement that the House
6 would accept the Senate maps and the Senate if you
7 concur today, will accept the House maps. That is
8 because the Congressional map passed by the Senate
9 and the Congressional map under consideration by
10 the House contained some differences. So
11 consequently we are here today to tell you what
12 those differences are and ask your concurrence.

13 I must tell you that in the discussions that
14 we have had with the House, both Chairman
15 Weatherford and I were instructed by our Presiding
16 Officers, I by President Haridopolos and he by
17 Speaker Cannon and we were instructed by our
18 respective Chambers that what we finally arrived at
19 must meet the requirements of both federal and
20 state law.

21 Now, from time to time there have been
22 differences in interpretation or differences of
23 opinion. That is inherent in the process. We saw
24 them on this floor and there were between the
25 Chambers as we discussed the Congressional maps.

1 However, nothing but good faith, good will and
2 good intentions have characterized the relationship
3 between Chairman Weatherford and me, between our
4 professional staffs and between our respective
5 committees.

6 Consequently, the Congressional map which is
7 before us today is not a House plan, it is not a
8 Senate plan, just as it is not a Democratic plan or
9 a Republican plan. It is bicameral, it is
10 nonpartisan.

11 Amendments 5 and 6 provide, and I quote, "No
12 reapportionment plan or district shall be drawn
13 with the intent, with the intent, to favor or
14 disfavor a political party or an incumbent", end
15 quote.

16 This prohibition against intentionally seeking
17 partisan or personal advantage was our guiding
18 principle as we applied Amendment 6 to the
19 Congressional districts. Perhaps for the first
20 time in our state's history we drew maps not to
21 help or harm incumbents or political parties, but
22 to give effect to the will of the people and to the
23 publicly expressed collaboratively developed views
24 of our two committees and most importantly, in
25 accordance with the law.

1 The maps prepared by the Senate were drawn by
2 professional staff with the Senate's District
3 Builder Web application, the same web application
4 available to the public and used by the public.

5 All members of the press and public can verify
6 for themselves that the District Builder software
7 that we used contains no election results and no
8 voter registration data.

9 The Senate database provides neither visual
10 nor statistical information about incumbents nor
11 political parties. We have no list of incumbents
12 or prospective challengers home addresses and were
13 are not interested in them.

14 Discussions between the Legislators and
15 professional staff were governed by a rule, a rule
16 that partisan or personal advantage would not be
17 discussed or considered. When setting appointments
18 with members of this body we expressly communicated
19 that rule in writing to members of this body who
20 wish to discuss redistricting with our professional
21 staff or with me, and every Democrat and every
22 Republican abided by those rules throughout this
23 process.

24 I would like to make three points if I may
25 with respect to this constitutional standard

1 dealing with intent. First, the Constitution
2 prohibits intent to favor or disfavor a political
3 party or an incumbent.

4 Now, the fact that a district has such an
5 effect does not necessarily prove that it was drawn
6 with improper intent. Let me repeat that, because
7 it is a critical legal principle.

8 Just because it can be argued by some that a
9 district line may have the effect of favoring or
10 disfavoring an incumbent does not prove wrongful
11 intent.

12 Indeed, every line drawn in every map has to
13 be drawn without -- can't be drawn without somebody
14 being able to argue that an incumbent or a
15 challenger was favored or disfavored. All
16 districts in all plans have some political effects
17 no matter who draws the lines.

18 For example, the Congressional maps before us
19 today are said by some to have the effect of
20 disfavoring some Republican members of Congress.
21 The maps drawn, for example, by the League of Women
22 Voters were reported by the media to have the
23 effect of favoring some Democratic party
24 candidates, but effect doesn't prove intent.
25 Effect can result from a party neutral, incumbent

1 neutral effort to keep communities together.

2 Population distributions of the correlation
3 between race and party affiliation might also prove
4 unavoidable, but unintended political effects.

5 The second point I would make about this legal
6 principle is that some argue that having drawn the
7 maps without regard to party affiliation, we ought
8 to now revise them with the intent to create
9 partisan proportionality, but this would violate
10 the Constitution.

11 We would then be engaged in an intentional
12 effort to engineer a specific partisan result and
13 that is exactly what the Constitution prohibits.
14 The Constitution requires partisan blindness, not
15 partisan parity.

16 Finally, we know that the House, unlike the
17 Senate, included election results and voter
18 registration data in its web application. It ought
19 to be understood that our decision to exclude such
20 information in no way impeaches the House's
21 decision to include it, and to use that information
22 to create effective minority opportunity districts.

23 We excluded this political data out of an
24 abundance of caution, and frankly, because we saw
25 no need for this type of information. We know that

1 our minority opportunity districts do not diminish
2 minority voting strength.

3 Why do we know that? First because we
4 preserved our minority opportunity districts with
5 little statistical or geographical change. The
6 continuity of these districts ensures the continued
7 and undiminished ability of minorities to elect
8 their preferred candidates.

9 Moreover, we followed the lead of groups such
10 as the Florida NAACP and LatinoJustice, in whose
11 assessments we placed considerable confidence and
12 we patterned our minority opportunity districts
13 after the districts proposed by these minority
14 groups.

15 But the House's decision to use election
16 histories and use voter registration data to
17 safeguard minority opportunities is consistent with
18 accepted practice in other states.

19 In fact, the United States Department of
20 Justice uses such data to assess minority voting
21 strength under the Federal Voting Rights Act.

22 The Chair of Fair Districts, Ellen Freidin,
23 told your committees and I quote, "There is no
24 prohibition against using voting data in order to
25 accomplish the permissible goal of protecting

1 minority rights", end quote.

2 By all accounts, the House of Representatives,
3 Chairman Weatherford, were scrupulously respectful
4 of the prohibition against political favoritism and
5 the fact that we took additional precautions is no
6 criticism of the House.

7 Now, Amendments 5 and 6 guarantee, and I
8 quote, "The equal opportunity of minorities to
9 participate in the political process", end quote.

10 And Amendments 5 and 6 prohibit the creation of
11 districts that, quote, "diminish their ability to
12 elect representatives of their choice", end quote.

13 Here the record that this Chamber has created
14 speaks for itself. Our committee unanimously in a
15 bipartisan unanimous agreement agreed to create
16 districts consistent with traditional race neutral
17 principles in which minorities are as likely as
18 before to elect candidates of their choice, where
19 under the benchmark plan, the plan we have now in
20 place, minorities were able to elect candidates of
21 their choice, the new plan as well preserves that
22 ability without diminishment.

23 In those districts we carefully avoided
24 changes that would make it more difficult for
25 minorities to elect the candidates of their choice

1 or decrease the likelihood that minority preferred
2 candidates would be successful.

