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SENATE COMMITTEE ON REAPPORTIONMENT

OCTOBER 18, 2011

Transcribed by:

CLARA C. ROTRUCK

Court Reporter

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

2 SENATOR GAETZ: If the Senators who are  
3 members of the Reapportionment Committee would  
4 please take their seats, members of the  
5 professional staff, please be seated, and those  
6 of us who are here to observe and testify,  
7 please find a seat, we can get started.

8 The Senate Committee on Reapportionment is  
9 called to order, and I would like to ask the  
10 administrative assistant to call the roll.

11 THE CLERK: Senator Gaetz.

12 SENATOR GAETZ: Here.

13 THE CLERK: Senator Margolis.  
14 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 BULLARD: Here.

22 THE CLERK: Senator Dean.

23 SENATOR DEAN: Here.

24 THE CLERK: Senator Detert.

25 Senator Diaz de la Portilla.

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

1           SENATOR SIPLIN:   Here.

2           THE CLERK:   Senator Sobel.

3           Senator Storms.

4           Senator Thrasher.

5           SENATOR THRASHER:   Here.

6           THE CLERK:   Quorum is present.

7           SENATOR GAETZ:   Thank you very much.

8           Let me begin with a couple of housekeeping  
9           details, which are very important to those that  
10          these details pertain to, and that is, first of  
11          all, Senator Flores, who is a member of our  
12          committee, has become a mother again. I  
13          believe that the birth was yesterday, unless  
14          somebody can correct me, and she is -- she has  
15          a second baby boy. So somebody for Maximo to  
16          lord over. We don't know the name of the new  
17          addition to the family, unless someone does.

18          A VOICE:   Lucas.

19          SENATOR GAETZ:   Who is it, Lucas? Lucas  
20          Ignacio (phonetic).

21          A VOICE:   Ignacio.

22          SENATOR GAETZ:   Lucas Ignacio will now  
23          take the heat from Maximo. And we wish Senator  
24          Flores and her family well and can't wait to  
25          see her back.

1           Secondly, we have an excused absence from  
2           our colleague, Senator Bullard. And also I  
3           would like to announce to the Committee that  
4           our Vice-Chair, President Margolis, will soon  
5           be undergoing orthopedic surgery. She is  
6           preparing for that surgery right now, so please  
7           keep President Margolis in your thoughts and  
8           prayers.

9           And today we would like to welcome a new  
10          member to our committee. Apparently the  
11          interest in this committee continues to be  
12          high, and our President, President Haridopolos,  
13          has appointed Senator Simmons. Are you here,  
14          Senator Simmons? Senator Simmons is now a  
15          member of the Committee as of today. So please  
16          add him to the roll.

17          And are there any other announcements of a  
18          housekeeping nature to make?

19          If not, today we will continue the process  
20          that we began at our last meeting, which is to  
21          look at specific areas of the state and to look  
22          at Senate, House and congressional district  
23          scenarios that have been presented by the  
24          public in those regions of the state.

25          As the Senators will recall, at the last

1 meeting we discussed and came to consensus as  
2 to northwest Florida. At this meeting, we will  
3 discuss northeast and central Florida, and in  
4 our following two meetings, we will discuss  
5 southeast Florida and southwest Florida. The  
6 next time we meet, specifically we will look at  
7 southeast Florida, the region from the Space  
8 Coast south through the Florida Keys and as far  
9 west as Lake Okeechobee. And then, Senators,  
10 at our meeting in mid-November, we will  
11 consider southwest Florida.

12 Now, I would like to recall to your minds  
13 that November 1st is the deadline which this  
14 committee adopted by consensus for public  
15 interest groups and Senators and individuals to  
16 submit maps for consideration in preparation  
17 for our draft proposed committee bills, and  
18 that deadline was agreed to by members of the  
19 Committee.

20 Our goal is for professional staff to  
21 publish draft proposed committee bills,  
22 including all maps, statistics and downloads,  
23 before the end of November, and for this  
24 committee to consider a motion to introduce  
25 those proposed committee bills during the week

1 of committee meetings that starts December 5th.  
2 Whether we will be able to maintain that  
3 deliberative, but I think with all due speed  
4 schedule depends on our work today and in the  
5 next two committee meetings.

6 Let me stop there and ask if there are any  
7 questions or comments as to our proposed  
8 schedule. Leader Rich.

9 SENATOR RICH: Thank you, Mr. Chair. I  
10 just am wondering if there is -- is there a way  
11 for organizations or individuals who submit  
12 maps to us by November 1st, is there anyway  
13 that a person would be given an opportunity to  
14 modify their map at all? In other words, if  
15 they came in and, you know, said, "I wanted to  
16 do something to change my map," is there any  
17 mechanism for that to happen?

18 SENATOR GAETZ: Yes, Leader, I would say  
19 so. In fact, I think we will see today that  
20 the scenarios, which our professional staff  
21 have divined from the public submissions that  
22 have been made, include submissions from  
23 individuals who, having once submitted their  
24 proposal, have now gone back and suggested some  
25 alterations. And I think until we act, we

1 always are looking for ways to improve and  
2 refine our work product, down to and including  
3 our work on the floor, so long as we stay with  
4 the understanding that there aren't going to be  
5 any midnight surprises, any late-filed  
6 amendments, that sort of thing.

7 But unless there is any member of the  
8 Committee who recalls things differently or who  
9 would object, I think that Leader Rich's  
10 characterization is exactly correct.

11 Leader Rich.

12 SENATOR RICH: Thank you, just a  
13 follow-up.

14 So even after November 1st, say, if we are  
15 having a meeting, someone would be able to come  
16 and have an opportunity to make a submission  
17 that would adjust their map that they had  
18 already turned in, is that --

19 SENATOR GAETZ: Yes, Leader, I would say  
20 so, and now, obviously, we will want to apply a  
21 little bit of common sense. If somebody had  
22 proposed a map that only dealt with Pasco  
23 County House races, and then they came in after  
24 November 1st and said "Now we have a statewide  
25 map for Congress," I think we would have to



1           construe that as a new submission. But if it  
2           is -- if it is a refinement of a prior  
3           submission, then I think we ought to accept  
4           that, unless there are members of the Committee  
5           who would disagree with the Leader's request.

6           If not, let the record show that Leader  
7           Rich's question was answered in the  
8           affirmative, that, yes, we would accept  
9           refinements of prior proposals.

10           Senator Gibson, you are recognized.

11           SENATOR GIBSON: Thank you, Mr. Chair.

12           And so as a follow-up to Leader Rich's  
13           question, since last week we did northwest  
14           Florida, and I believe the instruction to staff  
15           was to begin to craft something based on those  
16           maps, so if someone submits -- let's say they  
17           submit the maps up to the November 1st deadline  
18           and they include a revisit of northwest  
19           Florida, is then staff going to be directed to  
20           go back over northwest to see if this new  
21           northwest map is usable?

22           SENATOR GAETZ: Well, I think that maybe I  
23           can help answer that question by discussing the  
24           practical application of our seven-day rule  
25           that we agreed to by consensus, and let's look

1 at the way that that rule would be applied to  
2 the next meeting, and I think it will help  
3 answer your very good question.

4 If you, Senator, or any member of the  
5 public or any interest group has a new plan for  
6 southeast Florida, which is what we are going  
7 to discuss at the next meeting, for inclusion  
8 on the agenda for the week of October 31st,  
9 then make sure that you submit it no later than  
10 the first thing next Monday morning, which is  
11 October 24th, so it can be included in the  
12 meeting notice that is due before noon that  
13 day.

14 I think -- I think it becomes -- it  
15 becomes a little bit -- a little bit unfaithful  
16 to consensus if we do come to consensus on any  
17 points, it becomes a little unfaithful if  
18 somebody comes in in the middle of November and  
19 says, "Well, I never was interested in  
20 northwest Florida before, but now I have a  
21 sudden interest, and I would like to -- I would  
22 like to reopen the whole issue."

23 Any member of the Senate can reopen any of  
24 those issues by amendment at any time, but I  
25 think we want to be somewhat faithful, Senator

1 Gibson, when we come to consensus.

2 So unless the group would want to operate  
3 differently, I would say this: If someone  
4 wants to come in and revisit a prior consensus,  
5 then we would need to get the Committee's  
6 agreement to revisit that prior consensus.

7 We always, as I mentioned before, want to  
8 make a product better and better and better, up  
9 until the time that we present it on the floor,  
10 and even then accept amendments from our fellow  
11 Senators to make products better. But I think  
12 that if we are to work in good faith and as  
13 gentle persons, once we come to an agreement,  
14 then there ought to be a dog-gone good reason  
15 why we would upend that agreement. If there is  
16 a good reason, then I am sure this committee by  
17 consensus would say let's go back and revisit.

18 Other comments or questions? If not,  
19 today we will consider scenarios for northeast  
20 and central Florida. We will begin with a  
21 professional staff presentation summarizing  
22 some of the scenarios and themes we received  
23 from the public for drawing districts in this  
24 part of the state, and then as we did in our  
25 last hearing, our last meeting, we will take

1 testimony from anybody who would like to speak  
2 to the scenarios that we are discussing today,  
3 and afterwards we will go into discussion here  
4 on the Committee, hear what committee members  
5 have to say, what kind of direction we might  
6 provide to professional staff about the various  
7 presenters -- scenarios that are presented.

8 So let's turn, if we would, Senators, to  
9 tabs one through three, and let me begin with  
10 the standard questions that we will begin all  
11 of our meetings with.

12 Are there any Senators wishing to offer a  
13 plan for the Committee's consideration today?  
14 Any Senators wishing to present a plan?

15 Are there any representatives of any civil  
16 rights organizations who are here today wishing  
17 to offer a plan or to comment? If you wish to  
18 comment on the staff presentation that you are  
19 about to hear, we would love to hear from you,  
20 and please know that if you would turn in a  
21 Committee Appearance Record, one of these  
22 cards, we will call on you so that we can get  
23 your reactions to -- or your criticisms or  
24 support or anything else that you would like to  
25 offer for any plans or scenarios that you hear

1 as we go through the public plans.

2 And if there are members of the public --  
3 and this gets back to Leader Rich's question.  
4 If there are members of the public who would  
5 like to comment on any plan that is presented  
6 today, or if there are members of the public  
7 who have submitted a plan and who would now,  
8 subsequent to their submission, like to say,  
9 "Gosh, I've got a way to make this a little bit  
10 better," we would love to hear your testimony  
11 today as well as pertains to the northeast and  
12 central regions of the state of Florida.

13 We will continue to reserve time for  
14 discussion of statewide plans submitted by  
15 Senators, civil rights organizations and the  
16 public at each of our meetings, and I would  
17 recall to the Committee's attention that the  
18 Speaker Designate and I have jointly written to  
19 civil rights organizations, asking them to  
20 submit their comments, their criticisms, their  
21 plans, their maps, and to keep in front of them  
22 the November 1st deadline that this committee  
23 has agreed to.

24 As with amendments, it will be helpful to  
25 the Committee if anybody wanting to make a

1 presentation could let us know their intention  
2 and submit their plan or plans at least 48  
3 hours prior to a meeting, that way we can get  
4 the plans and the stats on our redistricting  
5 website and include the materials in the  
6 meeting packet. That falls under the category  
7 of not surprising anybody with a plan that no  
8 one has had an opportunity to look at before  
9 they walked into a committee meeting.

10 This week we will start with staff  
11 presentations, as I indicated, for scenarios in  
12 northeast and central Florida, and we will  
13 start, if it is okay, Mr. Guthrie, with  
14 scenarios for drawing Senate districts. So  
15 please turn to tab five. We will recognize  
16 John Guthrie.

17 SENATOR LATVALA: Mr. Chairman?

18 SENATOR GAETZ: Yes, sir, Senator Latvala.

19 SENATOR LATVALA: Could I ask a  
20 question --

21 SENATOR GAETZ: Yes, sir.

22 SENATOR LATVALA: -- about what you just  
23 said? What is the criteria that is used by the  
24 staff in determining -- well, first of all, I  
25 guess the question is, are all the maps

1 submitted by the public on the computer that  
2 were submitted in a timely fashion included in  
3 the package that we have today?

4 SENATOR GAETZ: Mr. Guthrie.

5 MR. GUTHRIE: No, they are not.

6 SENATOR LATVALA: Okay. Then the second  
7 question is, what is the criteria for the staff  
8 determining which plans that they let us see in  
9 the package?

10 MR. GUTHRIE: That is a choice --

11 Mr. Chairman?

12 SENATOR GAETZ: Of course.

13 MR. GUTHRIE: That is a choice, Senator  
14 Latvala, that I, working with the professional  
15 staff of the Committee, come to based on really  
16 a desire to provide a number of examples that  
17 show the Committee variations of approaches for  
18 how to draw districts in a particular area.

19 So the number of Senate plans that are  
20 included in the meeting packet today is five,  
21 and if we go to District Builder and we look  
22 for the types of -- or the total number of  
23 Senate plans that have been submitted so far,  
24 that number is -- let's see how fast I can get  
25 this up -- that number is 27. So we have pared

1 down the list of 27 plans that have been  
2 submitted so far to five that we are  
3 recommending to the Committee as samples or  
4 examples of different approaches to drawing  
5 Senate districts in northeast and central  
6 Florida.

7 SENATOR GAETZ: Senator Latvala.

8 SENATOR LATVALA: Mr. Chairman, I -- you  
9 know, some of us are more sophisticated than  
10 others, and, granted, this District Builder  
11 program has been out there for a while, but I  
12 am a little slower than some other people are  
13 on the computer, and, you know, a lot of times  
14 I like to see things printed out and, you know,  
15 I did see a map on the computer that, in my  
16 opinion, is a lot different than the ones  
17 selected by staff for this area of the state,  
18 and I am just wondering if maybe we can either  
19 have a policy where they are going to show us  
20 everything, or -- in a hard copy form, or  
21 whether we can have maybe a little more variety  
22 of the plans that would make it to the  
23 Committee for our eyeballs as far as in a hard  
24 copy form in the committee packet.

25 SENATOR GAETZ: Senator Latvala, I think



1           that is a very good comment, and Mr. Guthrie,  
2           correct me if I am wrong, I know you will, my  
3           understanding is that the professional staff  
4           has attempted to select plans which -- which  
5           draw from the testimony that we heard at our 26  
6           hearings, and there might be -- there might be  
7           20 plans, but there might be four or five  
8           themes and there might be 20 variations on  
9           those four or five themes.

10                    But Senator Latvala makes an excellent  
11           point, and that is why I began by saying are  
12           there plans that any Senator would like to  
13           present or have discussed today that are not on  
14           the agenda. And if -- Senator Latvala, if you  
15           would prefer to have all of the Senate plans  
16           presented in hard copy to all the Senators at  
17           every meeting, we can make sure that that  
18           happens. That is not an unreasonable request.

19                    And if there is a particular plan -- as  
20           you go through the plans in advance of the  
21           meeting, if there is a particular plan that you  
22           want to make sure is discussed, regardless of  
23           whether it is a -- it is an echo of an existing  
24           plan or different from a plan that professional  
25           staff intends to present as a synopsis plan,

1 we will take that request from any Senator,  
2 from you, sir, or any Senator at any time.

3 SENATOR LATVALA: Well, I did make a  
4 request yesterday, because there was a map that  
5 I saw that was different, and I did ask John  
6 yesterday to prepare that overhead, but maybe I  
7 am the only one that feels that way, that we  
8 shouldn't have the staff, you know, editing  
9 what we look at on these, you know, and that we  
10 should instead have the time to go through all  
11 the maps on computer ourselves, but I just  
12 raise that point for --

13 SENATOR GAETZ: And I think it is a good  
14 point, and Senator Latvala, certainly there's  
15 not any intention on my part or I think  
16 Mr. Guthrie's part to edit consideration. All  
17 the plans are there in public view. But if you  
18 would like the plans to be also in hard copy  
19 every time we meet, we can arrange that, and  
20 just as you contacted professional staff and  
21 said there's a plan that has some features in  
22 it that you think has some value, you would  
23 like it to have discussed, it will be discussed  
24 today.

25 SENATOR LATVALA: Okay. Thank you.

1           SENATOR GAETZ: Absolutely. And, John,  
2           please make sure that we have a looseleaf  
3           binder for all members of the Committee that  
4           has in hard copy every single plan that is  
5           submitted that has anything to do -- any Senate  
6           plan. And, Senator Lynn, would you like to add  
7           to that? Sure. Senator Lynn, you are  
8           recognized.

9           SENATOR LYNN: Perhaps some members want  
10          all of that, and some members may not. It was  
11          my understanding that we would always be able  
12          to go and look at all the maps at anytime we  
13          wanted to, they would be available to us, or  
14          perhaps if I desired to have, such as Senator  
15          Latvala is mentioning, all of the maps, that  
16          maybe that could be printed out for me.

17          But personally, and I will speak for  
18          myself, I don't want to see all the maps. I  
19          think -- I believe staff is trying really hard  
20          to come up with maps that indicate they are in  
21          reaction to the comments that were made at all  
22          of the meetings in each of the areas, that also  
23          they were the maps that perhaps could meet  
24          closest to -- in addition to that, a  
25          combination of, what people asked for, but also

1           how they met the numbers that were needed for  
2           each of the districts that were formed, perhaps  
3           met some of the other Constitutional  
4           requirements.

5           And so I would assume, and maybe you tell  
6           me if I am wrong, that the maps that we are  
7           presented are those that are presented because  
8           they reflect the Constitutional requirements  
9           and also reflect what people have requested.  
10          Now, if that is not true, then maybe, you know,  
11          we would have to look at all of the maps, but I  
12          can tell you I am not skilled enough to  
13          determine all of those issues with every one of  
14          those maps. And so I am suggesting that for  
15          those people who would like to see all the  
16          maps, they might request those of the staff,  
17          and leave it up to the individual rather than  
18          having all of us get all of that material that  
19          might or might not be useful to --

20                 SENATOR GAETZ: Thank you, Senator Lynn.  
21                 Senator Sachs.

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

24                 I think that since we are the Committee  
25                 that looks at these maps, and that there are

1 citizens who have gone to the great, great work  
2 to put them together, I think the onus should  
3 be on us to have them here. If Senator Latvala  
4 wants to refer to a map that is not one of the  
5 five that have been chosen, then that should be  
6 a matter of our record here before us during  
7 this committee meeting.

8 So I think that it is -- it is incumbent  
9 upon us as committee members to have those maps  
10 in our possession during the committee  
11 meetings, not just on-line, but also as a  
12 matter of our record. Rather than putting the  
13 onus on the staff, that should be on us. That  
14 is our burden. People went to the length to  
15 prepare them. We should at least give them the  
16 respect that is due to them by having them as  
17 matter of a record that we keep here during our  
18 committee meeting. So I would go along with  
19 having them provided to us, Mr. Chairman.

20 SENATOR GAETZ: Well, let's synthesize it  
21 this way just a moment, and see if we can bring  
22 it to closure. Let's synthesize it this way.  
23 Mr. Guthrie, would you please poll the  
24 Committee after the committee meeting off line,  
25 using whatever method you use to poll the

1           Committee, contact each committee member and  
2           ask them if they want hard copies of all maps  
3           in a looseleaf binder available for them, you  
4           know, at or in between or whenever we meet, and  
5           then at the same time, there may be some  
6           Senators like Senator Lynn and myself who carry  
7           around -- I loose paper, so I am delighted to  
8           have them on-line, but why don't we do this,  
9           let's have four or five copies of the looseleaf  
10          binder that Senator Latvala has very  
11          appropriately requested, let's have four or  
12          five copies available at the committee meeting,  
13          so that that way everybody -- you know, if we  
14          need to, we can have members refer to it, if  
15          they choose not to refer to it, using their  
16          laptops that are right here in front of us, and  
17          maybe that would resolve the problem that way.  
18          Everyone who wants all 20 maps in front of them  
19          -- and by tomorrow there could be 25 -- that is  
20          fine, they can have them in front of them in  
21          hard copy, they've already got them in front of  
22          them on-line, but have four or five extra  
23          copies of the looseleaf binder at the committee  
24          meeting. Can you do that?

25                   MR. GUTHRIE: Yes, sir. Yes, sir,

1 Mr. Chairman.

2 SENATOR GAETZ: Okay. Senator Storms?  
3 Good, I did one thing right. Have we -- yes,  
4 sir, Senator Siplin.

5 SENATOR SIPLIN: Thank you, Mr. Chair, and  
6 I appreciate the latitude that you have given  
7 the staff in presenting these maps to us.  
8 However, I think we ought to be mindful of the  
9 constitutional basis that we must stand on in  
10 terms of reviewing these maps.

11 You know, when I was Chair of the black  
12 caucus, my goal was to maintain the six black  
13 Senate seats and the 19 black Rep seats, and,  
14 of course, there are three Hispanic Senators  
15 and there are at least four or five Hispanic  
16 Reps. I think that we ought not to look at any  
17 map that digress or eliminates the six black  
18 seats sitting in the Senate, the three black --  
19 the three Hispanic Senate seats and the House  
20 member seats, because when you begin to do  
21 that, you violate the Constitution and the  
22 Florida Constitution and the case law.

23 So I would hope, Mr. Chairman, that we  
24 would only look at those maps that by and large  
25 maintain the African-American representation,

1 as well as the Hispanic representation that  
2 exists right now, because we can't draw any  
3 maps that's going to eliminate those current  
4 seats, because it would be an unconstitutional  
5 and it would be discriminatory.

6 SENATOR GAETZ: Thank you.

7 Leader Rich, were you requesting  
8 recognition, ma'am? I'm sorry.

9 Well, that probably, Senator Siplin, will  
10 be in the eyes of the beholder, and what I  
11 would like to do, with the Committee's  
12 concurrence, is to dive into the very topic  
13 that Senator Siplin just raised, and that is  
14 the Senate maps for northeast and north central  
15 Florida. So if you would turn to tab five,  
16 please. And, Mr. Guthrie, if you would please  
17 go through the scenarios there, and when we get  
18 to -- when we get to the portion that includes  
19 the map that Senator Latvala referenced, let's  
20 make sure that we put that up on the screen so  
21 we can have a full conversation about that map  
22 anyway.

23 MR. GUTHRIE: Okay.

24 SENATOR GAETZ: You are recognized.

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



1 let me take just a moment to show you that each  
2 of you have a meeting packet for this meeting.  
3 We have included in the meeting packet  
4 bookmarks which take you to each of the tabs,  
5 first congressional, then Senate, finally  
6 House, and within the tabs, we've got sub-tabs  
7 for each of the plans that are included in that  
8 group. If we pick one of the plans, the packet  
9 zooms to the page where that map is presented  
10 and discussed.

11 And two interesting features if you are  
12 using the on-line electronic version of this  
13 meeting packet is that if you click on the  
14 heading for the plan name, it will take you to  
15 the map page for the particular plan that you  
16 clicked on, and from there, you can get  
17 statistics, you can get spreadsheets, you can  
18 get maps and you also can launch District  
19 Builder or District Explorer for the map that  
20 you happen to be looking at in the meeting  
21 packet. If you click on the map itself, that  
22 provides you a direct link to the District  
23 Explorer application.

24 District Explorer, I think, is a fabulous  
25 tool for giving Senators and the public an

1 opportunity to see not only the gross outlines  
2 of districts, but actually street-by-street  
3 detail. So working inside of District  
4 Explorer -- and I will click on the map here,  
5 it will launch a session of District Explorer  
6 for me with -- let's see -- with that plan  
7 selected. Let me try that again. Click on  
8 that. We will get there another way.

9 SENATOR GAETZ: Excuse me, John. Senator  
10 Lynn.

11 SENATOR LYNN: Last time at our meeting,  
12 John was the one that brought things up on our  
13 screen. Are we going to be doing the same  
14 thing today, or are we going to actually be  
15 doing it ourselves? Because we have run into  
16 some problems at the very beginning of the  
17 meeting with getting our maps there, and I am  
18 afraid to start playing with it lest I lose it.

19 SENATOR GAETZ: John, what advice do you  
20 give us, to watch the big screen?

21 MR. GUTHRIE: That is an option, Senator  
22 Gaetz. Also, technical support is here from  
23 Senate IT and are making the rounds, so they  
24 will get to --

25 SENATOR LYNN: So you are not going to be

1           guiding the cursor as you did last time?

2           MR. GUTHRIE: I will be controlling what  
3           appears on the overhead.

4           SENATOR LYNN: Okay.

5           MR. GUTHRIE: If you go into the meeting  
6           place connection, you also will be able to see  
7           the same material on your computer screen.

8           SENATOR LYNN: Thank you.

9           SENATOR GAETZ: And any member who is  
10          having any IT problems, as always with any  
11          committee meeting, just let us know, we have IT  
12          support here and we will help you out.

13          John, you are recognized.

14          MR. GUTHRIE: So once I get into the  
15          District Explorer application, it is actually a  
16          much easier application to use than District  
17          Builder. Everything is controlled by the  
18          layers manager over on the left side where you  
19          choose which geographic features you want to  
20          see or don't want to see, and the 11 buttons  
21          across the top.

22          If I go to pan view, and that is the most  
23          common view, I can move the map just as I would  
24          Google map or Bing maps, and if I -- if I turn  
25          my wheel mouse in, it zooms in closer and

1 closer. If I take my wheel mouse the other  
2 way, it zooms out. So it is very, very easy to  
3 navigate all around and see as much detail as  
4 you like about any of the maps.

5 This is really something new, something  
6 that is not available anywhere else in the  
7 nation and provides a level of detail into the  
8 specifics of how proposed lines are drawn that  
9 all the members have access to. It would be  
10 literally impossible for us to provide you all  
11 of that content in paper -- in paper form.

12 So the other point I wanted to make is  
13 that from the "Submitted Plans" folder, we have  
14 a listing of all the plans that have been  
15 submitted either to the Florida House of  
16 Representatives or to the Florida Senate thus  
17 far. Actually, Alex Kelly, the staff director  
18 of the House Committee, informed me last night  
19 that five more plans have been e-mailed to him  
20 that he has not yet had a chance to process  
21 them to the Web, but the point there is that we  
22 very soon will be over 100 maps submitted by  
23 the public. That, too, is an unprecedented  
24 level of public participation in redistricting,  
25 and I think the Senate and the House, you can

1 be very proud of what you have accomplished  
2 here.

3 That number, I expect, as Senator Rich was  
4 speaking to, will continue to grow in the  
5 months ahead, and we very well might find  
6 ourselves with literally hundreds of proposals  
7 being submitted by the public before we get to  
8 the end of this process.

9 The easiest way to find content about any  
10 of those 94 or 99, or if it becomes hundreds of  
11 plans, is to go to the "Submitted Plans" link  
12 on the Senate redistricting website, and what  
13 you will see is the ten most recent submissions  
14 that we have received, but you can search here  
15 for any of the plans that have been submitted.  
16 So if you know the name of the person that  
17 submitted the plan -- for instance, if we  
18 wanted to know plans that were submitted by  
19 anybody that had King as part of their name, I  
20 type "King" as submitted by, and say "search,"  
21 and there are the two plans that meet that  
22 criteria. If I -- if what I want to see is all  
23 of the congressional plans that have been  
24 submitted so far, I can choose "congressional"  
25 as plan type and say "search," and it will give

1 me a listing of all the congressional plans,  
2 which, again, exceeds this -- what shows on the  
3 screen, but if I choose -- and this is what I  
4 -- this is a trick I used a little bit earlier  
5 to get a count for Senator Latvala, if I choose  
6 export the results to Excel, not only the  
7 listings that are shown on the screen, the top  
8 ten, but also the entire database for plans  
9 that meet the criteria will show up in an Excel  
10 sheet on your screen.

11 Later in the process, we -- currently, we  
12 only have plans that have been submitted by the  
13 public. Later in the process, we also will see  
14 on this site plans submitted by members of the  
15 House of Representatives and plans that are  
16 submitted by you and your fellow Senators. So  
17 you will be able to search for just those plans  
18 submitted by Senators or just those plans  
19 submitted by members of the House or just those  
20 plans submitted by members of the public as  
21 part of your search here.

22 So this is a -- the submitted plans is a  
23 powerful tool. All of the materials that we  
24 put into your meeting packet today came from  
25 the information that is directly accessible

1 from the "Submitted Plans" page, plus, as  
2 Senator Gaetz said, we went back and reviewed  
3 the public record of the 26 public hearings  
4 that we held, and some of the staff comments --  
5 the professional staff comments that are  
6 included in your meeting packet reflect input  
7 that we got from the public at those 26  
8 meetings. So that is a quick overview of some  
9 of the resources we have.

10 Let's turn now to the Senate plan, and we  
11 are looking today in northeast and central  
12 Florida. What is showing on your screen right  
13 now is the current Senate districts. Two  
14 districts that are of particular interest is  
15 District 1 in northeast Florida, represented by  
16 Senator Gibson. It extends from Jacksonville  
17 to Daytona Beach, and that district is 46.9  
18 percent African-American voting age population.  
19 It also is 9.7 percent below the ideal district  
20 size based on the 2010 census. So all  
21 districts are going to need to grow to be  
22 470,000 people. District 1 currently is at  
23 424,000 people. So it needs to add more  
24 population.

25 District 19 in the Orlando area is

1 represented by Senator Gary Siplin. That  
2 district is 33.1 percent black voting age  
3 population, and it is 35.5 percent Hispanic  
4 voting age population. District 19 is  
5 currently slightly over the target population,  
6 so it has -- the current population of District  
7 19 is 477,000 people, so it needs it lose about  
8 7,000 people to reach the ideal district size.

9 What we are going to be focusing on as we  
10 move through the alternative maps today follows  
11 along the lines of what Senator Siplin was  
12 suggesting earlier. So we will be  
13 concentrating on the Tier 1 requirement in  
14 Section 20 and 21 of the Florida Constitution  
15 that districts shall not diminish opportunities  
16 of minority voters to elect candidates of their  
17 own choice. So here -- this is the current  
18 district. It, of course, was put in place  
19 before Amendments 5 and 6 were added to the  
20 State Constitution.

21 The first plan in -- alternative plan in  
22 the packet that staff selected as a  
23 representative sample for the Committee to  
24 consider is plan number 64 by Mr. John Libby,  
25 and at the time that we prepared the meeting



1 notice last Monday, this was the plan that had  
2 the highest African-American voting age  
3 population for the Jacksonville district. It  
4 has a 41.4 percent African-American district  
5 that is mostly in Duval County, and that is  
6 kind of the chief example we chose for this  
7 plan.

8 In the Orlando area, what they are doing  
9 is they've got District 13 -- essentially the  
10 current District 19 is split into pieces.  
11 District 13 is 27.5 percent black voting age  
12 population, compared to the over 30 percent in  
13 the existing District 19, and District 12 is --  
14 no, 13 is -- that's all we had to say. There  
15 was no Hispanic majority or high Hispanic  
16 percentage in Mr. Kelly's -- or excuse me, Mr.  
17 Libby's submission here. So mainly we chose it  
18 for the district in northeast Florida.

19 Plan 72 by Matthew Boyle is an example of  
20 a plan which tries to hold counties together  
21 somewhat. He also has in the Orlando/Kissimmee  
22 area a District 12, which is 50.3 percent  
23 Hispanic voting age population. So this is an  
24 example of sort of a -- the possibility that a  
25 Hispanic majority -- a bare Hispanic majority

1 district perhaps could be created in the  
2 Orlando area.

3 SENATOR BRAYNON: Mr. Chair?

4 SENATOR GAETZ: Yes, sir.

5 SENATOR BRAYNON: I just have a question.  
6 We are doing northeast and central Florida  
7 today, or are we just --

8 SENATOR GAETZ: Yes, sir, our agenda  
9 provided that we would start in the northeast  
10 and then include central Florida --

11 SENATOR BRAYNON: Got you.

12 SENATOR GAETZ: -- down to that point,  
13 Senator Braynon. Thank you.

14 MR. GUTHRIE: So moving on to plan number  
15 seven by Mr. Henry Kelley, this is an example  
16 that we chose for keeping county boundaries, or  
17 following boundaries, county boundaries, to the  
18 extent possible. A consequence of following  
19 county boundaries to the extent that Mr. Kelley  
20 did is that the minority percentages are  
21 significantly lower than they are in the  
22 current district.

23 In this plan, we have District 6 in the  
24 Nassau and Duval area, which is 37 percent  
25 black voting age population, and District 8 in

1 the Orlando area is 31 percent black voting age  
2 population. It also has in this plan District  
3 15 in southeast Orange County and Osceola  
4 County, which is 39.9 percent Hispanic voting  
5 age population.

6 The next map we are going to look at --  
7 and we looked at this offering from Mr. King at  
8 our last meeting as well.

9 You might recall that Mr. King put a grid  
10 on the state of Florida and then tried to  
11 conform his district boundaries to that  
12 rectangular grid. His objective in doing that  
13 method was to try to achieve as much  
14 compactness as he could. Mr. King submitted to  
15 the Committee to redistrict Florida at  
16 flsenate.gov a detailed explanation of the  
17 methodology that he used, and his conclusion  
18 was that coming up with neat, tidy, square,  
19 compact districts was a lot more difficult than  
20 he anticipated that it would be, partly because  
21 the underlying census geography is not made up  
22 of circles or squares or perfect hexagons. So  
23 this is a -- an example of a map which is  
24 driven by the objective of compactness and that  
25 has a consequence of not doing a very good job

1 of keeping -- avoiding a reduction in the  
2 percentages of your minority districts.

3 And that is the extent of the maps  
4 submitted as part of the meeting packet.

5 The map that Senator Latvala called and  
6 asked to be included as a part of our -- of  
7 what we were looking at today is plan number 80  
8 by Bonnie Sue Agner. This plan has District 6  
9 in northeast Florida, which is 41.4 percent  
10 African-American, less than the current  
11 District 1, but similar to the percentage that  
12 Mr. Kelley achieved -- I believe it was Mr.  
13 Kelley -- Mr. Libby achieved in his plan, which  
14 was the highest percentage at the time that we  
15 put the meeting packet together.

16 In the Orlando area, this plan has three  
17 districts, District 12, 13 and 14. Among those  
18 three districts, District 13 at 24.5 percent is  
19 the highest African-American voting age  
20 population, and District 14 at 36.4 percent is  
21 the highest Hispanic voting age population.

22 So that is a quick overview. I mean,  
23 obviously, there is a lot more there than we  
24 have touched on so far, but that is a quick  
25 overview of some of the key themes in the

1 Senate plans that staff chose as our examples  
2 for today.

3 SENATOR GAETZ: Thank you, Mr. Guthrie.

4 Senator Latvala, you are recognized.

5 SENATOR LATVALA: But notice that in --  
6 let's just take, for instance, the northeast  
7 Florida Senate district, the one that Senator  
8 Gibson starting tomorrow will be officially  
9 representing, that all of these plans reduce  
10 the African-American voting age population in  
11 that district. And what I would like to do is  
12 ask the question of our counsel, do we not need  
13 to do better on that? In other words, can we  
14 not -- can we live with those, or do we not  
15 need to try to do better to bring it up closer  
16 to the percentage that it currently has, which  
17 is 46 or 47?