3 Now, some opponents have argued packing, but
4 those critics have not produced one single decision
5 from any court in the land holding that simple
6 majority-minority districts constitute an unlawful
7 packing practice.

8 Neither the Senate map which you have
9 approved, nor the Congressional map which is now
10 before us today, contains even one district in
11 which the African-American voting age population
12 exceeds 60 percent. The largest African-American
13 population in any House district is 62.9 percent.
14 Such districts are entirely commonplace.

15 Those who would reduce minority populations in
16 minority districts would bear a heavy burden to
17 prove that the reductions they propose would not
18 diminish minority preferred candidates' likelihood
19 of success.

20 We have seen no credible, comprehensive voting
21 rights analysis to support the position that anyone
22 ought to depopulate minority district. Therefore,
23 the plan before you today adheres to the
24 constitutional mandate to, quote, "not diminish",
25 end quote, minority voting opportunities.

1 We not only preserved existing minority
2 opportunity districts, this Senate created a
3 hispanic majority Senate district and a hispanic
4 plurality Congressional district in central
5 Florida.

6 The exceptional growth in the hispanic
7 population of central Florida supports the creation
8 of these districts which were proposed during
9 public hearings by LatinoJustice.

10 Now, Amendment 6 and Amendment 5 require that
11 districts, quote, "be as nearly equal in population
12 as is practicable", end quote. The Congressional
13 districts that are before you today achieve the
14 nearest approximation to equality that is possible,
15 one person.

16 In other words, there is no greater deviation
17 than one human being in the Congressional districts
18 that are before you today. The Senate districts
19 have an overall population deviation of plus or
20 minus one percent, and the House districts that
21 will come over to us today that have come in
22 message have an overall population deviation less
23 than four percent, well within the 10 percent range
24 suggested by Federal case law for legislative
25 districts.

1 Compactness, the definition of compactness we
2 found can be elusive. Florida courts have not
3 defined compactness and there is no uniform bright
4 line rule in other states, but our committee
5 discussion in our review of court decisions in
6 other jurisdictions have pointed out a number of
7 factors that ought to be weighed and balanced when
8 compactness is assessed.

9 First there are geometric factors, three of
10 them. Whether the shape of the district is regular
11 or irregular.

12 Second, whether the territory of the district
13 is closely united.

14 Third, whether the shape of the district was
15 influenced by the physical boundaries of the state.
16 Florida doesn't look like Nebraska on the map.

17 Florida is among the least compact, least
18 geometric states on the map of the United States.

19 Equally important in defining compactness or
20 assessing it are our functional considerations.
21 Districts after all have to be drawn for real
22 people in real neighborhoods with real interests
23 and the purpose of the compactness requirement is
24 to provide effective and meaningful representation
25 to the voters.

1 And therefore, we have to consider whether
2 constituents in a district can relate to each other
3 and interact with each other. Whether constituents
4 in a district are able to access and communicate
5 with their elected officials. Whether the district
6 is interconnected through commerce, transportation,
7 communication.

8 And finally, Mr. President, compactness must
9 be harmonized with other legal constraints. We
10 have to ask whether the shape of the district was
11 impacted by the one person, one vote requirement in
12 light of uneven population distributions. It is
13 hard to ask people themselves to move for our
14 convenience. We have to move the lines where they
15 live.

16 By adjacent minority districts established
17 under Voting Rights Act or Amendments 5 and 6, that
18 is an impact that we have to consider and we must
19 also consider whether legal requirements of equal
20 importance, such as the requirement to use
21 geographic and political, geographic and political
22 boundaries are impacted.

23 The most practicable definition is the
24 definition that takes account in one way or another
25 of all of these factors and does so on a district

1 by district basis and that is what we did.

2 At each of our public hearings we heard
3 extensive testimony about the representational
4 needs of voters. We learned from our constituents,
5 3,000 of them provided written or verbal testimony
6 to our committee.

7 We learned from our constituents how to create
8 effective voting districts. I believe our plans
9 accomplish that purpose. We are obliged as well to
10 utilize political and geographic boundaries.

11 Amendments 5 and 6 require that district,
12 quote, "where feasible utilize existing political
13 and geographic boundaries", end quote, and this
14 requirement enables voters to oriented themselves
15 to their knew districts and minimizes the
16 opportunities for arbitrary or self-serving
17 districting decisions.

18 The plans before us today utilize political
19 and geographic boundaries to a much greater extent
20 than the benchmark plans. In other words, the
21 plans that were developed in 2002, under which we
22 operate today.

23 District boundaries have been constructed to a
24 greater degree from county and city boundaries,
25 from lakes and bays and rivers and well-known

1 demarcations, such as interstate highways, military
2 reservations and major roads.

3 I should note that the Constitution does not
4 mandate that we preserve political subdivisions at
5 all costs. This is a common misconception. The
6 Constitution leaves the Legislature a choice to use
7 geographical boundaries even if the geographical
8 boundary bisects secrets a political subdivision.

9 Nevertheless, each of the three final plans,
10 the Senate plan to which the House has concurred,
11 the House plan which will be before us in a few
12 minutes and the Congressional plan which is before
13 us now substantially increases the number of cities
14 and counties that are kept whole and not bisected.

15 Based on our shared and common understanding
16 of what the law requires, Chairman Weatherford and
17 I directed professional staff of our respective
18 committees to combine their best works into a
19 single Congressional map and a joint resolution of
20 apportionment.

21 Plan C9047 is the Congressional map that
22 emerged from those discussions. On January 25th,
23 that plan was posted on the House and Senate
24 redistricting websites. So since January 25th, it
25 has been available to the public, to the press, to

1 all of us, together with a full compliment of maps,
2 statistics and downloads.

3 The House Redistricting Committee passed plan
4 C9047 as a Committee Substitute on the 27th of
5 January, and at that meeting Chairman Weatherford
6 announced that on February 2nd and 3rd, the House
7 would take up and amend the Senate redistricting
8 Bill consistent with the transparent and inclusive
9 process that Senator Haridopolos, our President,
10 has insisted upon.

11 I sent an advisory to all Senators and to the
12 media listing all of the ingredients that were able
13 to us at that time.

14 Last week the House of Representatives adopted
15 Plan C9047 as an amendment to Senate Bill 1174.
16 Last evening the returning message was delivered to
17 the Secretary of the Senate.

18 Today I will ask the Senate to consider two
19 actions. First, that the Senate concur in the
20 House's amendment, which is an amendment worked on
21 by our staffs together, by Chairman Weatherford and
22 myself, and with the voices of those who testified
23 before us and the voices of those who debated on
24 this floor ringing in our ears.