18 SENATOR GAETZ: And before -- and, please,  
19 Mr. Bardos, be ready to comment, but  
20 Mr. Guthrie, just so that you can -- we can be  
21 specific as to Senator Latvala -- the  
22 implications of Senator Latvala's question, my  
23 notes show that the current District 1 has  
24 49 percent and change minority population, and  
25 as to the plans that have been presented here

1           today as representative of those plans  
2           submitted by the public, could you indicate as  
3           to District 1, the district that Senator Gibson  
4           currently serves, what the minority numbers are  
5           for each of those plans, just verbally? My  
6           notes say currently 49 percent, and then if you  
7           would just run through the plans so that we  
8           will have a fine point on Senator Latvala's  
9           question, and then after you do that, and I  
10          apologize for asking you to do this, then go  
11          through the District 19 as well, because my  
12          notes show that District 19 currently has a  
13          33.1 African-American population, 33.5 percent  
14          Hispanic population, and if you could just  
15          speak to what the representative plans that you  
16          have just illustrated do arithmetically to  
17          those percentages, and then we will ask Mr.  
18          Bardos to respond to Senator Latvala's  
19          question.

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

21                 The numbers that show in the meeting  
22                 packet and that I have here are that the  
23                 current District 1 is 46.9 percent  
24                 African-American VAP and 6.1 Hispanic, but  
25                 let's say 46.9 percent African-American VAP.

1           In comparison with that, plan 64 by  
2           Mr. Libby was -- had District 6 at 41.4 percent  
3           African-American VAP; plan number 90 -- excuse  
4           me, plan number 72 by Matthew Boyle had 29.5  
5           percent for -- as the highest African-American  
6           percentage in the Jacksonville area, plan  
7           number seven by Mr. Kelley had a District 6  
8           that was 36.9 percent African-American voting  
9           age population, plan number 66 by Mr. King had  
10          a black voting age population in Jacksonville  
11          in District 6 at 44.8 percent, and as I  
12          mentioned, the plan submitted by Ms. Agner,  
13          plan 80, had a black African-American -- or an  
14          African-American percentage wholly in  
15          Jacksonville of 41.4 percent.

16                 SENATOR LATVALA: Could I ask Mr. Guthrie  
17                 a question about that?

18                 SENATOR GAETZ: Of course you may.

19                 SENATOR LATVALA: Is there a map that has  
20                 been submitted by anybody in the public that  
21                 gets more than these maps -- more in  
22                 African-American voting population for those  
23                 districts than the maps you just went over?

24                 SENATOR GAETZ: Mr. Guthrie.

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

1           We have received several recent new plans,  
2           for instance, plan number 91 --

3           SENATOR GAETZ: I apologize, Mr. Guthrie,  
4           just so we understand each other, because we  
5           did have an understanding here as to deadlines  
6           and things, when you say "recently submitted,"  
7           do you mean submitted after the notice for this  
8           meeting went out, or prior to the notice?

9           MR. GUTHRIE: After the notice to this  
10          meeting, yes.

11          SENATOR GAETZ: Okay. Go ahead, please  
12          answer Senator Latvala's question.

13          MR. GUTHRIE: And several of those  
14          achieved higher percentages of minority voting  
15          age population than the ones we had seen  
16          previously. For example, plan number 91 by  
17          Mr. Libby, the same Mr. Libby who submitted  
18          plan 64 that we looked at just a moment ago, he  
19          had a district in the Jacksonville to Lake City  
20          to Gainesville area which was 46.7 percent  
21          African-American voting age population, and a  
22          Mr. -- let's see, a group of students from  
23          Florida Gulf Coast University submitted plan  
24          number 89, which has -- no, that is -- that  
25          doesn't get it in Jacksonville, they are 39.6



1 percent in Jacksonville. A plan 84 by  
2 Mr. Micah Ketchel had a district in  
3 Jacksonville, Palatka, St. Augustine and  
4 Gainesville which achieved 46.9 percent  
5 African-American voting age population. So we  
6 had two, 46.7 and 46.9, that are very close to  
7 the current numbers for District 1, which are  
8 46.9.

9 SENATOR GAETZ: And this gets back to  
10 Leader Rich's question about can somebody who  
11 has submitted a plan come back and offer an  
12 amended plan to try to improve or change the  
13 picture, and the answer here is that Mr. Libby  
14 is an example of someone who submitted a plan,  
15 who by the information we have just received,  
16 his first plan would have a reduction in the  
17 current Senate District 1 of African-American  
18 voting age population of five percent, but yet  
19 his subsequent submission, which was an amended  
20 plan, would provide a -- two percent or  
21 something like that?

22 MR. GUTHRIE: It is even, basically even.

23 SENATOR GAETZ: Basically even.

24 MR. GUTHRIE: Two-tenths of a percent.

25 SENATOR GAETZ: Okay. Now, Mr. Bardos.

1           MR. BARDOS: Thank you.

2           I think the answer has to begin with the  
3           same caveat which -- with which we answered the  
4           questions two weeks ago, which is that we don't  
5           have an interpretation of these provisions from  
6           the Florida Supreme Court, and so any answer  
7           really is a best guess. But I think we have to  
8           begin with the language of the amendments, and  
9           the amendments say that districts shall not be  
10          drawn to diminish the ability of racial  
11          minorities to elect the candidates of their  
12          choice. And that language is very similar to  
13          language which has been in Section 5 of the  
14          Voting Rights Act since 2006, and so we can  
15          probably infer that some of the same principles  
16          will apply.

17          The Department of Justice has  
18          traditionally applied a facts and circumstances  
19          analysis to every district rather than simply  
20          looking at any numerical threshold, but I do  
21          think that the best estimate of minority voting  
22          strength -- the best indicator of minority  
23          voting strength is probably the voting age  
24          population of the district. And so I would be  
25          very cautious to recommend any -- I would be

1 very cautious about any decrease in a minority  
2 voting age population in districts that  
3 currently do perform for minority voters. In  
4 some circumstances, it might be unavoidable.  
5 We have a number of minority districts that are  
6 substantially underpopulated, and we don't know  
7 whether the additional population that they  
8 will take in will allow it to maintain the same  
9 minority voting age population. There might  
10 also be circumstances where some decrease in  
11 the number can be offset by other circumstances  
12 that actually enhance minority voting strength  
13 in that district, but I think I would be very  
14 careful in how the Committee proceeds if it  
15 were to decrease the voting age population in  
16 what is a performing district for minority  
17 voters.

18 SENATOR GAETZ: Senator Latvala.

19 SENATOR LATVALA: Mr. Chairman, I think  
20 what I hear here is that if -- you know, that  
21 this probably ought to be one of the first  
22 decisions we make in crafting the Senate map is  
23 how we do these districts. And as I understand  
24 it, if we stay in Duval County with what is now  
25 District 1, and just be in Duval County, we are

1 going to be reducing the African-American  
2 voting age population by five or six points,  
3 and that in order to keep that to where it is  
4 now, we are going to have to go outside of the  
5 county. So it would seem to me like that is  
6 one of the first decisions to make is whether  
7 we are going -- which direction we are going to  
8 go.

9 SENATOR GAETZ: Speaker Thrasher --  
10 Senator Thrasher.

11 SENATOR THRASHER: Thank you,  
12 Mr. Chairman, and this is along the lines, I  
13 think, of what Senator Latvala was suggesting,  
14 and also our counsel.

15 As I read the amendment -- and granted, it  
16 hadn't been looked at by the Supreme Court or  
17 it hadn't been looked at by other courts, et  
18 cetera, et cetera, but I think the clear  
19 reading of the amendment is all we can go on  
20 right now. In my reading of the amendment, if  
21 it were me and I were trying to defend this or  
22 whatever actions we take in a court later on,  
23 to me, the number one criteria that I believe  
24 the amendments together written -- read  
25 together require that we protect racial

1 minorities. I think that clearly is what the  
2 amendments suggest as the number one priority,  
3 that we not weaken minority voting strength in  
4 the existing districts.

5 The second thing in terms of the hierarchy  
6 as I read the amendments, to me anyway, is that  
7 we can't favor or disfavor an incumbent or a  
8 political party.

9 The third criteria, in my opinion again,  
10 reading the amendments I think clearly as  
11 anybody can read them, is compactness. I think  
12 that would be the third criteria.

13 And the fourth -- the fourth criteria  
14 would be, where feasible, use existing  
15 political geographic boundaries, and that could  
16 be -- frankly, that could be county, municipal  
17 or existing district boundaries.

18 But it seems to me if -- to get to Senator  
19 Latvala's point, those are the -- that is the  
20 hierarchy of principles that come out of  
21 Amendments 5 and 6, at least for me, and I  
22 would suggest that we take some time to  
23 consider that list of criteria and see what --  
24 see what other folks think, but, for me, I  
25 would strongly recommend that we strive not to

1           weaken the minority voting strength in the  
2           existing -- in the existing districts.

3           SENATOR GAETZ: Thank you, Senator  
4           Thrasher.

5           Senator Braynon, and then Senator  
6           Benacquisto.

7           SENATOR BRAYNON: Yes, Mr. Chair.

8           The attorney mentioned performance and  
9           voting age population. Are those two things  
10          distinguished when we talk about minority  
11          communities, their voting performance and their  
12          voting age population, or are we only using  
13          voting age population?

14          SENATOR GAETZ: Mr. Bardos, could you  
15          comment on that, please?

16          MR. BARDOS: Sure. By performance, I mean  
17          a district that, in the words of the amendment,  
18          has the ability to -- in which minority voters  
19          have the ability to elect representatives of  
20          their choice. So that is the district that --  
21          in which we cannot diminish that ability. So a  
22          district -- as I was using the term, it would  
23          be a district which currently elects a  
24          candidate -- the candidate that is preferred by  
25          minority voters.

1           SENATOR GAETZ:  Senator Braynon to follow  
2           up.

3           SENATOR BRAYNON:  Yes.  So does that mean  
4           we won't be using any information that talks  
5           about the actual performance, voting  
6           performance, of that district as far as turnout  
7           and things of that nature?

8           SENATOR GAETZ:  Mr. Bardos and  
9           Mr. Guthrie, if you wish to comment on that.

10          MR. BARDOS:  Well, I think those data are  
11          relevant, and I think at some point we will  
12          have to conduct a statistical analyses to  
13          determine whether the minority voting strength  
14          has been decreased.  So I would not exclude  
15          those from our consideration.

16          SENATOR GAETZ:  Senator Braynon.

17          SENATOR BRAYNON:  One more follow-up.

18          So if we will be using that, wouldn't that  
19          be used in the equation of preserving minority  
20          seats as -- or, you know, in that hierarchy,  
21          that we need to have that information in order  
22          to make that correct analyses?

23          SENATOR GAETZ:  Mr. Guthrie, any -- I'm  
24          sorry, Mr. Bardos and Mr. Guthrie, either one  
25          of you?

1           MR. BARDOS:  Again, I agree that that  
2           could be a factor.  I think that -- that those  
3           statistical analyses usually are performed in  
4           voting rights determinations, and so it is  
5           something for the Committee to take into  
6           account.

7           SENATOR GAETZ:  And, Mr. Guthrie, would  
8           you please place, if you can, up on the screen  
9           for everyone to see the language of Amendments  
10          5 and 6 so that we can follow along with  
11          Speaker Thrasher's analysis here and the  
12          discussion we are having?  And did you wish to  
13          comment on Senator Braynon's question before we  
14          go to Senator Benacquisto?

15          MR. GUTHRIE:  On the question of election  
16          data, I think it is important for the Committee  
17          to realize that we chose not to include  
18          registration or election results data as part  
19          of the District Builder or District Explorer  
20          software.  The reason that we made that choice  
21          was because of the language in Amendments 5 and  
22          6 that says that districts shall not be drawn  
23          with the intent to favor or disfavor a  
24          political party or incumbent.  And in an  
25          abundance of caution, the Chairman and --



1 directed the staff that those data didn't  
2 really fit in with the software we were using  
3 for modeling districts. However, we are in the  
4 process of putting together precinct-level  
5 election results from key elections that are  
6 useful for determining racial black voting, and  
7 we will provide those data to our attorney and  
8 through him to a statistician for purposes of  
9 making the appropriate conclusions about what  
10 voting behaviors exist.

11 SENATOR GAETZ: And, Senator Braynon, if I  
12 might -- and if you will please put the  
13 language of Amendments 5 and 6 up -- upon  
14 advice of counsel and my own deliberations and  
15 consultation with our Vice-Chair, President  
16 Margolis, I made the determination that our  
17 software should not include how many Democrats  
18 or Republicans live in a particular area, but  
19 because we should be guided by the language of  
20 Amendments 5 and 6, which tell us that we  
21 should not be drawing lines with reference to  
22 party affiliation. So if you want to know  
23 party affiliation data, I am sure that the  
24 Democratic party or the Republican party can  
25 provide that information, but I did not believe

1           that that ought to be a litmus test for what  
2           constitutes a good or a bad district as to how  
3           many Democrats or Republicans are there.

4           SENATOR BRAYNON: I'm sorry, Mr. Chair,  
5           maybe you misunderstood or didn't hear what I  
6           was talking about.

7           SENATOR GAETZ: I apologize.

8           SENATOR BRAYNON: I was talking about the  
9           performance as it related to rac- -- to the  
10          minorities in the district and their actual  
11          voting, not who they voted for or anything like  
12          that, the actual voting, not just voting age  
13          population. So I said performance --

14          SENATOR GAETZ: Right.

15          SENATOR BRAYNON: -- not who they voted  
16          for, which party they belonged to or anything  
17          like that, just turnout. And that is what I  
18          think Mr. Guthrie was referring to when he said  
19          that he was going to get that information.

20          SENATOR GAETZ: Right. And is that answer  
21          satisfactory to you, sir?

22          SENATOR BRAYNON: Yes.

23          SENATOR GAETZ: Okay. Senator  
24          Benacquisto, at long last.

25          SENATOR BENACQUISTO: Thank you,

1 Mr. Chairman.

2 Just to touch on the point that Senator  
3 Thrasher made about the three levels of  
4 criteria that we will be -- four levels of  
5 criteria, sorry, that we will be utilizing to  
6 determine the boundary lines of districts, I  
7 think there is a very compelling state interest  
8 to put minority representation first and to  
9 make sure that in the pursuit of our -- in the  
10 pursuit of compactness, to -- as best we can on  
11 our Amendments 5 and 6, that we do nothing that  
12 would diminish the percentages and the  
13 representation of minorities in the state of  
14 Florida. I think it is a strong voice that we  
15 have an obligation to protect.

16 SENATOR GAETZ: Other comments or  
17 questions at this moment? Yes, Senator Sobel,  
18 you are recognized.

19 SENATOR SOBEL: Thank you. So at this  
20 committee meeting, we are combining northern  
21 Florida and central Florida, correct?

22 SENATOR GAETZ: At this committee meeting,  
23 based on the published Notice and our agreement  
24 previously, we are discussing northeast Florida  
25 and central Florida, yes, ma'am.

1           SENATOR SOBEL: Thank you. So we all know  
2 that there are a number of prisons in north  
3 Florida, and my question is, how are we  
4 addressing that population? Are we counting  
5 prisoners at the prisons, or where they come  
6 from?

7           SENATOR GAETZ: Great question. It is one  
8 that we brought up several months ago in  
9 dealing with -- with other states and trying to  
10 get a good handle on this.

11           Mr. Guthrie, would you answer that  
12 question, please?

13           MR. GUTHRIE: The 2010 census counts  
14 prisoners at the location where they reside on  
15 April 1st of 2010. So they are counted at the  
16 correctional facility where they were residents  
17 at that time.

18           SENATOR GAETZ: And, Senator Sobel, our  
19 understanding is that that is not a matter of  
20 our discretion. That is a matter of where they  
21 were counted by the census. Senator Sobel.  
22 Senator Sobel, I think your mike may not be on.

23           SENATOR SOBEL: Thank you, Mr. Chair.

24           Some states have looked at addressing this  
25 issue, whether it is Massachusetts, New York,

1 California, and have passed laws, and they have  
2 been recognized, adjusting the deviation to the  
3 negative, because in some of these rural areas  
4 they're counting them in the redistricting  
5 process rather than where they actually live,  
6 which is usually from an urban area. Is that  
7 something that we could contemplate doing to  
8 reflect the true place where these prisoners  
9 vote? I mean --

10 SENATOR GAETZ: Mr. Guthrie, and then we  
11 will go to Senator Altman.

12 MR. GUTHRIE: Mr. Chairman, we do know  
13 where those persons resided on April 1st, 2010.  
14 It would be very difficult, and the State of  
15 New York as part of its exercise found that it  
16 was very, very difficult to ascertain where it  
17 was those persons came from, and in the case of  
18 felons, until their rights are restored, they  
19 are not voting.

20 But the method -- what we do in  
21 redistricting is we readjust the population of  
22 districts based on whole persons, whether they  
23 are children or middle-age people or folks in  
24 nursing homes or folks who happen to reside in  
25 other group facilities, like correctional

1 institutions. Redistricting is based on where  
2 people reside, not on the -- any statistics  
3 having to do with voting or registered voters.  
4 So it is a snapshot of where the people in  
5 Florida resided on April 1st, and trying to  
6 equalize districts so that each of those  
7 persons is represented by the same number of  
8 members of the State Senate, the State House  
9 and the U.S. Congress.

10 SENATOR GAETZ: Senator Altman. Turn on  
11 your mike, sir.

12 SENATOR ALTMAN: Sorry about that.

13 He answered my question to a point. These  
14 are -- if they are convicted felons, they don't  
15 have civil rights, they cannot vote until those  
16 are restored, and I wonder, if we are counting  
17 them in a particular district and they do not  
18 have the ability to vote, are we not sort of  
19 creating a false positive or false negatives in  
20 terms of minority representation or otherwise,  
21 or even equalization of representation like in  
22 congressional districts? And if they are  
23 not -- if they don't have the ability to vote,  
24 how can we use them in meeting those  
25 constitutional and legal standards?