25 Secondly, I will ask that we do so as we did

1 before in a bipartisan fashion, because I believe
2 as I said, that this is not a Republican plan or a
3 Democratic plan, this is not a House plan, this is
4 not a Senate plan, this is a fair plan for Florida.

5 Now, in most areas Plan C9047 which is the
6 House amendment, we will call it the House
7 amendment, looks very much like the proposed
8 Committee Bill originally published by Senate
9 professional staff way back on November 28th.

10 Members of the Reapportionment Committee know
11 how the Senate's Congressional plan evolved and
12 improved based on public input, feedback from
13 Supervisors of Elections and direction provided to
14 our professional staff by our committee at open
15 public committee meetings.

16 Today, we combine the best work product that
17 emerged from the Senate's work and careful
18 deliberation with the best that the House designed.
19 What we have before us in the form of the House
20 amendment is a significant improvement over the
21 benchmark plan and an improvement even over the
22 plan that the Senate approved on January 17th.

23 Allow me now to explain the similarities, the
24 changes and the improvements proposed by the House
25 amendment to the Congressional plan which is before

1 us today.

2 First, the Congressional boundaries in House
3 amendment to which you will be asked to concur,
4 generally are the same in northwest Florida, along
5 the eastern seaboard of our state and in most of
6 southwest Florida, except where the Senate map
7 split Manatee, Sarasota, Charlotte and Lee Counties
8 along I-75 and we will explain that.

9 The House amendment keeps the general
10 configuration of the Senate's Congressional
11 district borders in Orange and Seminole Counties
12 and in all of northeast Florida.

13 The House amendment also keeps the general
14 configuration of the Senate's Congressional borders
15 in Pinellas County. The House amendment joins
16 Hernando County with Citrus, Sumter and Marion
17 Counties in one district and it joins Pasco County
18 with northern Pinellas and Hillsborough Counties in
19 another district.

20 District boundaries in Lake, Hillsborough and
21 Manatee Counties are reconfigured to better follow
22 county lines. The amendment also reconfigures Polk
23 County in a manner that keeps Lakeland whole, along
24 with Bartow in a district with Plant City and puts
25 all of Haines City, Davenport and Lake Hamilton in

1 the hispanic opportunity district.

2 The amendment keeps Sarasota and Charlotte
3 Counties within single districts. The amendment
4 joins Monroe County with West Miami-Dade County,
5 the amendment keeps Okeechobee County, Okeechobee
6 County within a single district, those are changes.

7 Other changes between the two plans were very
8 minor in nature and were driven by professional
9 staffs' intent and I speak here both of the House
10 and Senate professional staffs, to follow political
11 and geographic boundaries wherever feasible.

12 The House amendment to which we will ask you
13 to concur keeps 46 of Florida's 67 counties within
14 single Congressional districts. This is more than
15 the Congressional map passed by the Senate and it
16 is 19 more than Florida's current Congressional
17 plan.

18 The House amendment to which we will ask you
19 to concur also keeps 383 of Florida's 410 cities
20 within single Congressional districts. This is 19
21 more than the Congressional plan passed by the
22 Senate, and 83 more than Florida's current
23 Congressional plan. So you can see the
24 improvements that are emerging from the process of
25 working together.

1 The districts in the House amendment follow
2 political and geographic boundaries to about the
3 same extent as those in the Congressional map
4 passed by the Senate and to a much greater extent
5 than those in Florida's current Congressional plan.

6 I think there is a slide overhead which ought
7 to show you an 83 percent coincidence in plan C9047
8 which is before you, compared to a 69 percent
9 coincidence in the benchmark with political and
10 geographic boundaries.

11 The average end to end of Congressional
12 districts in the House amendment is 81 miles, which
13 is slightly less than the Congressional map passed
14 by the Senate and significantly less than the
15 98-mile average for Florida's current Congressional
16 districts, more compact.

17 The average perimeter of Congressional
18 districts in the House amendment is 301 miles,
19 which again is less than the Congressional map
20 passed by the Senate and substantially less than
21 the 402-mile average among Florida's current
22 Congressional districts.

23 In other words, we have reduced the perimeter
24 of the average Congressional district in Florida by
25 100 miles.

1 Mr. President, that concludes by explanation
2 of the amendment, and I now move that the Senate
3 concur with House amendment number one. I stand
4 ready for questions.

5 PRESIDENT HARIDOPOLOS: Members, are there any
6 questions? Yes, and there will be no need to go
7 through the Chair as you ask questions to the
8 Senator from the Fourth. You can just have the
9 colloquy.

10 So Senator from the First -- Third, you are
11 recognized.

12 SENATOR BULLARD: It is on, can you hear me?
13 Senator Gaetz, I listened carefully to what you,
14 and I know this is a very, very important issue and
15 there is one thing that I really stand by, and I
16 will tell you all this before I ask my question.

17 And that is my word, and my word is my bond
18 and I will tell each of you that if I have
19 something to say to you regarding an issue as big
20 as this one, I am going to come to you straight and
21 I am going to tell you the truth.

22 In all of the 20 years that I have served in
23 this process, I have not lied to one Legislator in
24 the House or the Senate and I stand by that. I
25 have always come straight and if I had to change my

1 mind, I came to you first. So I want to preface my
2 question with that.

3 Now, I listened to what you were saying and I
4 just want one question answered. Did you say to me
5 or to us that this -- this map, the Senate map has
6 not changed and the House has accepted the Senate
7 map?

8 SENATOR GAETZ: Senator Bullard, in the same
9 spirit of candor with which you asked the question,
10 let me answer it.

11 The House has concurred entirely in the Senate
12 map, and consequently there are no changes to the
13 Senate map that we passed on this floor, not one
14 jot, not one tittle, not one inch, not one part at
15 all has been changed. It is exactly the map that
16 we passed and the House has concurred in that map.

17 SENATOR BULLARD: Thank you.

18 PRESIDENT HARIDOPOLOS: Yes, the Senator from
19 the 29th, you are recognized.

20 SENATOR SMITH: Thank you, Mr. President. And
21 I have a series of questions I would like your
22 indulgence to engage in dialogue with Senator
23 Gaetz, so we can get through the questions.

24 SENATOR GAETZ: Okay.

25 SENATOR SMITH: Thank you. Senator Gaetz,

1 what definition of compactness was applied in
2 constructing this plan, and how does your plan
3 reflect the definition of compactness?

4 SENATOR GAETZ: Thank you very much, Mr.
5 President, thank you, Senator Smith. The
6 definition of compactness as I mentioned can be
7 elusive, perhaps facetiously, perhaps not, Leader
8 Rich suggested the you know it when you see it
9 definition of compactness, but there is truth in
10 her suggestion.

11 Florida courts have not defined compactness,
12 but our committee discussion and our review of
13 court decisions in other states have pointed out a
14 number of factors that have to be considered when
15 compactness is assessed, and I believe that if I
16 list those considerations hopefully I will be
17 responsive to your question.