1           SENATOR GAETZ: Mr. Guthrie.

2           MR. GUTHRIE: The Attorney General has  
3 written, and not so much on state redistricting  
4 as on county redistricting, an Attorney  
5 General's Opinion on this subject, and I would  
6 like to take a chance to refresh my mind on  
7 exactly what that says, but I believe the  
8 Attorney General's general recommendation at  
9 the time that that was written was that -- that  
10 prisoners would count at the location where  
11 they resided for purposes of equalizing the  
12 population of county commission districts.

13           Now, whether the -- this committee might  
14 want to choose as a matter of policy to  
15 overpopulate districts that happen to have  
16 higher numbers of persons in correctional  
17 facilities as, you know, a justification for  
18 not having spot-on population equality, that  
19 would be a policy choice for this committee to  
20 make.

21           SENATOR GAETZ: Other comments or  
22 questions at this point? Senator Gibson.

23           SENATOR GIBSON: Thank you, Mr. Chair, and  
24 I am kind of piggy-backing on the previous  
25 comments. If -- if there is a district -- if

1 census is strictly whole persons by where they  
2 reside, and in previous response to Senator  
3 Braynon where it was discussed that we use  
4 turnout as a criteria, and obviously the people  
5 in the prison can't turn out, because they  
6 can't vote, so how then do you factor turnout  
7 in when you have a population of people who  
8 can't vote, but they may be of a particular  
9 race and they are whole persons and they are  
10 counted in the number in the district?

11 SENATOR GAETZ: And, Senator Gibson, I --  
12 we apologize if the prior answer was not on  
13 point, that turnout is not the driver, but  
14 Mr. Guthrie, would you please respond, and then  
15 we will ask Mr. Bardos if he has any additional  
16 response?

17 MR. GUTHRIE: Yes, the answer is that for  
18 purposes of equalizing the population of  
19 districts, what we go by is the total  
20 population. For purposes of conducting voting  
21 studies, what statisticians are going to look  
22 at is the people who actually showed up at the  
23 polls and how they voted. So they don't go by  
24 total population or even voting age population.  
25 They are -- in the elections studies, they are



1 looking at who showed up at the polls and how  
2 those persons voted when they went to the poll.  
3 And the question there is the extent to which  
4 racial bloc voting is occurring in areas of the  
5 state.

6 SENATOR GAETZ: Any other questions or  
7 comments at this point?

8 Mr. Guthrie, you have presented the Senate  
9 maps, which you tell the Committee are  
10 representative of the Senate maps that have  
11 been -- that have been turned in by the members  
12 of the public. We have also seen the map which  
13 Senator Latvala asked be considered. Are there  
14 any other questions or comments as to Senate  
15 maps in northeast or central Florida? Any  
16 other comments? Doesn't mean you can't talk  
17 later, but I am just giving you a chance now.

18 Yes, sir, Senator Simmons, and welcome to  
19 the Committee, Senator.

20 SENATOR SIMMONS: Thank you, Mr. Chair.

21 I was listening to this, and, of course,  
22 have been interested about the proper  
23 interpretation of the Constitutional Amendments  
24 5 and 6 and would like to give my thoughts on  
25 it.

1           And the amendments, I believe, provide for  
2 a two-tier analysis, and I think -- I think  
3 everyone now acknowledges that there is a  
4 two-tier analysis in the application of these  
5 constitutional amendments.

6           And the first tier analysis says that  
7 "districts shall not be drawn with the intent  
8 or result," and I think it is important right  
9 there to look at the language. It says "intent  
10 or result." It is irrespective -- I mean, this  
11 is in the disjunctive, that we can't have the  
12 result of denying or abridging the equal  
13 opportunity of racial or language minorities to  
14 participate in the political process, but then  
15 there is another requirement, and it says we  
16 cannot diminish their ability to elect  
17 representatives of their choice. And I do  
18 point out to each one of us that in looking at  
19 the language, it doesn't say we shall not  
20 substantially or moderately diminish their  
21 ability to elect representatives of their  
22 choice. It says, "we shall not diminish." So  
23 there is no qualifier in front of the word  
24 "diminish." It just says, "we shall not  
25 diminish," and it says, "we shall not abridge."

1           And so for those who might suggest that the  
2 word "diminish" is some kind of variable word  
3 or a flexible word, I think that any judge is  
4 going to look at the definition in the  
5 dictionary, and that means lessen, we shall not  
6 lessen the ability of minorities to elect  
7 representatives of their choice. And I think  
8 that we should look very closely before we  
9 start diminishing the -- and I mean moderately  
10 diminishing or somewhat diminishing. The  
11 answer is we shall not diminish, and I think  
12 that is a guiding point for us in -- in looking  
13 at these -- these district maps.

14           The second tier analysis is to the extent  
15 that these following things do not conflict  
16 with the standards in subsection 1, which, of  
17 course, is the requirement of non-diminution of  
18 the ability of minority or racial minorities --  
19 language minorities to represent those of their  
20 choice. Then we have the standard of  
21 compactness, we have the standard of, where  
22 feasible, utilizing existing political and  
23 geographic boundaries. And when someone looks  
24 at this and says how do you allocate these or  
25 weigh these particular factors that we've just

1           discussed, subsection 3 of the amendments  
2           provide that "The order in which the standards  
3           within subsection 1 and 2 of this section are  
4           set shall not be read to establish any priority  
5           of one standard over the other within that  
6           section -- subsection." So the issue  
7           apparently is within subsection 2, which is  
8           subordinate to subsection 1, we're not supposed  
9           to put priority of compactness over using  
10          existing political and geographic boundaries.  
11          But the interesting thing is, it is made very  
12          clear by these constitutional amendments, is  
13          that we shall not in the first order diminish  
14          the rights of racial or language minorities to  
15          elect representatives of their choice. And I  
16          think that is a guiding -- guiding point for us  
17          as we go through this process.

18                 I do throw out a couple of questions that  
19                 I think we are going to have to answer and need  
20                 to be analyzed, is when we talk about  
21                 diminution, what is the date that we use for  
22                 determining diminution? Is it going to be the  
23                 2002 census? Is it going to be last year or  
24                 two years ago? And my own suggestion is that  
25                 the safe thing for us to do is look at all of

1           those factors, whether it is the 2002 census or  
2           last year's census, and we make sure that we  
3           are not diminishing the rights of racial or  
4           language minorities.

5                     And with respect to how we do this, once  
6           we look at the question of diminution, I  
7           suggest that there is more than just one  
8           standard for diminution. I believe that the  
9           voting age population is the probably number  
10          one criterion that we should be looking at, but  
11          there are other criteria, and that would be  
12          practical application of all of this.

13                    And I will give you an example. If you go  
14          ahead and cut a racial minority from 46 or  
15          47 percent down to 30 percent, and we take into  
16          consideration that African-Americans typically  
17          register to vote or show up at the polls in a  
18          manner that is less than others, so that the  
19          practical result of cutting a racial minority  
20          down to 30 percent is in effect cutting them  
21          down to 20 percent because of the performance  
22          at the polls, we have -- we have essentially  
23          gone a long way in depriving racial minorities  
24          of their access to -- to being able to  
25          participate in the political process.

1           These are the things that we've got to  
2           look at in -- in applying these constitutional  
3           amendments, but I think it is real clear that  
4           the first thing we have to draw are those two  
5           districts that Mr. Guthrie showed and  
6           discussed, and then after we have drawn those  
7           two districts, then we can draw the rest of the  
8           districts in accordance with the standards such  
9           as compactness. And I am not saying that  
10          compactness is irrelevant to drawing a racial  
11          minority district. I am saying that it is  
12          subordinate. And sometimes it will be nearly  
13          -- maybe not too -- of great consideration, but  
14          if it could be done, then certainly there would  
15          be the attempt to do it, to draw it compact.  
16          But we must as a number one goal meet our  
17          obligation, our constitutional obligation, to  
18          not diminish, and that means not only by actual  
19          numbers, but by performance. And so those are  
20          the thoughts I have on this as we -- as we draw  
21          these districts. Thanks.

22                 SENATOR GAETZ: Thank you very much,  
23                 Senator Simmons. Senator Braynon, and then we  
24                 will move to an exposition of the examples of  
25                 House districts and congressional districts,

1 and then to public testimony. Senator Braynon.

2 SENATOR BRAYNON: I guess my question is I  
3 heard I think it was Senator Latvala talk about  
4 we may need to go outside of Duval County in  
5 order to continue the minority -- to keep a  
6 minority seat. And when I asked about  
7 performance, have we looked at past  
8 performance, because I look at the Appendix A  
9 in tab five, and I also think -- I also --  
10 harking back to that we -- they have -- they  
11 just elected an African-American mayor in  
12 Duval, so, I mean, it's -- when I say  
13 performance about, you know, electing minority  
14 candidates or allowing minority candidates to  
15 be -- to choose the person of their choice, is  
16 it not possible for Duval County to -- for a  
17 seat to be all-encompassed in Duval County and  
18 still be able to elect a minority of their  
19 choice if we're looking at past performance,  
20 which was the recent mayor's election where a  
21 minority was elected?

22 SENATOR GAETZ: Therein lies the good  
23 question.

24 Senator Altman.

25 SENATOR ALTMAN: Thank you, Mr. Chairman,

1           just a quick -- you mentioned any comments on  
2           the Senate maps. I know in the Senate map 64  
3           by Mr. Libby, he's done a good job, although  
4           the one question in the Orange/Brevard County  
5           area, he's actually drawn two districts, 11 and  
6           12, where it is physically impossible to drive  
7           from one side of the district to the other side  
8           of the district without driving through -- for  
9           example, if you are in District 11, the  
10          south -- southern portion, you are forced to  
11          drive through 12. It is the only way you can  
12          get to the northern section. And in my  
13          definition, that would not meet compactness.  
14          And I don't know if we are working from a  
15          specific compactness definition or we are going  
16          to be looking at case law as it relates to what  
17          is compact or not. And so, in my eyes, it is  
18          not compact when you are forced to go from one  
19          -- through another district to get to another  
20          part of your district.

21                 SENATOR GAETZ: And, Senator Altman, if I  
22                 could just stop you so that we could all follow  
23                 along. Mr. Guthrie, would you please put that  
24                 section of the map -- it is the Libby map, and  
25                 is it Libby one or Libby two?



1           SENATOR ALTMAN: It has a 64 on it at the  
2 end.

3           SENATOR GAETZ: Sixty-four? Okay. Would  
4 you take Senate map 64, bring it up, please,  
5 sir, and then that will help illustrate Senator  
6 Altman's point.

7           And I didn't mean to cut you off, Senator  
8 Altman. I just thought we could all understand  
9 it better if we saw it.

10          A VOICE: This one?

11          SENATOR GAETZ: Yes, ma'am.

12          SENATOR STORMS: While he is getting to  
13 that map, may I just ask a question on the  
14 status of the definition of compactness? We  
15 had quite some discussion on it last time, and  
16 I do think that I agree -- I haven't heard  
17 anything that I disagreed with from the two  
18 Senators that outlined the hierarchy, Senator  
19 Thrasher and Senator Simmons, and I agree with  
20 that, but I do think that we would do well to  
21 adopt a definition of what we are talking about  
22 so we know what we are talking about with what  
23 compactness means. And I just -- I really  
24 think that we would do well to do that. Is  
25 there -- what are we doing with that?

1           SENATOR GAETZ: We are waiting for you to  
2 offer us a definition of compactness. And we  
3 will get back to you.

4           Senator -- Mr. Guthrie, would you bring  
5 the map up that Senator Altman was talking  
6 about, please?

7           SENATOR ALTMAN: If I may, Mr. Chairman,  
8 real quick?

9           SENATOR GAETZ: Please, and then we will  
10 get back to Senator Storms.

11           SENATOR ALTMAN: The reason you can't  
12 drive through is because of the Kennedy Space  
13 Center. It is -- where you have actually a  
14 naval base, an Air Force base and the Kennedy  
15 Space Center, NASA facility, so that divides  
16 that district. It may look compact, it may  
17 look like it is geographically connected, but  
18 it is not because of those federal  
19 installations.

20           SENATOR GAETZ: And the district number  
21 you are looking at there for all of our  
22 benefits is?

23           SENATOR ALTMAN: Eleven, District 11.

24           SENATOR GAETZ: District 11, okay. Thank  
25 you very much.

1           And, Senator Storms, I didn't mean to cut  
2           you off, ma'am. I think that Leader Rich led  
3           us in a discussion of compactness from her  
4           perspective, I think there were other comments  
5           made, and I don't want to put words in Mr.  
6           Bardos' mouth, he will correct me if I am  
7           wrong, but I think, in essence, in simple  
8           terms, we have said that compactness will  
9           probably be defined by the courts because there  
10          is no standard definition that we can rely  
11          upon. This is a new set of criteria when you  
12          take all the criteria together. But if you  
13          would like to suggest a definition, or if any  
14          Senator would like to suggest a definition of  
15          terms, that is certainly in order at any point  
16          during these conversations.

17                 SENATOR RICH: Thank you.

18                 THE COURT: I'm sorry, Leader. Leader  
19                 Rich.

20                 SENATOR RICH: Thank you, Mr. Chair. I  
21                 just kind of have a question of Mr. Guthrie,  
22                 because you said you --

23                 SENATOR GAETZ: Leader, could I ask you to  
24                 bring your mike a little closer?

25                 SENATOR RICH: Here.

1           SENATOR GAETZ: Thank you.

2           SENATOR RICH: You said you used -- you  
3 looked at the maps you presented or you chose  
4 to present represented certain aspects, and you  
5 mentioned, you know, counties, compactness. So  
6 I guess my question to you is, how are you  
7 measuring compactness? I mean, do you have a  
8 definition you are using when you look at maps  
9 and say to us that they represent an aspect of  
10 compactness or following geographic lines or  
11 whatever it is that you are using?

12           SENATOR GAETZ: Mr. Guthrie.

13           MR. GUTHRIE: The best example I've got  
14 for that is in the help manual for District  
15 Explorer and District Builder. If we go to the  
16 section called "Standards for Drawing  
17 Districts," we've got some short, little  
18 paragraphs explaining some -- in hopefully  
19 layman's terms, some of the concepts that the  
20 Senate will be wrestling with in coming up with  
21 new districts.

22           And on the question of compactness, we  
23 talked about this a bit last week, there is a  
24 notion among some people and some statisticians  
25 and geographers that compactness has to do with

1           how circular a district is, or how box-like or  
2           circular or hexagonal it is. More recent  
3           definitions of compactness have focused more on  
4           the functional aspects of how constituents  
5           relate to one another and to their elected  
6           representatives, so looking at things like  
7           transportation and commerce patterns, and not  
8           focusing so much on whether or not the district  
9           is circular.

10                    SENATOR GAETZ: Leader Rich, is that  
11           responsive?

12                    SENATOR RICH: Thank you, sir.

13                    MR. GUTHRIE: So the guidance that I  
14           believe that -- that your professional staff  
15           will use in coming up with a proposed committee  
16           bill, unless we get other direction from the  
17           Committee, will be to try to compose districts  
18           that look neat and tidy, but also are  
19           respectful of the comments we heard at the  
20           public hearings about communities that fit  
21           together and make sense to hold together as a  
22           logical representational unit.

23                    SENATOR GAETZ: Did someone else over here  
24           seek recognition? I apologize. Senator Lynn.

25                    Have we finished the conversation --

1 Senator Storms and then Senator Lynn.

2 SENATOR STORMS: Thank you, Mr. Chair.

3 Well, while I understand the rationale  
4 behind using a definition on shape so people  
5 can look at a map and say, "Well, one of the  
6 experts came and said this is a map that looks  
7 like a bunny or some" -- you remember that? It  
8 was some sort of shape that they thought was  
9 offensive, and so it shouldn't be any --

10 SENATOR GAETZ: That was the anti-bunny  
11 coalition. I remember them well.

12 SENATOR STORMS: Anyway, so people would  
13 prefer to see it in a square or a circle or  
14 something that is a recognizable shape.

15 My objection to using the recognizable  
16 shape as a definition for compactness is that  
17 it doesn't take into -- into consideration the  
18 functionality of the district. So you -- so,  
19 for instance, when we had all the testimony of  
20 people who said -- when I asked the question  
21 about the northwest part of the Florida, people  
22 said, well, but if you do that, then you  
23 necessarily -- if you do what you are trying to  
24 do, Senator, then you necessarily create the  
25 power -- the political power in the whole

1 Panhandle in the coastal areas, and the rural  
2 areas don't get a voice. We heard that also in  
3 different districts where people said,  
4 particularly in south Florida, if you -- please  
5 use the dividing line as I-75 and try and keep  
6 these kind of communities together, this river  
7 seems to make -- so I guess I would argue more  
8 for a functionality definition, because we want  
9 the districts to work. We want the districts  
10 to be able to -- for people with like interests  
11 to be together, and so -- and for communities  
12 of interest, for political boundaries to work.  
13 If you just keep it in a square, you might have  
14 a square, but you might include half of a city  
15 in it, and that doesn't address the  
16 functionality. So I am just one member, but I  
17 would argue for the functionality definition  
18 rather than sticking closely to some geometry  
19 101.

20 SENATOR GAETZ: Thank you, Senator Storms,  
21 and I think that Mr. Guthrie, when you had to  
22 step away for a moment, I think Mr. Guthrie  
23 referred back to a definition that is on the  
24 website that conforms pretty much with what you  
25 just said, and that is that, well, geographers

1 and others would say that a circle is probably  
2 the tightest and most compact geometric  
3 pattern, that those definitions of compactness  
4 which take into account commerce,  
5 transportation and communication are more  
6 commonly used, although I think it is fair to  
7 say -- and, Mr. Bardos, correct me if I am  
8 wrong -- that there's not a standard definition  
9 of compactness that cuts across all  
10 jurisdictions in the country. Did you -- is  
11 that a fair statement? Okay.

12 Yes, sir, and now Senator Lynn.

13 SENATOR LYNN: Thank you, Mr. Chairman.

14 Two points. Getting back to the driving  
15 to an area that is not part of your district, I  
16 have such an area now. And while we can be  
17 compact, we can be contiguous, sometimes there  
18 is not a roadway that is direct all the way  
19 through your district, and so you may have to  
20 go through a portion of something that is not  
21 in the district, and is that something that we  
22 are going to be concerned about? Because it  
23 seems to me there may be a need to follow all  
24 the other requirements constitutionally, and it  
25 may mean that you are on a road going through



1           some other area or there's forests in the way,  
2           whatever it happens to be. So I would hope  
3           that we would not make that as a requirement  
4           that some -- you know, if it has to be that you  
5           drive through a little portion of somebody  
6           else's district, so be it. So that is one  
7           comment.

8                     But the other, I want to get back to the  
9           minority representation, which certainly I  
10          understand we don't want to diminish, but it  
11          has to do with Senator Simmons' comments about  
12          low voter turnout and, well, if it is -- we  
13          expected 40 percent, but it is only 30 percent,  
14          and maybe you have to somehow make up for that  
15          in some way, and I -- I want a clarification on  
16          that. It may be in an agricultural area -- and  
17          I don't know this to be true, I am just giving  
18          an example -- it may be in an agricultural area  
19          where people are very spread out and so forth,  
20          that they -- their voter turnout is less than  
21          perhaps something in the big cities. And does  
22          that mean that we would be taking into account  
23          all of that voter turnout as well, or are we  
24          doing -- or is that comment made simply in  
25          terms of the minority representation? As I

1           said, I want to protect minorities in terms of  
2           making sure they have their adequate  
3           representation, but I would -- I don't want to  
4           make it so that it is unfair to the extent that  
5           others where there is low voter turnout would  
6           not be recognized for that need as well.

7           SENATOR GAETZ: Mr. Guthrie, would you  
8           respond to that, then we are going to take  
9           Senator Montford, and then in order that we can  
10          fairly provide time for public input before we  
11          give any guidance that we can to the Committee,  
12          we are going to move on to the House maps.  
13          Mr. Guthrie.

14          MR. GUTHRIE: And your point -- your point  
15          is well taken, Senator Lynn. The basis for  
16          equalizing districts is total population. Has  
17          nothing to do with who is registered to vote,  
18          who is citizens or who shows up at the polls to  
19          vote. So merely by being counted in the 2010  
20          census, you will get your fair share of  
21          representation.

22          SENATOR GAETZ: Senator Montford.

23          SENATOR MONTFORD: Thank you, Mr. Chair.

24          I will be brief.

25          The question I have goes back to what

1 Senator Thrasher suggested earlier. That seems  
2 like to be a very reasonable, precise way to  
3 approach it.

4 My question, Mr. Chair, to the staff is  
5 that when you were selecting the maps of  
6 however many we got out there, did you use any  
7 kind of criteria that -- similar to or  
8 identical to what Senator Thrasher suggested in  
9 selecting these maps? And then the question  
10 is, did the -- the discussion we had last week  
11 on northeast -- northwest Florida, would our  
12 comments fit into the criteria that Senator  
13 Thrasher suggested earlier?

14 SENATOR GAETZ: Mr. Guthrie, did you get  
15 the question?

16 MR. GUTHRIE: I believe I did. The  
17 criteria that staff used in selecting the maps  
18 was to come up with examples of maps that  
19 provided for minority voting opportunities, and  
20 as I said, the public submissions that we had  
21 so far were not -- did not do as great a job as  
22 some of the ones that have come in later in  
23 terms of that criterion.

24 We also tried to provide you some examples  
25 of maps that set out to follow county

1 boundaries, set out to follow city boundaries  
2 where county maps -- or county boundaries had  
3 to be split, or counties had to be split, and  
4 examples of districts that were intentionally  
5 compact.

6 So we tried to provide a variety of  
7 different approaches or scenarios that were  
8 used by the authors of plans. And I think what  
9 you will find, if you look at the 27 Senate  
10 submissions, is that what we've got is  
11 something of a representative sample of what  
12 those maps were. But, obviously, as Senator  
13 Latvala rightly pointed out earlier, there are  
14 nuances in every redistricting map that this  
15 committee very well ought to consider.

16 SENATOR GAETZ: Any other comments or  
17 questions? If not -- yes, Senator Simmons,  
18 briefly.

19 SENATOR SIMMONS: Very briefly. The point  
20 about compactness, I submit to all of you, is  
21 somewhat defined by the constitutional  
22 amendments themselves, because within each  
23 subsection, we are supposed to weigh them  
24 evenly, and in the subsection 2, which is  
25 subordinate to the minority access section, it

1           says that districts shall be compact, and then  
2           it says, "Districts shall, where feasible,  
3           utilize existing political and geographic  
4           boundaries."

5                        So the definition is not going to be a  
6           circle, it is not going to be a square, it is  
7           going to be using existing political and  
8           geographic boundaries. And to the extent that  
9           you can meet both of those requirements  
10          together, then that's what you are going to  
11          see. And I think that is the reason that you  
12          will see a lot of districts that are going to  
13          follow county lines, or in some instances,  
14          because of population requirements, they are  
15          going to follow city lines, but they won't be  
16          splitting cities and they won't be splitting  
17          counties. And so that is my own suggestion.

18                        SENATOR GAETZ: Okay. Mr. Guthrie, would  
19          you please go to -- Senators, go to tab six,  
20          and, Mr. Guthrie, would you take a brief look  
21          at scenarios for drawing House districts, and  
22          then let's go to tab four, and, Mr. Guthrie,  
23          look at the overview of scenarios drawn from  
24          the public testimony and public submissions for  
25          drawing congressional districts in northeast

1 and north central Florida. Then we will take  
2 public testimony and then we will have  
3 additional Committee discussion. You are  
4 recognized.

5 MR. GUTHRIE: With Florida House  
6 districts, members of the Committee, the first  
7 thing you notice is there are a lot more of  
8 them than there are of Senate districts. So we  
9 have a lot more to consider.

10 In the current House plan, we have two  
11 African-American majority districts in  
12 Jacksonville. One of those is 59.6, almost  
13 60 percent African-American voting age  
14 population, and one is 55.7, or almost  
15 56 percent African-American voting age  
16 population.

17 In addition to that, in the Orlando area,  
18 we have one district that is 68 percent  
19 African-American voting age population, and we  
20 also have a district, District 49, which is  
21 56.1 percent Hispanic voting age population.  
22 So we've got a majority-minority  
23 African-American district and a  
24 majority-minority Hispanic district in the  
25 Orlando area. In both cases, you have a

1 Representative of that racial group or ethnic  
2 group serving in those seats.

3 We also have in the current House map a  
4 district in the Gainesville area -- actually,  
5 it extends from Gainesville to Ocala -- that is  
6 30.9, or almost 31 percent African-American,  
7 and that district has an African-American  
8 incumbent as well. So that is sort of the key  
9 Tier 1 considerations for the current House  
10 map.

11 The two alternatives that we put in your  
12 meeting pack, like all of the -- or most of the  
13 alternatives that were submitted to the  
14 Committee prior to when we put together the  
15 meeting pack, do not do a good job retaining  
16 the current levels of minority opportunity.  
17 District 79 by Mr. Laytham has two Jacksonville  
18 districts that are -- one that is less than a  
19 majority, 47.5 percent, one which is a bare  
20 majority, 50.6 percent. His Gainesville  
21 district goes from 31 percent in the current  
22 map to 19.4. And in the Orlando area, his  
23 African-American district is 50 percent instead  
24 of 68 percent, and his Hispanic district is  
25 47 percent instead of 56 percent. So Mr.

1 Laytham in his map sought to achieve a higher  
2 level of compactness and following city and  
3 county boundaries, but it had the result of  
4 diminishing in this case African-American and  
5 Hispanic voting percentages, or voting age  
6 percentages.

7 And with plan number 48 by Mr. Graham  
8 Stacy, who presented at the Tampa hearing --  
9 incidentally, he was a young student, a  
10 13-year-old student, who submitted this map to  
11 the Committee. He loses a -- one of the two  
12 majority-minority districts in the Jacksonville  
13 area. His Gainesville district has a lesser  
14 African-American percentage than the current  
15 district. And in the Orlando area, he loses  
16 both the African-American and the Hispanic  
17 majority-minority district.

18 So those are two House alternatives from  
19 the proposals that we have seen so far. There  
20 are not a lot of maps that keep up the current  
21 levels of minority representation that we have  
22 in the current map.

23 SENATOR GAETZ: Questions as to the House  
24 districts that were drawn from the testimony  
25 and the public submissions? Comments?



1           If not, would you please move on to tab  
2 four, members. And, Mr. Guthrie, you are  
3 recognized for an overview of scenarios for  
4 drawing congressional districts in northeast  
5 and central Florida.

6           MR. GUTHRIE: In northeast and central  
7 Florida, the district that is most significant  
8 for purposes of our Tier 1 analysis is  
9 Congressional District 3, which extends from  
10 Jacksonville through Gainesville and down to  
11 Orlando. The origin of that district was a  
12 district that initially was adopted by the  
13 Federal District Court for the Northern  
14 District of Florida. It later was modified by  
15 the Legislature and preserved by the  
16 Legislature in the redistricting that occurred  
17 in 2002.

18           Congressional District 3, as it stands  
19 today, is 49.9 percent black voting age  
20 population. The district is 5.4 percent  
21 underpopulated, so it needs to add  
22 approximately 40,000 additional people in order  
23 to come up to equal population.

24           And we remember with congressional  
25 districts, the level of population equality

1           that we strive for is near exactitude.  So we  
2           want all of our districts to be very close to  
3           the same total -- total population.  So that is  
4           District 3 in the current map.

5           Plan number 62 by John Libby preserves a  
6           district that is very similar to the existing  
7           District 3.  It again goes from Jacksonville to  
8           Gainesville and down to Orlando.  Mr. Libby  
9           achieves a black voting age population of 48.2  
10          percent, which is less than two percent less  
11          than the current district, and the highest  
12          among the plans that were submitted to the  
13          Committee at the time that we were putting  
14          together the meeting notice for this meeting.

15          And what Mr. Libby's proposal does as well  
16          is that the districts surrounding Congressional  
17          District 3 are more compact or tidy than the  
18          districts that were -- that are currently in  
19          place.  For instance, the current District 4 in  
20          Jacksonville and Nassau Counties extends west  
21          to Leon County, almost to Tallahassee, whereas  
22          in this proposal, a district is kept in the  
23          Duval/Nassau/St. Johns area.  And sort of the  
24          same model for the other districts in this  
25          plan.

1           The second plan we want to look at is plan  
2           number 75 by Mr. Leuchs. What he did is took a  
3           different approach for achieving a minority  
4           district in northeast Florida. He took -- he  
5           tied downtown Jacksonville together with some  
6           of the counties to the west of Jacksonville,  
7           and, in fact, has a district extending through  
8           Tallahassee to include all of Gadsden County.  
9           That district is 42.3 percent black  
10          African-American. And here is an example in --  
11          with -- by including all of Jefferson County,  
12          which goes from the Georgia line down to the  
13          Gulf of Mexico, in this district, he made it  
14          impossible for his other district, District 3,  
15          to get -- to get through. So this is not only  
16          a functional discontinuity of the sort that  
17          Senator Altman was talking about earlier, but,  
18          in fact, a geometric discontinuity, which the  
19          Supreme Court has determined would make this  
20          plan invalid. But it is a change that could be  
21          made by just including an area along the -- the  
22          coast in District 3. So that's the second map  
23          we wanted to look at.

24                 The third map is from Emilio Perez and the  
25                 Puerto Rican Legal Defense Fund and other

1 Hispanic interest groups in the Orlando area.  
2 It is only a single district plan, but we  
3 wanted to highlight it for the Committee to  
4 show you that if your intention was to create a  
5 Hispanic-influenced district in the  
6 Polk/Osceola/Orange County area, that could be  
7 done, and in this case, Mr. Perez ended up with  
8 a Hispanic voting age population of 43.4  
9 percent, so less than majority. It would be an  
10 open question how that district would perform,  
11 but it is an example that was provided to the  
12 Committee at our Orlando public hearing.

13 The next map that we wanted to look at is  
14 plan number 69 --

15 SENATOR GAETZ: Excuse me, Mr. Guthrie,  
16 Senator Lynn has a question.

17 SENATOR LYNN: Yes, thank you, sir.

18 I just wondered, are there any other maps  
19 that protect the Hispanic population such as  
20 that? That is the first I have heard you  
21 mention that.

22 MR. GUTHRIE: Do you know the numbers? I  
23 am not recalling any --

24 SENATOR LYNN: I think the Hispanic  
25 numbers are larger than the African-American.

1           MR. GUTHRIE: -- congressional maps,  
2           Senator Lynn, that have a 40 percent plus  
3           Hispanic voting age population in the  
4           Orange/Osceola area.

5           SENATOR GAETZ: And, Senator Lynn, if I  
6           may, recall that we get two new congressional  
7           districts in Florida as a consequence of the  
8           2010 census, and at several of our hearings,  
9           there was a presentation made on behalf of  
10          Hispanic interest groups and individuals in  
11          central Florida that one of those new districts  
12          perhaps ought to be a Hispanic district, and  
13          what Mr. Guthrie has just presented is a  
14          representative sample of those presentations  
15          that we received. So that would be a new  
16          district, not a district that one is trying to  
17          avoid a diminution of.

18          SENATOR LYNN: No, and I am supporting  
19          that. That is what -- this is the first that I  
20          have heard any of the maps really being  
21          representative of the Hispanic community.

22          SENATOR GAETZ: Thank you, ma'am.

23          Senator Braynon.

24          SENATOR BRAYNON: Thank you, Mr. Chair.

25          Mr. Guthrie, is District 3 -- the

1 Congressional District 3 currently protected  
2 under the Federal Voting Rights Act, and if so,  
3 how?

4 SENATOR GAETZ: Mr. Guthrie.

5 MR. GUTHRIE: The Jacksonville to Orlando  
6 area is not included under Section 5  
7 pre-clearance requirements, so the  
8 applicability of the Voting Rights Act, I  
9 believe, speaking as a non-lawyer here, would  
10 be if you had a majority of -- a majority  
11 population living in a geographically compact  
12 area, they might be able to state a claim under  
13 Section 2 of the Voting Rights Act in terms of  
14 federal requirements.

15 SENATOR GAETZ: Leader Rich.

16 SENATOR RICH: Thank you, Mr. Chair.

17 I think that Mr. Guthrie just clarified  
18 it, so we are not required to draw a minority  
19 district in central Florida, Hispanic seat, but  
20 we could --

21 SENATOR GAETZ: Yes, ma'am, and I believe,  
22 Leader, that Mr. Guthrie was responding as to  
23 Congressional District 3. That was Senator  
24 Braynon's question.

25 SENATOR RICH: Sorry, I thought he was

1 also responding to a Hispanic district.

2 SENATOR GAETZ: Mr. Guthrie, could you  
3 help clarify, please?

4 MR. GUTHRIE: I was responding to Senator  
5 Braynon's question about Congressional District  
6 3 and limited my answer to the applicability of  
7 federal law, which was -- is a question. As  
8 Senator Simmons and Mr. Bardos had told us  
9 previously, we also have the requirements in  
10 the new amendments to the State Constitution.

11 SENATOR GAETZ: Leader, did you wish to  
12 pursue that?

13 Senator Joyner, were you seeking  
14 recognition, ma'am?

15 Okay. Anyone else at this point?

16 Please go ahead, Mr. Guthrie.

17 MR. GUTHRIE: So the next congressional  
18 map we are going to look at is plan number 69,  
19 which was presented by Mr. Boyle, and this is  
20 an example -- this was the map, in fact, that  
21 came the closest in terms of -- to the PRLDEF  
22 30 of proposal 4-A, an Hispanic district in the  
23 central Florida area. District 9 in this case  
24 is 37.2 Hispanic voting age population, but  
25 there is nothing like the level of opportunity

1 for African-American voters as is provided in  
2 the current District 3. District 3 in  
3 Mr. Boyle's proposal is 26.5 percent  
4 African-American voting age population, and  
5 District 4 is 18.3 percent African-American.  
6 Down in the Orlando area, District 8 is 16 and  
7 a half percent African-American voting age  
8 population, and District 9, which had your  
9 Hispanic plurality, is 21 percent  
10 African-American voting age population.

11 So the -- this is an example of a map that  
12 tries to achieve what Mr. Boyle saw as a level  
13 of compactness and following political  
14 subdivisions, but it -- by elevating those  
15 standards above retaining Congressional  
16 District 3, you don't have the same level of  
17 opportunity for African-American citizens to  
18 elect candidates of their own choosing.

19 And the final map that we are going to  
20 look at for congressional --

21 SENATOR GAETZ: Senator Montford.

22 SENATOR MONTFORD: Thank you, Mr. Chair.

23 Just for clarity, are we -- legally, are  
24 we required to consider a district for  
25 Hispanics, or is that just something that we do



1 on our own? I mean, is there a requirement to  
2 do that?

3 SENATOR GAETZ: I think I will turn to  
4 counsel on that one.

5 MR. BARDOS: I think in the central  
6 Florida area, we know Section 5 of the Voting  
7 Rights Act does not apply in central Florida,  
8 and Section 2 would apply only where there is a  
9 relatively concentrated minority population  
10 that exceeds 50 percent, and the proposals that  
11 I have seen don't show a 50 percent plus  
12 Hispanic district in central Florida.