18 First, there are geometric considerations, and
19 here we ask questions like whether the shape of the
20 district is regular or irregular. Whether the
21 territory of the district is closely united, but
22 equally important, Senator Smith, there are
23 so-called functional considerations.

24 Districts after all must be drawn for, as I
25 said, real people who live in real neighborhoods,

1 and with the ultimate objective for providing
2 effective and meaningful representation to voters.

3 So we have to consider, Senator Smith, whether
4 constituents in the district are able to relate to
5 or interact with each other, are they able to
6 access and communicate with their elected
7 officials, whether the district is interconnected
8 with commerce, transportation and communication.

9 Compactness as we have approached it is also
10 influenced by physical limitations. The shape of a
11 district has to be influenced by the physical
12 boundaries of the state, and Florida as I
13 mentioned, is one of the least compact states on
14 the map.

15 And finally, compactness must be assessed in
16 light of other legal constraints. And so we have
17 asked ourselves whether the shape of the district
18 was affected by the one person, one vote
19 requirement in light of uneven population
20 distributions.

21 Whether the shape of the district was affected
22 by non compact minority districts established under
23 the Federal Voting Rights Act or Tier 1 of
24 Amendments 5 and 6, and whether the shape of the
25 district is affected by good faith consideration

1 and balancing of other legal requirements of equal
2 importance, such as the requirement to follow
3 political and geographic boundaries where feasible.

4 The most practical definition and the one most
5 conducive I think to good governance, Senator
6 Smith, is a definition that balances all of these
7 factors on a district by district basis.

8 PRESIDENT HARIDOPoulos: Senator from the 33rd,
9 you are recognized.

10 SENATOR BRAYNON: Thank you, Mr. President. I
11 just want to make a recognition, and then I think
12 Senator Smith wanted to continue.

13 In the east gallery we have, we have my
14 Chamber, the Greater Miami Chamber of Commerce,
15 they're here today and the Chairperson Penny
16 Shaffer, if you could please stand up for me. The
17 Greater Miami Chamber of Commerce.

18 PRESIDENT HARIDOPoulos: All right, the Senator
19 from the 29th, you are recognized to continue your
20 questioning.

21 SENATOR SMITH: Thank you, Mr. President.
22 Senator Gaetz, based on publicly available
23 historical election data as certified by the
24 Secretary of State, the Congressional plan
25 overwhelmingly favors Republicans creating,

1 creating 16 Republican seats and 11 Democratic
2 seats.

3 Based on a fair plan and based on a 50/50
4 statewide partisan vote, this state should allow
5 for 13 Republicans and 14 Democrats. Why doesn't
6 this plan do that?

7 SENATOR GAETZ: Thank you very much, Senator
8 Smith. That is because people in different parts
9 of the state are different and they vote
10 differently.

11 In order for us to have an equal number of
12 districts and equal numbers of people in those
13 districts, we would have to convince a lot of folks
14 in your neck of the woods to move to my neck of the
15 woods and back.

16 That is not practical and it is not called for
17 in the Constitution. The last time that was tried
18 was in the partition of India and Pakistan and it
19 didn't work out too well.

20 PRESIDENT HARIDOPOLOS: Members, please give
21 your attention to the questions and answers here.

22 SENATOR SMITH: Senator Gaetz, how many cities
23 are split into multiple districts in this 2012
24 plan, Congressional plan?

25 SENATOR GAETZ: There was an overhead that was

1 presented, Senator Smith, and in that overhead you
2 will see that there were under the current
3 arrangement adopted in 2002, 37 whole counties in
4 Congressional districts, and now the action before
5 you today keeps 46 counties wholly within one
6 Congressional districts. That is an improvement of
7 24 percent.

8 The number of split counties has gone down
9 markedly. There were 30 split counties in the
10 benchmark plan. There are 21 split counties in
11 this plan, a reduction of split counties of
12 30 percent. And then did you ask about cities,
13 Senator Smith?

14 SENATOR SMITH: Yes, sir.

15 SENATOR GAETZ: Whole cities kept within one
16 Congressional district in 2002, 300. Whole cities
17 kept in one Congressional district in the plan
18 before you, 383, or an increase of 28 percent, but
19 here I think is the telling statistic.

20 Split cities were 110 in 2002, but in the plan
21 before you only 27 of Florida's more than 400
22 cities are split, a reduction in split cities of
23 more than 75 percent.

24 SENATOR SMITH: Thank you. Senator Gaetz, you
25 mentioned that we did not use performance data in

1 the Congressional maps.

2 How do we know if the plan favors or disfavors
3 a party without the use of performance data?

4 SENATOR GAETZ: Thank you, Senator Smith, for
5 that question. We know our minority districts
6 don't diminish minority voting strength because we
7 preserved our minority opportunity districts with
8 little statistical or geographical change.

9 This continuity in our minority districts
10 ensures the continued and undiminished ability of
11 minorities to elect their preferred candidates, but
12 secondly, in those districts we followed the lead
13 of groups such as the NAACP and LatinoJustice in
14 whose assessments of their communities we place
15 considerable confidence.

16 The minority districts in the Senate plan are
17 patterned after those in the plans submitted by the
18 NAACP and by LatinoJustice.

19 SENATOR SMITH: So was performance data used
20 in these plans?

21 SENATOR GAETZ: No.

22 SENATOR SMITH: Were there plan models that
23 included member residences in the Congressional
24 plan?

25 SENATOR GAETZ: No.

1 SENATOR SMITH: Were there any discussions
2 with members about their residence being in their
3 district?

4 SENATOR GAETZ: No.

5 SENATOR SMITH: What is the definition of
6 retrogression as applied in these plans?

7 SENATOR GAETZ: Retrogression to me, and I am
8 not a lawyer like you, Senator Smith, but
9 retrogression to me means not backsliding. It
10 means that if you have a district in which
11 minorities are able to elect the candidates of
12 their choice, minorities should not be placed in a
13 weaker position than before, and that is the
14 position which our committee took unanimously by a
15 bipartisan agreement.

16 SENATOR SMITH: What is your definition of a
17 minority district in these plans?

18 SENATOR GAETZ: There is no specific
19 threshold, Senator Smith, no mathematical formula.
20 The Florida Constitution refers to, and I quote,
21 "The ability of minorities to elect representatives
22 of their choice", end quote. We considered each
23 district individually to determine whether
24 minorities in the district are able to elect a
25 candidate of their choice.

1 SENATOR SMITH: The language of the
2 Constitution now requires that districts cannot be
3 drawn to diminish the ability of minorities to
4 elect candidates of their choice.

5 If a district packs 80 percent minorities into
6 one district when data shows that those voters
7 could elect two representatives, does that violate
8 the Florida Constitution?

9 SENATOR GAETZ: Thank you very much, Senator
10 Smith. First of all, there are no packed districts
11 of the kind that you describe. Not one Senate or
12 Congressional district contains an African-American
13 voting age population in excess of 60 percent.

14 I believe 80 percent was the premises of your
15 question. And only one House district contains an
16 African-American voting population of over
17 60 percent, I believe that is in the neighborhood
18 of 64 percent.

19 The majority-minority districts in these plans
20 are barely majority-minority. The Senate plan
21 contains only two majority African-American
22 districts and the Congressional plan which is
23 before you contains only two majority
24 African-American districts.

25 The Senate district with the largest black

1 population is District 38, at 58.3 percent, not
2 80 percent. The Congressional district with the
3 largest black population is District 17 at
4 56.3 percent, not 80 percent.

5 The House district with the largest black
6 population is District 108, slightly more than
7 60 percent, not 80 percent.

8 If you will look at the maps you will find
9 that each of these districts, all three of them in
10 the same area of Miami-Dade County are among the
11 most geographically compact districts in the entire
12 state.

13 PRESIDENT HARIDOPOLOS: Members, if you have
14 conversations, takes them to the bubble, please.
15 Give the attention that these two Senators from the
16 4th and the 29th deserve.

17 SENATOR SMITH: What is the definition the
18 Committees used to determine if districts were
19 racially fair?

20 SENATOR GAETZ: Senator Smith, I can't improve
21 upon the answer I gave to the question that you
22 asked before. We believe that any, and we did this
23 by unanimous consent in our committee, we believe
24 that any backsliding would be unfair.

25 SENATOR SMITH: Does this not represent the

1 greatest number of minority or coalition districts
2 that could have been drawn?

3 SENATOR GAETZ: Senator Smith, there is no law
4 that we are aware of that requires that we maximize
5 the number of minority districts. Instead, we drew
6 districts that follow the requirements of Section
7 20 and 21 of Article III of the Florida
8 Constitution and the Federal Voting Rights Act.

9 SENATOR SMITH: That is it for my questions.

10 PRESIDENT HARIDOPoulos: All right, members,
11 are there any other questions? Any other
12 questions, members? Okay.

13 Members, is there any debate? Any debate,
14 members?

15 All right, all those in favor of the motion to
16 concur in House Amendment Bar Code 832579 say yea.

17 (Chorus of Yeas.)

18 PRESIDENT HARIDOPoulos: Show the motion --
19 well, all those opposed say no.

20 (Chorus of Nos.)

21 PRESIDENT HARIDOPoulos: The motion carries,
22 show the motion as adopted.

23 We are now on final passage of CS/SB 1174 as
24 amended. The Secretary will please read any pair
25 votes that have been filed with the Secretary's

1 Office for CS/SB 1174.

2 All right, there are none.

3 PRESIDENT HARIDOPoulos: You are recognized,
4 Senator Gaetz.

5 SENATOR GAETZ: Mr. President, I believe that
6 our distinguished Minority Leader didn't catch the
7 call for debate, and I would ask that we would take
8 time for her to debate.

9 PRESIDENT HARIDOPoulos: Without objection, no
10 problem. Madam Leader, you are recognized in
11 debate.

12 SENATOR RICH: Thank you, Mr. President, I
13 appreciate the courtesy. I discussed most of the
14 concerns that I had with the proposed redistricting
15 maps when the Senate passed the maps a few weeks
16 ago, but I would like to just, I am not going to
17 spend a lot of time rehashing that, but I have a
18 few concerns I would want to mention, and actually
19 you will see it is a little repetitious because I
20 will be repeating it on the Senate and House maps
21 as well.

22 I believe we have an obligation both to the
23 people of Florida and to our State Constitution to
24 follow the provisions of Amendment 6 in this case
25 on the Congressional map, and unfortunately this

1 plan I think simply doesn't comply with those
2 requirements.

3 Whether you like it or not, the voters went to
4 the polls in 2008, and told us that they didn't
5 like the way the districts have been drawn in the
6 past.

7 They said they wanted districts that didn't
8 favor or disfavor an incumbent or political party,
9 districts that enable minorities an equal
10 opportunity to elect the candidates of their
11 choice.

12 Districts, districts that are compact and
13 contiguous and where possible districts that don't
14 divide cities, counties and other geographical
15 boundaries. Sixty-three percent of Florida voters
16 supported these requirements and two Federal courts
17 degree that Amendments 5 and 6 are appropriate
18 standards for the people of Florida to insist the
19 Legislature follow in drawing legislative
20 districts.

21 It all comes down to fairness. What the
22 people were saying when they passed these
23 amendments is that they were tired of the game
24 being rigged so that the outcome of elections is
25 determined not at the ballot box on election day,

1 but here in the Legislature with the gerrymandering
2 of legislative districts.

3 It is our obligation to produce politically
4 fair maps. So when I take a look at this map, and
5 I would ask you to ask yourself whether you really
6 believe that this map is fair.

7 As you ponder that question put yourself in
8 the place of members of the minority party, both in
9 this Chamber and among the people across the state
10 where our party is in fact the plurality.

11 Despite the fact that staff reported that they
12 did not use political data when drawing maps, we
13 now know the political impact of this plan.
14 According to an analysis by the Tampa Bay Times
15 with this Congressional plan the margins would be
16 16 Republicans and nine Democrats.

17 It is very difficult to believe that these
18 maps which preserve political power for the current
19 ruling party in proportions completely out of line
20 with the actual political affiliations of the
21 people of this state were drawn without the intent
22 to do just that.

23 These maps I believe are also unfair to
24 minority voters. This map places minority voters
25 in districts to a degree that goes beyond what is

1 necessary to ensure racial and language minorities
2 have the ability to elect candidates of their
3 choice.

4 The proponents of these maps argue that they
5 cannot reduce the percentage of minority voters in
6 a minority district, but that is simply not true.

7 Avoiding retrogression is not an excuse to
8 continue placing minority voters into a minimal
9 number of districts. By doing so you are in effect
10 limiting the number of minority candidates who have
11 a fighting chance to be elected to the Legislature
12 or Congress, and I believe that that is not fair.

13 And I welcome the enthusiasm the proponents of
14 these plans have now for defending minority voting
15 rights. I look forward to working with each of you
16 to eliminate some of the barriers to voting enacted
17 last year by this Legislature that
18 disproportionately effects minorities.

19 The bottom line though is I don't believe the
20 map complies with the Florida Constitution and does
21 not respect the right of minority voters to elect
22 their chosen candidates.

23 I believe we have an obligation to change
24 these maps and since we don't seem to be doing
25 that, I will be voting no on them.