13 I think under the amendments we have the  
14 provision about not diminishing the ability to  
15 elect. There is not currently a performing  
16 Hispanic district in central Florida, and so if  
17 that provision is interpreted in the same  
18 manner as Section 5 of the Voting Rights Act,  
19 then probably there would be no claim there.

20 We also have the language though that  
21 "districts shall not be drawn to deny racial or  
22 language minorities the equal opportunity to  
23 participate in the political process," and that  
24 is a phrase which has appeared in a number of  
25 U.S. Supreme Court decisions. It appears,

1 together with some other language, in Section 2  
2 of the Voting Rights Act, but here it stands on  
3 its own, and it is a phrase which really has  
4 not been well-defined. The courts have said  
5 that -- the U.S. Supreme Court has said that it  
6 relates to something other than simply winning  
7 elections, so it would be the ability to  
8 participate in primary elections and the  
9 nomination process, something beyond ordinarily  
10 performing districts.

11 So it is not clear at all what that means.  
12 It is possible that someone would assert that  
13 that language requires us to create a Hispanic  
14 district, but there is no -- there is no  
15 definitive answer to that.

16 SENATOR GAETZ: Sorry, Senator Montford,  
17 we are making history here. I wish we could  
18 give you -- I wish we could give you a yes/no  
19 answer to that question. I think, to put it in  
20 plain language, there is a case that can be  
21 made both ways.

22 SENATOR MONTFORD: Very good answer.  
23 Thank you.

24 SENATOR GAETZ: Senator Lynn and --

25 SENATOR LYNN: I just wondered, what is

1 the Hispanic population in the state of Florida  
2 now, percentage wise?

3 SENATOR GAETZ: Mr. Guthrie, do we have  
4 that?

5 MR. GUTHRIE: I don't have that at my  
6 fingertips.

7 SENATOR GAETZ: We can provide that to  
8 you, Senator Lynn.

9 SENATOR LYNN: I just think it is --

10 MR. GUTHRIE: Twenty-two --

11 SENATOR LYNN: I think it is a very --

12 SENATOR GAETZ: Yes, ma'am, of course.

13 SENATOR LYNN: I think it is something  
14 important to look at if we are protecting  
15 minority rights. I think we've got to look at  
16 the Hispanic -- it is a growing population, it  
17 is getting very, very large in our schools, so  
18 they are there somewhere.

19 SENATOR GAETZ: Yes, ma'am.

20 SENATOR LYNN: And maybe they are not in a  
21 compact area, and that may be the case.

22 SENATOR GAETZ: Yes, ma'am, thank you.

23 Senator Storms.

24 SENATOR STORMS: So if I understand your  
25 rationale correctly, counsel, what you are

1 saying is just -- I am trying to understand  
2 this. So let's just -- let's all agree that --  
3 or maybe we can't all agree even on this, but  
4 on minority populations, that diminution that  
5 Senator Simmons talked about would result in  
6 any fewer seat of minority -- minority  
7 districts, minority access seats or even  
8 minority seats that are not minority access  
9 seats. That would be a diminution.

10 So a starting point would just say that we  
11 should allow for at least the same number of  
12 minority access seats, which would be primarily  
13 African-American minority access seats and  
14 African-American minority seats that may not be  
15 minority access seats, anything less would be a  
16 diminution. But if the population is not  
17 there, wherever that is, wherever that existing  
18 minority seat is demographically, if the  
19 population is not there, then -- then under  
20 Simmons' rationale, and maybe the rationale of  
21 this committee, we have to have the same  
22 amount, so we would have to draw another  
23 minority access seat.

24 Your perspective, according to the  
25 rationale that you just stated, as I understand

1           it, and I am not trying to be combative, I am  
2           just trying to understand, would be that we  
3           would have to create -- draw another minority  
4           -- African-American minority seat to avoid  
5           diminution, but not language minority, as in a  
6           Hispanic seat, that our preference would be for  
7           African-American minority seats, is that -- is  
8           that the bottom line for what you said?

9           MR. BARDOS: No, I didn't mean to suggest  
10          that at all. I think that the non-diminishment  
11          provision, if it is interpreted the way that it  
12          is interpreted under Section 5, requires us to  
13          identify those districts which are actually  
14          performing for minority voters, whether they  
15          are access seats or whether they are  
16          majority-minority seats, and then to protect  
17          those districts and preserve their -- the  
18          minority voting strength in those districts.

19          SENATOR GAETZ: Briefly, Senator Storms,  
20          because we do have people who have traveled a  
21          long ways and would like to testify.

22          SENATOR STORMS: So that -- on that point,  
23          we agree, which is that starting -- you start  
24          with no diminution of African-American minority  
25          seats for -- or at least the status quo for the

1 number, is that what you are saying?

2 SENATOR GAETZ: Mr. Bardos.

3 MR. BARDOS: African-American Hispanic  
4 seats, districts that presently perform for  
5 minority voters.

6 SENATOR STORMS: Status quo. So not an  
7 addition of another -- of language, a  
8 different -- if the population has shifted, in  
9 other words, and it changes somewhere so that  
10 you cannot -- that district or that general  
11 vicinity can no longer support a minority  
12 access seat or a majority-minority seat,  
13 then -- and you want to draw another seat, we  
14 would not give preference to a majority --  
15 language minority or African-American, or is  
16 your argument we would --

17 SENATOR GAETZ: Mr. Bardos.

18 SENATOR STORMS: -- you don't either way?

19 MR. BARDOS: Is the question whether if  
20 there is a district that is performing for a  
21 particular racial minority that cannot be  
22 recreated because of population changes, what  
23 we are required to do?

24 SENATOR STORMS: Yes.

25 MR. BARDOS: I think that is an open

1 question.

2 SENATOR STORMS: Less words, but, yes,  
3 that is what I was trying to say.

4 MR. BARDOS: That is an open question.

5 SENATOR STORMS: Okay.

6 SENATOR GAETZ: Okay, useful conversation.

7 Mr. Bardos, does that conclude the  
8 representative samples of the congressional  
9 districts -- Mr. Guthrie, I'm sorry?

10 MR. GUTHRIE: Just one more remaining,  
11 Senator.

12 SENATOR GAETZ: Okay. Let's get through  
13 it.

14 MR. GUTHRIE: Touching on it real briefly,  
15 plan number 49 submitted by Ms. Virginia  
16 Hitchcock is another example of a plan that  
17 sought to keep compact districts following  
18 county boundaries where feasible.

19 Also, Ms. Hitchcock gave a great  
20 consideration to following VTD boundaries where  
21 she was needing to subdivide counties. So  
22 these are the districts she came up with in her  
23 proposal.

24 The impact on minority voters is that the  
25 highest percentage African-American district is

1 District 4, which is 28.3 percent black VAP.  
2 District 14 in the Orlando area is 23.4 percent  
3 black VAP and 24.5 percent Hispanic VAP. So  
4 another example of a choice to put compactness  
5 above retaining the existing configuration of  
6 Congressional District 3.

7 SENATOR GAETZ: Comments or questions on  
8 this representative map? If not, thank you  
9 very much, Mr. Guthrie, and members of your  
10 staff.

11 We would like to take public comment now,  
12 and then after public comment, go back to  
13 committee discussion and see if we can provide  
14 any guidance to our professional staff.

15 We would like to hear from everyone who  
16 traveled here today, and we are delighted that  
17 you came. We do have a rule that requires us  
18 to adjourn at a time certain, so I am going to  
19 ask members of the public who are here to  
20 testify if you would please keep your comments  
21 to three to four minutes, and we will enforce  
22 that respectfully, but firmly.

23 We will start with -- we will take these  
24 public testimony in the order in which they  
25 were handed to me. Mr. Pete Brathwaite will be



1 first and Glenel Bowden will be second and Evan  
2 Sullivan will be third.

3 Mr. Brathwaite, if you are here, we are  
4 happy to have your testimony. If you would  
5 come forward, please, sir, so we can have your  
6 comments heard by everyone, and then Glenel  
7 Bowden, if you would be on deck and ready to  
8 testify.

9 Mr. Brathwaite comes all the way from  
10 Gainesville, and we are delighted that you are  
11 here with us today, sir. You are recognized.

12 MR. BRATHWAITE: I just wanted first and  
13 foremost to thank this committee for what I  
14 think is an excellent session, very, very  
15 informative. You have obviously done your  
16 homework, and I, for one, appreciate it.

17 Just a couple of comments, if I might.  
18 First of all, going back to one -- your  
19 predecessors went through this process back in  
20 1992. They discovered that there could be, not  
21 just two or three, but four African-American  
22 districts, minority districts, created, in  
23 addition to the Hispanic districts that were  
24 created by the Legislature and subsequently the  
25 courts, as you all described. In addition to

1           that, you do have the Hispanic -- growth in  
2           Hispanic population now. You have roughly  
3           22 percent of all Floridians are Hispanic,  
4           almost 20 percent are African-American, total  
5           minority population, and the state is now up to  
6           47 percent, we are a growing, diverse state,  
7           all of which suggests that what you may need to  
8           be looking at is not just the current set-up  
9           where you have three African-American and two  
10          Hispanic majority-minority districts and plus a  
11          minority access district, but even more, you  
12          may even need to be looking at going to four of  
13          each.

14                 And, again, thank you for the opportunity  
15                 to comment and for your good work here,  
16                 appreciate it.

17                 SENATOR GAETZ: Thank you very much, sir,  
18                 for your testimony and your insights.

19                 Next is Glenel Bowden, then Evan Sullivan  
20                 and then Don Curtis.

21                 Mr. Bowden, you are recognized. Come all  
22                 the way from Lake City, and we are delighted to  
23                 have you here today, sir.

24                 MR. BOWDEN: Thank you, Mr. Chairman. It  
25                 was quite a trip in that weather, too, I must

1 tell you. I-10 is something else when it is  
2 raining.

3 For full disclosure, let me declare now  
4 that I work for Congresswoman Corrine Brown's  
5 office, and I have been working for her the  
6 entire 19 years that she's been in Congress.

7 As you heard from your staff person, that  
8 the Third Congressional District now represents  
9 about 50 percent black VAP. I am here today to  
10 tell you that the Boyle and the Hitchcock maps  
11 as proposed -- as proposed lead to a splitting  
12 of the African-American community, and  
13 effectively end the ability of the  
14 African-American community in northeast Florida  
15 and central Florida from electing the  
16 representative of their choice. And I say that  
17 with some -- some reality that in every  
18 election we have had since I have been working  
19 for her, the African-American community in  
20 Orlando voted for her the same as the  
21 African-American community in Jacksonville. So  
22 there was two communities that voted for a  
23 representative of their choice, though they may  
24 be a few miles apart.

25 Since I would be coming to all the

1           hearings, I would like to specifically know  
2           whether our party leaders, Senator Rich and  
3           Gardiner, will support any map that would --  
4           would end the ability of African-Americans from  
5           being able to elect a representative of their  
6           choice. During the other hearings when I  
7           attended one in Jacksonville, the one in  
8           Gainesville, the one in Orlando and two here in  
9           Tallahassee, I remember that you would not  
10          accept any questions, so I was just curious as  
11          on this evening, would I be able to get an  
12          answer to that question, would our leaders be  
13          in support of any maps, these two I just  
14          mentioned, or any other map that would diminish  
15          the opportunity for African-Americans to elect  
16          a representative of their choice?

17                 SENATOR GAETZ: Well, Mr. Bowden, let me  
18                 tell you that at every -- I was present at  
19                 every hearing, I listened to 1,700 people  
20                 testify, and we never said that Senators or  
21                 Representatives couldn't answer questions.  
22                 What we said was wait until the end of the  
23                 hearing and make sure members of the public had  
24                 a chance to testify first, but then we gave  
25                 members of the House and Senate the opportunity

1 to answer questions, make statements at every  
2 single hearing. So if you would -- if you have  
3 a question, you are welcome to restate it, and  
4 if we have an opportunity, we will certainly  
5 invite those individuals that you would like to  
6 have speak, speak to your question. Could you  
7 restate it, please?

8 MR. BOWDEN: Okay. Well, the question  
9 would be, the two maps that I referenced  
10 earlier, the one by Hitchcock and the one by  
11 Boyle, would our leaders be in support of those  
12 two maps? That would tell us something right  
13 there.

14 SENATOR GAETZ: Would the leaders be in  
15 support of those two, is that what you are  
16 asking?

17 MR. BOWDEN: Right, Leader Rich and Leader  
18 Gardiner.

19 SENATOR GAETZ: Okay. We will ask them,  
20 time permitting at the end, to comment.

21 MR. BOWDEN: The only other comment I  
22 would make, in driving from Lake City here, and  
23 I work in Jacksonville, but I take I-10 in  
24 coming to Tallahassee, when you think about the  
25 prison population that was mentioned earlier,

1           between Jacksonville and Tallahassee, there  
2           must be at least 20 prisons. And so to use  
3           those -- that population for the benefit of --  
4           for numbers wise, African-American numbers in  
5           particular, it would kind of distort what is  
6           really real, because I know in Madison County,  
7           you probably got three, I know there are at  
8           least four prisons in Columbia County,  
9           Jefferson County has a prison and heavily  
10          population with African-American citizens. So  
11          if you use that and say, well, this district's  
12          got 36 percent African-American population,  
13          VAP, that would not be true, because they would  
14          not be able to vote, number one, because they  
15          are locked up as someone said earlier.

16                 So that's my comments, and I thank you for  
17          this opportunity.

18                 SENATOR GAETZ: Thank you very much, sir.

19                 SENATOR GARDINER: Mr. Chairman, since I  
20          was referenced in his comments, can --

21                 SENATOR GAETZ: Mr. Bowden, do you want to  
22          stay up here?

23                 Leader Gardiner, you are recognized.

24                 SENATOR GARDINER: I want to make sure  
25          that I am on the record, and I am sure Leader

1 Rich would want to do this as well, I don't  
2 mean to go out of order, but I think it has  
3 been pretty clear from myself and my colleagues  
4 that we cannot diminish -- cannot diminish the  
5 minority access seats. I mean, it is very  
6 important. So when I look at these, whether it  
7 is Congressional District 3 or what we may do  
8 in other areas, I won't be diminishing. And I  
9 think that is very important, because I think  
10 what you are referencing is some maps that  
11 potentially cut a district. Obviously that  
12 makes it very difficult if you go in believing  
13 that you cannot diminish in any way the  
14 minority access. That is my personal opinion.  
15 Maybe Leader Rich would want to add hers.

16 MR. BOWDEN: Thank you.

17 SENATOR GAETZ: Leader, did you wish  
18 recognition, or do you wish to withhold any  
19 comments to the end?

20 Senator Joyner, Senator Joyner, just a  
21 second, I had a question.

22 Leader Rich, did you have any comment in  
23 answer to the question, or did you wish to  
24 defer?

25 SENATOR RICH: I'm sorry, I left the room

1 for a moment, I didn't hear the entire  
2 conversation, but I certainly just would  
3 obviously support everything that is a  
4 constitutional measure. I mean, that is what  
5 we are here to do. So I don't know if there's  
6 any other issue here. If so, please let me  
7 know, and I'll be happy to comment on it, but,  
8 I mean, we are all looking to do what is  
9 constitutional here, and so I think, you know,  
10 we've had a lot of discussions and I think  
11 there's a lot of things still to clarify.

12 MR. BOWDEN: Thank you, Senator.

13 SENATOR GAETZ: Yes, Senator Sobel.

14 SENATOR SOBEL: Did this gentleman say  
15 that people are being counted but -- for these  
16 minority districts, but they actually cannot  
17 vote? Is that -- I am not really sure what  
18 your point --

19 MR. BOWDEN: I was talking about the  
20 inmate pop- -- if I may, Mr. Chairman?

21 SENATOR GAETZ: Please.

22 MR. BOWDEN: I was talking about the  
23 inmate population that would exist in a  
24 congressional district that would go from  
25 Jacksonville west towards Tallahassee. If you



1 get in Columbia County, I know for a fact  
2 there's four there, Suwannee County's got three  
3 or four, Madison's got three or four. So once  
4 you count those as a part of your VAP, that is  
5 a distorted number, because those people would  
6 not be able to vote and couldn't have an impact  
7 on whether an African-American is elected or  
8 not.

9 SENATOR GAETZ: Okay. Yes, very briefly.

10 SENATOR SOBEL: That was exactly the point  
11 that I was making previously. Thank you. I  
12 wanted some clarity.

13 SENATOR GAETZ: Mr. Evan Sullivan is next,  
14 and following Mr. Sullivan, Don Curtis and then  
15 Ryan Terrell.

16 Mr. Sullivan, thank you for coming all the  
17 way from Inglis, Florida.

18 MR. SULLIVAN: Thank you, Mr. Chairman.  
19 My name is Evan Sullivan. I am employed with  
20 the Levy County Sheriff's Office as a Major. I  
21 am fourth-generation law enforcement in Levy  
22 County, and I have a prepared statement, if I  
23 could read it.

24 SENATOR GAETZ: If you can keep it within  
25 three or four minutes, and if not, you can

1           certainly give it to the Committee for our  
2           records.

3           MR. SULLIVAN: Thank you, Mr. Chair. It  
4           will be 45 seconds probably.

5           SENATOR GAETZ: Go for it. We love those.

6           MR. SULLIVAN: It will be real brief.

7           SENATOR GAETZ: We love them.

8           MR. SULLIVAN: I think it is very  
9           imperative that the Nature Coast be kept whole.  
10          It appears that the maps presented so far split  
11          the coastal counties, and that is not the best  
12          interest of the citizens of Nature Coast.

13          Citrus, Levy, Dixie, Taylor County are a  
14          unique -- and they represent the real Florida  
15          coast. Coastline is not developed like the  
16          rest of the state.

17          Unlike some regions where we can split a  
18          county with two different perspectives, you  
19          cannot split these four counties, because they  
20          have the same or similar cultures and issues.  
21          They are truly a region that works together,  
22          and having two Senators with competing  
23          interests would be somewhat of a problem.

24          In closing, when you travel down U.S.  
25          Highway 19 and you see all the communities are

1 easily accessible by this highway, and they are  
2 not only communities of interest, but counties  
3 of interest.

4 Mr. Chair, thank you for your time, and  
5 God bless.

6 SENATOR GAETZ: Thank you, Major, and  
7 thank you for your service to the people of  
8 Florida.

9 Mr. Curtis, you are next, and then Ryan  
10 Terrell and then Vic Story.

11 Mr. Curtis from Perry, Florida.

12 MR. CURTIS: Thank you, Mr. Chairman, and  
13 committee members. I am Don Curtis from Taylor  
14 County, Perry. That is a little over an hour  
15 from here.

16 I was here at your first public workshop  
17 where I spoke to many of you and your  
18 colleagues and tried to describe what it is  
19 like to be a voter in a rural area as compared  
20 to urban areas. We are pretty conservative, a  
21 little over an hour from Tallahassee, and I  
22 shared with you three things about life in  
23 Taylor County if you are a voter.

24 First, our state House district, we have  
25 had one-party elections since reconstruction,

1 over a hundred years of one-party elections.

2 Our congressional district in 2002 was  
3 drawn with a little more balance, and in 2010,  
4 we elected the first conservative that was of a  
5 different political party since reconstruction;  
6 again, over a hundred years.

7 We are very patient people in rural north  
8 Florida. Just saying a hundred years is a long  
9 time.

10 In our Senate dis- -- state Senate  
11 district, we -- in 2002, it was drawn with a  
12 bit more balance, and we have had two-party  
13 elections since then, and we think that is a  
14 good thing. And when I looked at many of the  
15 maps that have been prepared and submitted to  
16 you, I kept seeing our county, Taylor County,  
17 thrown in with Leon County, and I have a lot of  
18 friends in Leon County. However, when a rural  
19 area gets thrown in with a Leon County, our  
20 vote is overshadowed. We just almost might as  
21 well stay at home.

22 And so when I saw this district map, I  
23 think it is map number 80, that shows the  
24 Nature Coast as a Senate district, I like that.

25 If you consider the Nature Coast -- and that is

1           what we call our area, like the previous  
2           gentleman, we are a salt marsh all the way from  
3           the Aucilla River down into Hernando County, we  
4           are not sandy beaches, very rural, we have a  
5           lot of aquaculture, a lot of agriculture and a  
6           lot of forestry, and I am a forester, I am in  
7           the timber business. That is what we do.

8           We have U.S. 19 as the main transportation  
9           artery running north-south. Most of this  
10          district is in the Suwannee River Water  
11          Management District, and our water is important  
12          to us. We feel like we are rural and we have  
13          to be on the defensive, and I am a former  
14          governing board member for the Suwannee River  
15          Water Management District and represented the  
16          Coastal Rivers Basin.

17          So we see this and we see that it is  
18          somewhat compact, and transportation, water,  
19          all factors I have already mentioned, the type  
20          of lifestyle we have with agriculture and  
21          forestry, it makes a good Senate district.

22          And I just want to close by saying the  
23          most effective way to represent the people of  
24          the Nature Coast is to keep us in a compact  
25          Senate district that will do just that.

1 Thank you.

2 SENATOR GAETZ: Thank you very much, sir,  
3 for coming all this way.

4 Ryan Terrell is next from Weston.

5 Mr. Terrell, good to see you back. And we  
6 learned from Leader Rich that while you are  
7 from Weston, that you are here at FSU as well?

8 MR. TERRELL: I go to TCC, but --

9 SENATOR GAETZ: TCC, I'm sorry, I made a  
10 mistake. Mr. Terrell, it is good to see you  
11 again, and you are recognized.

12 MR. TERRELL: Thank you, and I just wanted  
13 to clear up some information that was presented  
14 during the course of this meeting in relation  
15 to minority drawn districts and court -- and  
16 case law that's been presented in the past 20  
17 years in relation to how you draw those  
18 minority districts.

19 One of the things that you need to  
20 understand is, yes, you do have  
21 majority-minority districts, which are a  
22 certain either racial minority or language  
23 minority has over 50 percent of that population  
24 in voting age, and that is what the U.S.  
25 Supreme Court uses. It has to be voting age

1 over 50 percent. The bare minimum is usually  
2 50.1 percent. So even if you got an exact half  
3 with 50 percent, the Supreme Court wouldn't  
4 accept it. What you need to understand is  
5 that, yes, those seats are majority districts,  
6 but they are also coalition districts.

7 And what Senator Siplin -- what I wanted  
8 to address when you were talking about the  
9 black caucus and how there are six  
10 African-American Senators, one of the things  
11 that needs to be understood is that under the  
12 2002 Senate redistricting plan, all of those  
13 six African-American Senators do not represent  
14 50.1 or higher African-American population  
15 districts. Three of the Senators represent  
16 coalition districts, meaning that more than one  
17 minority makes up over 50 percent of that  
18 district. In your case, in your Senate  
19 district, the African-American population is  
20 something like thirty something percent, and  
21 then the Hispanic -- the Hispanic population is  
22 also in the 30s. So it needs to be understood  
23 when we are redrawing these districts in that  
24 area is that, yes, the Hispanic population does  
25 support in the Orlando area a drawing of a 50.1

1           percent bare majority Hispanic Senate district,  
2           while still providing an opportunity for an  
3           African-American Senate seat to be drawn that  
4           would allow an African-American to be elected  
5           from their population.

6           As far as the Jacksonville area goes, you  
7           can actually stay within the Duval County area  
8           and keep a minority-majority district, because  
9           the current district isn't over 50 percent  
10          African-American. What can be done is by  
11          shifting some precincts around between the area  
12          in Nassau and Duval County and the district  
13          that would be based in downtown Jacksonville,  
14          you can end up creating a district that is  
15          about 45 percent white voting age population  
16          and 42 percent African-American population.

17          The reason why this is important is  
18          because when you are drawing a district like  
19          that, that minority group will still have the  
20          ability to elect a Senator of their own,  
21          because most of those white voting age  
22          population are not in the same party as them,  
23          which would allow them to vote in the primary  
24          to elect a candidate of their choice and would  
25          likely, in most cases, to be electing the



1           Senator of their choice in that area. Because  
2           you are still including a district that is over  
3           40 percent black voting age population, you  
4           would still have that ability in ninety-nine  
5           point something percent of the time to be  
6           electing a candidate of your choice from that  
7           African-American community.

8                        So that is what I wanted to bring to the  
9           attention of the Committee is that in a  
10          majority of these cases, what needs to happen  
11          is there can be more minority districts that  
12          are created while still following the existing  
13          coalition districts. And you will see that in  
14          two weeks when I present my southeast Florida  
15          map, we end up creating about two more Hispanic  
16          seats in south Florida than under the current  
17          plan. So that is what I wanted to bring to the  
18          attention --

19                        SENATOR GAETZ: Thank you very much,  
20          Mr. Terrell. Thank you for hanging with us  
21          through this process.

22                        Vic Story, and then Michael O'Steen and  
23          then Cherron Newby.

24                        Mr. Story, thank you for being here from  
25          Lake Wales.

1           MR. STORY: Thank you, sir. I appreciate  
2 the invitation.

3           I am here primarily today to speak to the  
4 agricultural community. You have a lot of  
5 competing interests that you've got to deal  
6 with, I can see that. I am worn out sitting  
7 out there listening to what you are going to  
8 have to do. And so I would just like you to  
9 keep us in mind as you deliberate and try to  
10 make up these districts.

11           I guess the primary thing, I have looked  
12 at a number of maps, is try not to group us  
13 with coastal urban areas. You know, the center  
14 of the state is primarily agricultural. We  
15 have a community of interest that pretty well  
16 goes down through the center of the state.  
17 We've got a few urban areas, like Lakeland, but  
18 primarily, if you can keep us grouped together,  
19 we would -- that would serve us well. And I  
20 would be happy to answer any questions, I would  
21 be happy to give the Committee any input that  
22 we could, and thank you for being here, sir.

23           SENATOR GAETZ: Thank you very much,  
24 Mr. Story. Any questions for this gentleman?  
25 And we would welcome any input that you have

1           between now and the 1st of November, any maps  
2           you would like to submit, if you haven't  
3           submitted one, or any criticisms or comments  
4           about any existing maps. Happy to have you.

5           MR. STORY: I have garnered a great deal  
6           of information today, and we will do that.

7           SENATOR GAETZ: Great, thank you, sir.

8           Michael O'Steen is next and then Cherron  
9           Newby. Mr. O'Steen from Cross City.

10          MR. O'STEEN: Yes, sir. Thank you,  
11          Mr. Chairman. My name is Michael O'Steen. I  
12          traveled up from Dixie County today, my wife,  
13          Bria O'Steen.

14          As residents of Florida's Nature Coast, we  
15          would like our -- think of our community as  
16          part of the last frontier of Florida, and we --  
17          my county has four red lights, total, the  
18          entire county. I served as one of two  
19          attorneys in the entire county. That is a lot  
20          different from most of the larger, more  
21          populized areas. So we would like, when you  
22          consider this redistricting plan, to keep that  
23          in mind.

24          The industries and tourism which drive our  
25          small economies are what unite us as a

1 community. I ask that you respect this as you  
2 proceed forward with your redistricting  
3 process.

4 I am here today because, more often than  
5 not, the areas I am from are often forgotten,  
6 the rural areas, the rural way of life. If you  
7 put us in a district with Alachua County, as  
8 Mr. Curtis said earlier, Alachua County votes  
9 are going to overshadow Dixie, Taylor, Levy  
10 Counties. No need in going to the voting  
11 booths. Keep that in mind.

12 Too many of the plans that we have went  
13 over today do not keep the Nature Coast intact.  
14 I believe this does a disservice to the  
15 residents of these communities.

16 When I speak of the Nature Coast, let me  
17 be clear, I'm referring to Dixie, Taylor, Levy  
18 and Citrus Counties is all small coastal  
19 communities. Most of you drive down 19 when  
20 you leave Tallahassee, or a lot of you do.  
21 Just as soon as you hit Taylor County, all the  
22 way till you pass through Citrus, once you get  
23 through Citrus County, you are looking at a  
24 totally different world at that point. I  
25 believe we can all concur with that. So let's

1 keep that in mind.

2 All of these counties are easily  
3 accessible along U.S. 19. They all join  
4 together. They all have the common problems of  
5 a rural lifestyle versus our problems are  
6 nowhere similar to what Alachua County's are.  
7 So when you all are doing this, keep those four  
8 counties in mind, and I would ask that you keep  
9 those intact when you are doing your  
10 redistricting plan. Thank you for having me  
11 here today.

12 SENATOR GAETZ: Yes, sir. Thank you,  
13 Mr. O'Steen, for traveling to Tallahassee.

14 And our final public comment, at least we  
15 have in hand, is from Cherron Newby from  
16 Jacksonville.

17 Ms. Newby, thank you for coming all this  
18 way, and we are excited to have your testimony.  
19 You are recognized.

20 MS. NEWBY: Good afternoon -- good  
21 evening, and thank you for having me. I am  
22 here representing the grass root working  
23 individual, and I wanted to know, with the memo  
24 that I received, the congressional -- the  
25 districts that I was able -- the maps that I

1           was able to pull up, will these maps abide by  
2           the constitutional requirements so that  
3           representation is fair to everyone in the  
4           district, and how will the -- all minorities  
5           fair with the new districting, not just blacks,  
6           but Hispanics, Asians and Filipinos, et cetera?

7           SENATOR GAETZ: That is what we are  
8           struggling with, and we appreciate any insights  
9           that you have about that.

10          MS. NEWBY: Okay. I will write them up  
11          and send them to you, because I've been taking  
12          notes, but thank you for having me.

13          SENATOR GAETZ: Thank you very much,  
14          ma'am, for coming all this way.

15          We have reached the point in our meeting  
16          where we have about 30 minutes left, and I  
17          realize that today we have had a much meatier  
18          discussion about minority voting rights than we  
19          have had to have before, although we certainly  
20          have had substantial discussions at the 26  
21          field hearings that we have had across the  
22          state.

23          And, Senator Thrasher, earlier today -- I  
24          am just going to put you on the spot -- earlier  
25          today you articulated four principles or four

1 points, and for purposes of discussion, I would  
2 like to ask you if you would re-articulate  
3 them, and then I am going to ask if we have any  
4 departure from those principles, any debate on  
5 those principles, or any restatement of them,  
6 and we are going to make sure that all members  
7 have an opportunity, Democrats and Republicans,  
8 to speak before we attempt to give direction to  
9 our professional staff.

10 Mr. Speaker, you are recognized.

11 SENATOR THRASHER: Thank you,  
12 Mr. Chairman, and I also would defer to Senator  
13 Simmons who always has a way of putting things  
14 a lot more eloquently than I can, but, again,  
15 my reading of the amendments -- and I know  
16 Senator Simmons talked about two tiers, and I  
17 agree, there probably are two tiers. He also  
18 talked about, I think in respect to the  
19 minority districts, that the -- I think the  
20 amendment is very clear, that districts shall  
21 not be drawn to diminish the ability of racial  
22 minorities to elect their representatives of  
23 their choice. I think that is first and  
24 foremost in the criteria that I would apply  
25 when looking at the districts and redrawing

1           them.

2           The second one would be whether or not we  
3           favor or disfavor incumbents and the  
4           prohibition that the amendment says in that  
5           regard, or political party.

6           A third for me is compactness. I think  
7           it -- the other two trump compactness. I think  
8           where you have to go out and perhaps to get the  
9           racial issue resolved, the compactness probably  
10          is a lesser importance.

11          And then, lastly, the -- where feasible,  
12          utilizing the existing political and geographic  
13          boundaries. I think that, to me, is the fourth  
14          thing in the criteria.

15          So I look at it -- I know it is two tiers  
16          from Senator Simmons' perspective, and I  
17          certainly don't disagree with that, but if I  
18          were doing it, these were the four principles  
19          that I would use, and that would be the order,  
20          Mr. Chairman, that I would rank them.

21          SENATOR GAETZ: Let's take some committee  
22          discussion and see if we can arrive at some  
23          general guidance for our professional staff as  
24          they dig into this complex area.

25          Any comments? Yes, sir, Senator Hays.



1           SENATOR HAYS: Thank you, Mr. Chairman.

2           I am fully supportive of the principles of  
3           the amendments as just recently spoken by  
4           Senator Thrasher, but I think we need to direct  
5           the staff, and we ourselves need to consider  
6           very, very cautiously before we design a  
7           district anywhere in the state of Florida for  
8           Hispanic voters, we need to ascertain that they  
9           are citizens of the United States. We all know  
10          there are many Hispanic-speaking people in  
11          Florida that are not legal, and I just don't  
12          think that it is right that we try to draw a  
13          district that encompasses people that really  
14          have no business voting anyhow.

15          Now, if we know registered voters are  
16          people who have proven their citizenship, then  
17          that is a completely different story, but I am  
18          not aware of any proof of citizenship necessary  
19          before you register to vote.

20          SENATOR GAETZ: Let's stop and take a  
21          moment on this, because this is something I  
22          know that Mr. Guthrie and I were able to get  
23          some guidance on when -- when we went to  
24          Washington to listen to experts from around the  
25          country on this issue. And, Mr. Guthrie, I am

1 going to put you on the spot. Could you  
2 respond to that? Are we looking at voting age  
3 population as determined by the Bureau of the  
4 Census, or is there another screen for  
5 citizenship that we ought to -- or that we are  
6 allowed legally to provide?

7 MR. GUTHRIE: From the 2010 census, we  
8 have a precise count at the bloc level, VTD  
9 level, county level, of the numbers of persons  
10 who indicated -- it is a self-identification  
11 process -- that they were of Hispanic origin.  
12 So we know -- that is the exact number that we  
13 know.

14 In terms of citizenship, there is no  
15 question on the 2010 census relating to an  
16 individual's citizenship, or whether or not  
17 they are a citizen of the United States. The  
18 only information we have on citizenship from  
19 the Census Bureau comes from the American  
20 Community Survey. That is a sample of a small,  
21 small portion of the population in the United  
22 States that is done yearly and then calculated  
23 on a five-year rolling average. And from the  
24 American Community Survey, you can get an  
25 estimate based on sampling techniques of the

1 number of citizens per census track and larger  
2 areas of geography.

3 Trying to apply citizenship data to  
4 redistricting though, other states -- and what  
5 Senator Gaetz is referring to is we heard at a  
6 NCSL meeting in the Washington area that there  
7 are statistical problems with trying to utilize  
8 citizen voting age population for purposes of  
9 putting together your redistricting database,  
10 and so far we have not done that in Florida.

11 The other thing you referred to was  
12 whether citizenship is required to vote.  
13 Again, I am not a lawyer, but my understanding  
14 is that citizenship is a requirement for  
15 registering to vote in Florida.