1 PRESIDENT HARIDOPOLOS: Thank you. Senator
2 Gaetz, do you want to be recognized before we go to
3 our vote?

4 SENATOR GAETZ: Just briefly, sir.

5 PRESIDENT HARIDOPOLOS: You are recognized
6 Senator from the 4th, you are recognized to close.

7 SENATOR GAETZ: Thank you very much, and thank
8 you very much, Senator Rich, our Minority Leader
9 for your comments and for your collegial work with
10 us throughout this entire process.

11 The Leader says that we should follow the
12 provisions of Amendment 6 and indicts us for not
13 doing so, but sadly, she provides no evidence of
14 non-compliance, she provides not one single example
15 of non-compliance, not one.

16 If you, if you look at the facts of the matter
17 you will find that there is no diminishment of
18 minorities to participate in the political process
19 or elect candidates of their choice. That is in
20 Amendment 5 and that is in Amendment 6.

21 The Leader has been unable to show us,
22 although she has alleged it is there, she has been
23 unable to show us in allegation after allegation
24 anywhere, where there is any favoritism or
25 disfavoring of incumbents or challengers and I

1 don't know where incumbents or challengers live,
2 but I read the newspaper and if it is in the
3 newspaper, of course, it must be true.

4 And the newspaper says that all sorts of
5 incumbent Congressmen are screwing around because
6 they are discovering that these district lines have
7 been drawn not for their convenience, but in many
8 cases, for their inconvenience. So what?

9 We did not look in any way at favoring the
10 opportunities for incumbents to remain elected or
11 for challengers to unseat incumbents.

12 And then as I indicated in my answers to
13 Senator Smith, Mr. President, in the other metrics
14 of performance to which the Minority Leader
15 referred, we have fewer split counties by a long
16 shot. We have fewer split cities by more than 100.

17 So therefore, in every one of those areas
18 called for in Amendment 6, in every one of both the
19 top tier and the second tier requirements of
20 Amendment 6 we have complied and the Minority
21 Leader, although she makes allegations that we
22 haven't complied with Amendment 6, offers not one
23 example, offers not a shred of evidence.

24 She says that the effect of these maps are
25 political, but as I tried to indicate in my

1 comments, effect is irrelevant, intent is what is
2 talked about in the Constitution.

3 And again, our intent as demonstrated time and
4 time again has been to be fair and the effect is
5 irrelevant legally and constitutionally.

6 So let's talk about effect for a second. The
7 last statewide election that we had in Florida,
8 even though there are more registered Democrats
9 than Republicans, every single statewide
10 constitutional office was held by a Republican
11 after the election, and after the last Presidential
12 election the Democratic candidate, President Obama
13 received many, many, many votes from Republicans
14 and from Republican areas.

15 You can't predict how people will vote and you
16 can't draw a redistricting plan that will require
17 people to act in a certain political way. That
18 effect is irrelevant, that effect is uncontrollable
19 and that effect is unconstitutional.

20 Then the Minority Leader says that we have
21 limited voting opportunities for minorities. She
22 didn't say packing, but she has implied packing in
23 her other comments, but yet no voting analysis has
24 been provided in all of these debates, in all of
25 these discussions for more than a year that would

1 suggest in any way, shape or form that there is any
2 intentional or affected packing of minorities in
3 any district.

4 Instead, we have demonstrated on this floor
5 with evidence that minority voting, that minority
6 districts in this state are barely minority
7 districts and there has been no attempt to pack
8 more minorities.

9 What we have tried to do and I think succeeded
10 is making sure that there is no diminishment of
11 minority voting rights and we have been successful
12 in that regard.

13 I think we have an obligation as members of
14 the Senate when we believe something is wrong to
15 offer alternatives and the Minority Leader has
16 engaged constructively, she has been part of this
17 process from the very beginning, yet no alternative
18 has been offered in this Chamber, on this floor to
19 any plan that has come forward from our bipartisan
20 committee. And indeed in the last vote a majority
21 of Democrats supported the plan.

22 So consequently I believe while the Minority
23 Leader is entailed to her opinion, everyone is
24 entitled to their opinion, but not everyone is
25 entitled to their onset of facts, and the facts

1 support the plan and I urge your yes vote.

2 PRESIDENT HARIDOPOLOS: We are now on final
3 passage of CS for Senate Bill 1174 as amended. If
4 the Secretary will please read the pair votes that
5 have been filed with the Secretary's Office for CS
6 for Senate Bill 1174.

7 THE SECRETARY: In accordance with Senate Rule
8 5.4 Senator Smith is paired with Senator Bennett on
9 Committee Substitute for Senate Bill 1174. If
10 Senator Bennett were present he would vote yes and
11 Senator Smith would vote no.

12 PRESIDENT HARIDOPOLOS: With that, the
13 Secretary will unlock the machine and Senators will
14 prepare to vote.

15 Have all Senators voted? Have all Senators
16 voted? Secure locked machine and announce the
17 vote.

18 THE SECRETARY: Thirty-two yeas, five nays,
19 Mr. President.

20 PRESIDENT HARIDOPOLOS: By vote the Bill
21 passes.

22 Take up and read the next message.

23 THE SECRETARY: The Honorable Mike
24 Haridopolos, President. I am directed to inform
25 the Senate that the House of Representatives has

1 passed the Committee Substitute for Senate Joint
2 Resolution 1176 with amendments and request the
3 concurrence of the Senate. Committee Substitute
4 for Senate Joint Resolution 1176. A Bill to be
5 entitled a Joint Resolution of Apportionment, House
6 Amendment Bar Code 601757.

7 PRESIDENT HARIDOPoulos: Senator from the 4th
8 District. Senator Gaetz, you are recognized to
9 explain the message and to make a motion.

10 SENATOR GAETZ: Thank you very much, Mr.
11 President. The Committee Substitute for Senate
12 Joint Resolution 1176 that is now before us include
13 State Senate districts exactly as the colloquy
14 between Senator Bullard and I indicated, exactly as
15 they passed here on February 17th.

16 Moreover, the House plan inserts or the House
17 amendment inserts into the Joint Resolution legal
18 definitions for 120 state representative districts.

19 Those districts like the 40 State Senate
20 districts are based on the 2010 Census and on the
21 standards on Federal and State law.

22 We are prepared, Mr. President, to go through
23 each of the 120 House districts in detail if it is
24 the prerogative of the Chair to direct us to do so,
25 or if it is the desire of the minority that we do

1 so.

2 Otherwise, Mr. President, I do move that we
3 concur in the pending action which is before us,
4 which is House amendment one to Committee
5 Substitute for Senate Joint Resolution 1176.

6 PRESIDENT HARIDOPOLOS: And that is Bar Code
7 601757 to CS for SJR 1176.

8 Are there questions? Senator from the 29th,
9 Senator Smith, you are recognized for a series of
10 questions.

11 SENATOR SMITH: Yes, sir.

12 PRESIDENT HARIDOPOLOS: All right, I would
13 like to go back and forth as we did earlier, and
14 you are recognized, Senator Smith, for a series of
15 questions.

16 SENATOR SMITH: Thank you, Mr. President. Was
17 the definition of compactness applied to
18 constructing this plan?

19 SENATOR GAETZ: Mr. President, Senator Smith,
20 the answer is the same that I gave to you when you
21 asked about the Congressional plan.

22 SENATOR SMITH: Thank you. This is the House
23 plan?

24 SENATOR GAETZ: Senator Smith, what is before
25 you at the moment is the Joint Resolution which

1 includes the Senate plan and the House plan
2 inserted into the Joint Resolution. And my answer
3 would be that the definition of compactness that I
4 gave you before pertains to this Joint Resolution
5 as well, sir.

6 SENATOR SMITH: How many cities are split in
7 the 2012 plan and counties, as compared to 2002
8 plan?

9 SENATOR GAETZ: Thank you very much, Senator
10 Smith. In proposed State House districts which is
11 before you, in the benchmark plan which is what we
12 have right now, there are 21 whole counties and 46
13 split counties.

14 In the House's plan which we ask you to
15 accept, there are, there is a substantial
16 improvement. Thirty-seven whole counties are
17 included within House districts, that is a 76
18 percent improvement, and the number of split cities
19 is down by 56 percent, from 170 to 75.

20 SENATOR SMITH: Senator Gaetz, were members
21 asked how to improve a district?

22 SENATOR GAETZ: I am sorry, I didn't realize
23 that we could just talk back and forth.

24 Senator Smith, members were not asked how they
25 could improve their district, but as I indicated in

1 my comments there were Senators who engaged with
2 professional staff and engaged with me, and in
3 every single case, Democrat or Republican, we
4 maintained the rule that there would not be any
5 discussion of favoritism or improving a district
6 for an incumbent or disfavoring a district for an
7 incumbent.

8 However, what we did do is say, if you have
9 suggestions or criticisms for us on how we can be
10 more compliant with Federal and State law, we want
11 to hear those suggestions and criticisms and we
12 received some from members of your caucus and we
13 received some from members of the Republican
14 caucus.

15 SENATOR SMITH: Were member districts modified
16 based on this input?

17 SENATOR GAETZ: Senator Smith, yes, there were
18 circumstances in which plans that were presented by
19 the public to our committee were considered, and
20 when we received input from members in committee
21 meetings and we received input from members in the
22 discussions that I described, we were able to make
23 improvements in the plan in the sense that those
24 improvements made the plans more consistent with
25 Federal and State law.

1 SENATOR SMITH: Did professional staff have
2 access to performance data?

3 SENATOR GAETZ: No, sir.

4 SENATOR SMITH: Did any group, organization,
5 association or political party provide you or your
6 staff with performance data?

7 SENATOR GAETZ: No, sir.

8 SENATOR SMITH: How can we know if a plan
9 favors or disfavors a party without performance
10 data?

11 SENATOR GAETZ: Senator Smith, we didn't use
12 performance data, because we didn't want to either
13 know or be credited or blamed with favoring or
14 disfavoring a political party or an incumbent or a
15 challenger.

16 SENATOR SMITH: Were there plan models that
17 included members' residences?

18 SENATOR GAETZ: No, sir.

19 SENATOR SMITH: Were there any discussions
20 with members regarding their residence?

21 SENATOR GAETZ: No, sir.

22 SENATOR SMITH: Could you again under this
23 plan give your definition of retrogression?

24 SENATOR GAETZ: Senator Smith, the same answer
25 would apply that I gave in our discussion of the

1 Congressional plan.

2 We have no different definition of
3 retrogression that we applied in the development of
4 the legislative plans.

5 SENATOR SMITH: Would that be the same answer
6 for a definition of minority district?

7 SENATOR GAETZ: Yes, sir.

8 SENATOR SMITH: The language in the
9 Constitution now requires that districts cannot be
10 drawn to diminish the ability of minorities to
11 elect candidates of their choice.

12 Is it possible that packing minorities into
13 one district violates this provision?

14 SENATOR GAETZ: If we packed it would, but we
15 didn't. Therefore, the premise of your question
16 would be incorrect in the intent and affect of the
17 plan.

18 SENATOR SMITH: Some districts must be drawn
19 to allow minorities to elect representatives of
20 their choosing, but having the 2002 districts
21 change, do you maintain that 2,000 minority
22 districts were drawn to reelecting incumbents?

23 SENATOR GAETZ: Senator Smith, I was not here
24 in 2002, you were. You would be a better source
25 for the answer to that question than would I.

1 SENATOR SMITH: What was the definition the
2 Committee used to determine racially fair?

3 SENATOR GAETZ: I apologize, Senator Smith,
4 could you repeat that?

5 SENATOR SMITH: What was the definition that
6 the Committee used to determine if a district was
7 racially fair?

8 SENATOR GAETZ: Senator Smith, I would give
9 you the same answer I gave before, and that is that
10 we took the simple view that there ought to be no
11 backsliding in the ability of minorities to be
12 represented or to elect candidates of their choice.
13 That would constitute fairness in our view.

14 SENATOR SMITH: Would this in essence benefit
15 an incumbent by using that definition?

16 SENATOR GAETZ: Not to my knowledge, no, sir.

17 SENATOR SMITH: There is much talk in the
18 Committee about preserving minority districts.

19 Is this a numerical formula to determine that
20 if we were diminishing minorities' districts?

21 SENATOR GAETZ: Senator Smith, there was not
22 just talk about diminishing minorities' districts,
23 there was a unanimous bipartisan agreement not to
24 diminish minority districts, and the answer that I
25 gave in discussion of Congressional districts would

1 apply in this case as well.

2 There was no numerical formula, instead there
3 was a district by district analysis done using the
4 criteria and maintaining the variables in mind that
5 I indicated before.

6 SENATOR SMITH: If a plan packs large
7 minorities of Democratic voters into some
8 districts, isn't that evidence of an overall plan
9 intended to favor Republicans or disfavor
10 Democrats?

11 SENATOR GAETZ: Senator Smith, if that were
12 true then the premise of the question could be
13 discussed, but as I mentioned to you before, in my
14 part of Florida in that benighted area of the
15 northwest, we have a very overwhelming Republican
16 super majority.

17 And consequently, we could not be I think
18 rightfully accused of packing Republicans into a
19 district in northwest Florida, because no matter
20 where you would draw the lines, Republicans hold a
21 majority.

22 The same would apply in areas in southeast
23 Florida where Democrats are overwhelmingly in the
24 majority.

25 Therefore, in order to not have districts with

1 overwhelming Republican majorities in northwest
2 Florida, in order to not have districts with
3 overwhelming Democratic majorities in some areas of
4 southeast Florida, one would have to draw districts
5 that were not compact and not contiguous, and
6 therefore, not constitutional.

7 SENATOR SMITH: Does this not represent the
8 greatest number of minority coalition districts
9 that could have been drawn?

10 SENATOR GAETZ: No, I don't believe, Senator
11 Smith, that one would make that argument. Instead
12 I believe that the map represents a fair and
13 accurate attempt to have no diminishment in
14 minority voting percentages and minority voting
15 rights. There was no attempt to expand or
16 contract, but rather to be fair.

17 SENATOR SMITH: That is all the questions I
18 have on this matter.

19 PRESIDENT HARIDOPOLOS: Are there further
20 questions? Those that would like to be heard in
21 debate?

22 Senator from the 34th, Senator Rich, you are
23 recognized in debate.

24 SENATOR RICH: Thank you, Mr. President, and I
25 will not repeat all of what I said before so that

1 Senator Gaetz will not have to come back and repeat
2 what he said before.

3 But I want to just mention that again I think
4 it is our obligation to produce politically fair
5 maps, and I know that people want to discredit some
6 of the news media out there that did analyze these
7 maps, but I am kind of glad that they did, because
8 nobody else was doing that and they were able to at
9 least highlight the fact that there was a problem
10 in terms of the balance with regard to seats that
11 were drawn that had realistic chance of electing a
12 Democrat or a realistic chance of electing a
13 Republican.

14 And I mentioned in the Congressional debate
15 what the districts were. So I will just say that
16 according to the analysis that was done by the
17 Tampa Bay Times, there are only 14 Senate districts
18 where a Democrat has a realistic chance of being
19 reelected, while 24 seats would likely be won by
20 Republicans.

21 In the House plan 66 Republicans to 46
22 Democrats and a paltry number of seats in each plan
23 would actually be competitive for either party.

24 So again it is very difficult to believe that
25 these maps which preserve political power for the

1 concurrent ruling party in proportions complete the
2 out of line with the actual political affiliations
3 of the people of the state were drawn without the
4 intent to do just that.

5 And I do want to just mention again about the
6 minority seats, because the issue there and Senator
7 Smith asked many questions about this, but my
8 feeling is that actually by doing what was done, by
9 placing minority voters into a minimal number of
10 districts, by doing so in affect you limit the
11 number of minority candidates who have a chance of
12 being elected to the Legislature or to Congress.

13 And again, I don't think that that is what the
14 intent was of fair districts. So again I don't
15 think, I don't believe that this map, these maps
16 again comport with the Constitutional amendments
17 and I will say that I am glad for one thing and I
18 congratulate Senator Gaetz on getting these maps
19 out early and on their way through the process,
20 because I believe in the end the courts are the
21 ones who will determine whether or not we actually
22 did follow Amendments 5 and 6.

23 PRESIDENT HARIDOPoulos: Thank you. Others in
24 debate?

25 Senator from the 4th, you are recognized to

1 close on your Bill.

2 SENATOR GAETZ: Thank you very much, Mr.
3 President, and thank you, Senator Rich, our
4 Minority Leader for your comments.

5 I am pleased to note that the Minority Leader
6 has indicated on the record that it was the media
7 and only the media which found a political affect
8 in these maps. There certainly was no political
9 intent as we demonstrated in our arguments on this
10 floor today.

11 I would only say that to suggest that just
12 because there is not a majority of
13 African-Americans in an area, that the
14 African-Americans, therefore, would not be able to
15 select a candidate of their choice is belied by the
16 election of Barack Obama as President of the United
17 States.

18 We cannot pass a law that requires Democrats
19 to vote for Democrats or African-Americans to vote
20 for African-Americans or Jewish citizens to vote
21 for Jews or whites to vote for whites.

22 We go into a voting booth, we pull the lever.
23 We have here the Senator from the 3rd, Senator
24 Dean, who is a Republican, who represents a
25 district that has more Democrats than Republicans.

1 Senator Oelrich from the 14th represents a
2 district where there are more Democrats than there
3 are Republicans, but the fact is that they were
4 able to mount better campaigns and make better
5 arguments and present a more persuasive message
6 than their opponents and that is why they're here
7 and that is what is great about the American
8 electoral process.

9 We select candidates based on our own free
10 will, not based on some formulaic equation
11 developed by politicians in Washington or
12 Tallahassee.

13 Mr. President, I want to thank you for
14 insisting that this process be transparent, open,
15 participatory and that we get it done. That is
16 what you kept saying to me over and over, are we
17 done, can you get this done. Can you make sure
18 that we will be on time, that we will meet the
19 expectations of the voters and of this Chamber and
20 of the courts and we have.

21 I thank your professional staff led by John
22 Guthrie, I thank our partners from the House of
23 Representatives, particularly the Speaker Designate
24 Will Weatherford, who has worked with us with
25 graciousness and cooperation throughout, and Mr.

1 President, I ask that the Senate concur.

2 PRESIDENT HARIDOPOLOS: Thank you, Senator
3 Gaetz.

4 All those in favor of the motion to concur on
5 House Amendment Bar Code 601757 say yea.

6 (Chorus of yeas.)

7 PRESIDENT HARIDOPOLOS: All those opposed say
8 nay.

9 (Chorus of nays.)

10 PRESIDENT HARIDOPOLOS: Show the amendment
11 adopted, the motion adopted.

12 We are now on final passage of CS for SJR 1176
13 as amended. There are no pairs.

14 The Secretary, please unlock the machine and
15 Senators prepare to vote.

16 Have all Senators voted? Have all Senators
17 voted?

18 Secretary lock the board and announce the
19 vote.

20 THE SECRETARY: Thirty-one yeas, seven nays,
21 Mr. President.

22 PRESIDENT HARIDOPOLOS: And by your vote the
23 Bill passes.

24 Congratulations, Senator Gaetz. Read the next
25 message.

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THE SECRETARY: None on the desk, Mr.
President.
(Whereupon, the proceedings were concluded.)

1 C E R T I F I C A T E

2 STATE OF FLORIDA)

3 COUNTY OF LEON)

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

8 That the foregoing pages 2 through 58 represent
9 a true, correct, and complete transcript of the tape-
10 recording;

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

15 Dated this 10th day of February, 2012.

16

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CLARA C. ROTRUCK

20

Notary Public

21

State of Florida at Large

22

Commission Expires:

23

November 13, 2014

24

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