16 SENATOR GAETZ: Okay. Several Senators  
17 want to comment on this, and we will start with  
18 Leader Gardiner.

19 SENATOR GARDINER: Thank you,  
20 Mr. Chairman, and just to follow up to Senator  
21 Thrasher's point, I completely agree with the  
22 points that Senator Thrasher has put forward,  
23 the four points, and I know Senator Simmons has  
24 mentioned this as well, but I would ask that  
25 when staff is taking everybody's comments and

1 the different maps, the ones that have been  
2 presented, the ones that haven't been  
3 presented, to take into consideration the  
4 public testimony. I know we have been very  
5 focused on what the amendments say, and it is  
6 very important and we will have the tiers that  
7 we will follow, but when you look at some of  
8 the comments in central Florida, you briefly  
9 touched on a congressional map that I believe a  
10 group out of Washington brought forward, the  
11 Hispanic Foundation, something to that effect,  
12 I am not advocating one or the other, but I  
13 would ask that staff look at that. I believe  
14 there are also some Senate maps that take into  
15 consideration a Hispanic access Senate seat in  
16 that area as well. I think that those are all  
17 open to discussion, especially when we start  
18 looking at the different points. But Senator  
19 Thrasher's point, I think that that is  
20 absolutely the most important thing moving  
21 forward. Thank you, Mr. Chairman.

22 SENATOR GAETZ: Thank you. Senator  
23 Simmons, you are recognized.

24 SENATOR SIMMONS: Thank you, Mr. Chair. I  
25 will give my personal view on this to the

1 extent that staff would like to hear it, and as  
2 the Chair has suggested.

3 I believe that there are two tiers in this  
4 analysis, and within each tier, subsection 3  
5 says that they shall not be treated with  
6 different priorities. So we have two tiers,  
7 and within those two tiers, each has its own  
8 set that neither has -- neither one of the  
9 subsets has priority.

10 So when you look at the first tier, the  
11 first rule is that no plan that we draw shall  
12 be drawn with the intent to favor or disfavor a  
13 political party or an incumbent. Now, how do  
14 you determine that? Well, one of the  
15 interesting things is that the constitutional  
16 amendment says -- uses the word "intent." It  
17 doesn't say "the intent or result," it says  
18 "the intent." And I can tell you that there  
19 are various ways to determine our intent, but I  
20 can tell you it will all be done if we follow  
21 the rules with respect to the rest of it. In  
22 other words, you are going to find that we are  
23 not going to be favoring or disfavoring  
24 political parties or incumbents if we follow  
25 the rest of the rules.

1           Well, what are the rest of the rules?  
2           Under Tier 1, "Districts shall not be drawn  
3           with the intent or result of denying or  
4           abridging the equal opportunity of racial or  
5           language minorities to participate, or diminish  
6           their ability," and that is clear. It says we  
7           "shall not diminish their ability to elect  
8           representatives of their choice, and districts  
9           shall consist of contiguous territory." Those  
10          are Tier 1 requirements. We know that they are  
11          going to be contiguous. The issue is, are we  
12          going to make sure that we do not diminish the  
13          ability of minorities to elect representatives  
14          of their choice.

15          The Tier 2 analysis says that "Unless  
16          compliance with standards in this subsection  
17          conflicts with the standards in subsection 1,  
18          or with federal law, districts shall be nearly  
19          equal in population." We know that, we are  
20          going to do that. "Districts shall be compact,  
21          and districts shall, where feasible, utilize  
22          existing political and geographic boundaries."

23          So within subsection 2, we are supposed to  
24          have an equal weighing to these standards that  
25          we are going to do these things as compact

1 districts, and we are going to make sure, to  
2 the extent feasible, that we utilize existing  
3 political or geographic boundaries.

4 So if we follow the analysis that there  
5 are two tiers, that Tier 1 is the priority  
6 tier, that we make sure that we -- well, and I  
7 say that the question number one or issue  
8 number one will take care of itself, and that  
9 is intent to favor or disfavor political  
10 parties or incumbents if we follow the rest of  
11 the rules, and that is that we follow the rule  
12 of not drawing any district with the result or  
13 the intent of diminishing access, and obviously  
14 we are going to do the contiguousness. But  
15 when we get down to Tier No. 2, we are going to  
16 place equal weight to the requirements that we  
17 have compact districts, and that to the extent  
18 feasible, we are going to use political or  
19 geographic boundaries.

20 Interesting question is, when you are  
21 talking about geographic boundaries, does that  
22 mean natural geographic boundaries, or does it  
23 mean man-made geographic boundaries? I would  
24 suggest to us that the geographic boundaries  
25 that's safe for us to rely upon would be

1 natural geographic boundaries versus man-made  
2 geographic boundaries, and if we are going to  
3 use man-made geographic boundaries, they would  
4 probably be big things like interstate highways  
5 and turnpikes and things like that, but that is  
6 an interesting question that hasn't been  
7 defined by this.

8 But those are just my personal thoughts on  
9 how this is interpreted, and I do believe,  
10 however, some of these things that I have  
11 suggested are very, very clear and are  
12 indisputable, such as the Tier 1, Tier 2  
13 analysis, that Tier 1 is going to control to  
14 the extent that we have this standard of  
15 meeting with respect to non-diminution of the  
16 abilities of language or racial minorities to  
17 elect representatives of their choice, and then  
18 once we have done that, then we will, to the  
19 extent feasible, have compact districts that  
20 are according to existing political or  
21 geographic boundaries.

22 SENATOR GAETZ: Thank you, Senator  
23 Simmons.

24 Senator Diaz de la Portilla.

25 SENATOR DIAZ DE LA PORTILLA: I basically



1           agree with what Senator Simmons says, but I  
2           think I would like to take a crack at trying to  
3           see if at least I have a full conceptual  
4           understanding of everything that we discussed  
5           here.

6                     I don't think we need to or should have a  
7           strict hierarchy of what comes first, what  
8           comes next, instead of each one criterion that  
9           falls into the whole, you know, set of criteria  
10          that we need to consider, because that is not  
11          what Article III, Sections 20 and 21, say.

12                    I think that what Senator Simmons said is  
13          exactly right, and it really is -- a lot of it  
14          is a judgment call that we make as we try to  
15          balance all these things or criteria that seem  
16          to compete.

17                    You know, under the first category, which  
18          are the Section A categories, you can't favor a  
19          party or incumbent, you can't abridge the  
20          opportunities for racial or language minorities  
21          and you have to have contiguity, when you read  
22          that together with Section C, you can't place  
23          each one of these on top of the other, you have  
24          to kind of look at all of them together. And  
25          then if you look at Section B, it says, "Unless

1           it conflicts with Section A or federal law,"  
2           then you have to, A, have population that is as  
3           close to equal as practicable and you have to  
4           have compactness, and we discussed the  
5           different definitions of compactness, the most  
6           functional one being one that focuses on  
7           functionality rather than strict geographic  
8           shape, although looking at geographic shape is  
9           a consideration when you look at compactness.  
10          I think the best working definition is the one  
11          we discussed at the last committee, which looks  
12          at transportation, commerce and other  
13          considerations that make a district functional.

14                 And then when you go into the third  
15          criterion under subsection B, you talk about if  
16          it is feasible, you use existing and  
17          geographical boundaries -- if feasible, you  
18          look at political -- existing political and  
19          geographical boundaries. I think we have seen  
20          in the discussion today and the presentation  
21          that staff has made that when you go with a  
22          strict interpretation of these political  
23          boundaries, meaning city boundaries and county  
24          boundaries, a lot of times, as a practical  
25          matter and when you get to more populous areas,

1           you run into problems in terms of the Section A  
2           criteria, as far as favoring an incumbent or a  
3           political party, abridging racial or language  
4           minorities opportunities to elect candidates of  
5           their choice, and contiguity.

6           So, you know, even though you can't really  
7           put them all in an equal box, or a hierarchy  
8           rather, I think that we just kind of have to  
9           take these things as they come and weigh them  
10          against the other and do it on a case-by-case  
11          basis, use the testimony that is presented  
12          before us, make sure that we are just cognizant  
13          of all these things, all the requirements, and  
14          it is a balancing act. I mean, you can -- we  
15          have seen it. You can have perfectly shaped  
16          boxes, if you will, and you can argue using the  
17          shape definition of compactness that those may  
18          be the most compact districts, but then you run  
19          afoul of all the other requirements that we  
20          have to meet with.

21          So I think what Senator Simmons is saying,  
22          or at least the way I interpret it, and I think  
23          I agree with what he is saying, is that we just  
24          kind of have to look at everything at the same  
25          time and weigh it with the testimony and

1 evidence that comes, you know, before us. And  
2 it also gives us some degree of flexibility as  
3 we move into the harder areas to deal with,  
4 because there's -- they are just not as --  
5 there are more people and less land, and so  
6 that gives you less material really to work  
7 with in terms of shapes on a map, if you will,  
8 and you are going to have more irregular shapes  
9 by definition as you get to more populous  
10 areas.

11 So, you know, the -- I -- in summing it  
12 all up, I would say that, you know,  
13 unfortunately, there is no easy, you know,  
14 cut-and-paste type solution to this thing. We  
15 just kind of have to go through the tough  
16 exercise of grinding it out hearing by hearing,  
17 area by area, and just try to balance all these  
18 competing principles at the same time. So to  
19 sum up, I would not recommend that we adopt or  
20 give any specific direction that we have a  
21 hierarchy that we are going to put -- I  
22 respectfully would disagree with Senator  
23 Thrasher that we put, as he said, and I think I  
24 wrote it down here, the hierarchy that deals  
25 specifically with minorities first, can't favor

1 an incumbent second, compactness third, and use  
2 existing political and geographical boundaries  
3 fourth. I think a strict, you know, hierarchy  
4 would not serve us well and really isn't what  
5 the constitutional amendments or the case law  
6 as explained to us by Mr. Bardos asks us to do.  
7 I mean, I wish it were that easy, but I don't  
8 think it is, and I don't think we can do that.  
9 I just think we need to move forward and apply  
10 these concepts to the individual facts as they  
11 come up.

12 SENATOR GAETZ: Imagine you were a member  
13 of the Senate Reapportionment Committee -- you  
14 are, as it turns out -- and imagine you were  
15 now at a place where you have four members of a  
16 professional staff who have heard the problem  
17 described several different times by several  
18 different people, but now they are going to go  
19 back to their bat caves and they are going to  
20 try to follow the direction or guidance or  
21 themes that we provide. What would you have  
22 them do? And let's not redescribe the problem.  
23 Senator Latvala.

24 SENATOR LATVALA: Could I ask a quick  
25 question and then answer that question?

1           SENATOR GAETZ: Yes, sir, of course.

2           SENATOR LATVALA: We have -- you know, we  
3 did very well in our first meeting, and we  
4 basically came to a general consensus on your  
5 region of the state that you live in.

6           SENATOR GAETZ: That was T-ball, this is  
7 speed ball.

8           SENATOR LATVALA: Then now we are in the  
9 next region of the state and we are right at  
10 the end of the meeting and we really haven't  
11 talked about anything but principles. Is it  
12 your intention to bring this region of the  
13 state back for further conversation before we  
14 go to the next region, or is the idea we are  
15 going to talk about these principles, and then  
16 the next time we are going to see this map is  
17 when we see a PCB?

18           SENATOR GAETZ: Well, Senator Latvala, we  
19 agreed on a schedule that would have a thorough  
20 going conversation today, which many of us -- I  
21 think all of us by consensus hoped would result  
22 in some direction to our professional staff.  
23 If we don't have any direction for our  
24 professional staff as to these areas, then it  
25 would be my intention that this would be first

1 item on the agenda at the next meeting. I  
2 don't think it is fair to our professional  
3 staff, to the public who is engaged now in  
4 nearly -- providing nearly 100 proposals to us,  
5 fair to this committee, to send the  
6 professional staff off with a restatement of  
7 the problem.

8 SENATOR LATVALA: Then let me give you a  
9 suggestion to put on the table for what we have  
10 our professional staff do.

11 In the region that we are considering here  
12 now, we have -- as far as the state Senate  
13 districts are concerned, we have two minority  
14 based districts we have that have -- currently  
15 have a -- are served by African-American  
16 members, and served very well. Could we --  
17 could we instruct the staff to start out this  
18 phase of the map by drawing districts, or  
19 showing us districts that will at least  
20 maintain the ability to continue having those  
21 districts as minority-represented districts?

22 SENATOR GAETZ: And you are speaking,  
23 Senator Latvala, of all the minority districts,  
24 or the Senate districts now?

25 SENATOR LATVALA: All the minority

1 districts.

2 SENATOR GAETZ: Is there any comment on  
3 that? Senator Lynn.

4 SENATOR LYNN: I have a bit of discomfort  
5 going along with something like that, because,  
6 to me, it sounds like we are protecting  
7 incumbents, and that may be the result, but I  
8 don't think we should be making a statement to  
9 that effect because of what might be  
10 interpreted as the intent. So I would hope  
11 that what would come out of today's meeting  
12 would be understanding from staff that we are  
13 out to protect minority districts, whether they  
14 be African-American, Hispanic or both or mixed,  
15 but that they have to do what is best in terms  
16 of following all the guidelines from the  
17 Constitution, those that actually -- as Senator  
18 Thrasher outlined. So I would feel more  
19 comfortable if we ended up with that kind of  
20 guidance rather than let's leave everything the  
21 way it is.

22 SENATOR GAETZ: Yeah, and to be fair to  
23 Senator Latvala, I don't think he was talking  
24 about protecting incumbents, but Senator  
25 Latvala, you are recognized.



1           SENATOR LATVALA: I think it is important  
2           to recognize that as we sit here today, the  
3           incumbent Senator in one of those seats is term  
4           limited, and I don't believe there is an  
5           incumbent in the other Senate district. I  
6           mean, you know, we are talking about the rights  
7           of these people to not have -- or the right to  
8           not be diminished in their ability to elect  
9           people of their choice in their districts.  
10          And, I mean, we have heard testimony and we  
11          have heard the staff discuss what the voting  
12          age population in these districts is currently,  
13          and what it -- the best of the maps that we  
14          have been given allow us to do, and they  
15          weren't really up to what they ought to be. So  
16          my suggestion is let's see what it takes to get  
17          them up to what they want to be, and then we  
18          shape the rest of the map around those seats.

19          SENATOR GAETZ: So let's be sure we  
20          understand Senator Latvala's suggestion, and  
21          then Senator Detert, and that is as to the  
22          Senate districts that are currently minority  
23          Senate districts, that those be drawn first  
24          with the idea of protecting and not diminishing  
25          minority voting rights, and that the other

1 districts be drawn around them with due  
2 deference to the principles which were  
3 explained by Senators Simmons and Thrasher. Is  
4 that your suggestion, sir?

5 SENATOR LATVALA: Yes, sir.

6 SENATOR GAETZ: And now Senator Detert.

7 SENATOR DETERT: Thank you, Chair, and we  
8 only have a few minutes left, so, quickly, what  
9 instructions and marching orders do we give the  
10 staff? Well, I think, number one is to follow  
11 the amendments that were passed by the voters,  
12 that would be the instruction to the staff,  
13 rather than to think up our own criteria and  
14 our own Tier 1, Tier 2, tier whatever, and I  
15 think you start at the Panhandle and work down,  
16 using that as your criterion and see how it  
17 comes out.

18 SENATOR THRASHER: Mr. Chairman?

19 SENATOR GAETZ: Yes, Senator Thrasher, and  
20 then Senator Storms, Senator Dean.

21 SENATOR THRASHER: I just want to be  
22 clear, Senator Detert, that my understanding,  
23 what I suggested was from the reading of  
24 Amendments 5 and 6. I -- clearly, these are  
25 not my criteria. I believe these are the

1 criteria that exist in the existing 5 and 6.  
2 And I appreciate there may be differences and  
3 nuances, but I do believe that racial  
4 protection is clearly paramount. I believe  
5 that favoring or disqualifying someone because  
6 of incumbency or political party, I think that  
7 is another one. Compactness is there, as well  
8 as the feasibility of using political  
9 boundaries. But those are in the existing  
10 Constitution, and I am not trying to give the  
11 staff, from my perspective, anything other than  
12 what I read in the Constitution.

13 SENATOR DETERT: No, but --

14 SENATOR GAETZ: Senator Storms.

15 SENATOR STORMS: It just seems to me that  
16 when you are starting with drawing the map,  
17 then you would ask yourself the question: In  
18 the past what has more likely resulted in court  
19 intervention, which issue has more likely  
20 resulted in court intervention? Has it been  
21 contiguity, has it been compactness or has it  
22 been minority access?

23 So if you are more likely to result in  
24 court intervention with minority access, and I  
25 would say even today, even with this -- with

1           this constitutional amendment, even though it  
2           is 2011, you are more likely to result in court  
3           intervention on the issue of minority access  
4           than any other issue, on the issue of  
5           compactness and on the issue of contiguity,  
6           then I am in agreement that we should start  
7           with the minority access issue as it relates to  
8           the constitutional amendment. So start with  
9           that principle, draw those principles, try to  
10          make them as compact as possible, try to make  
11          them as contiguous as possible, start there,  
12          and then after that issue is done, then draw  
13          the other seats, whatever is left over from the  
14          leftovers, try and make them as compact and  
15          contiguous as possible, and then -- then the  
16          issue of taking -- of dealing with the  
17          incumbents, favoring or disfavoring incumbents,  
18          will take care of itself if you take it, in my  
19          opinion, in that order.

20                 SENATOR GAETZ: Thank you, Senator Storms.  
21                 Senator Dean.

22                 SENATOR DEAN: I have listened so many  
23          weeks, so many weeks to the public. I don't  
24          disagree with every attorney that is on this  
25          Board today on this question. It is right on

1 the money, they are trying to fulfill those  
2 obligations of Article V and Article VI. But  
3 somewhere I want to trust the direction and the  
4 choice of professional staff to not forget the  
5 public input and the ballots. I think that is  
6 the most important thing that the court or our  
7 constituents will look to us about, being  
8 balanced, being fair and doing the right thing.

9 SENATOR GAETZ: Thank you, Senator Dean.

10 We will go to Senator Diaz de la Portilla,  
11 then Leader Gardiner, then Leader Rich.

12 SENATOR DIAZ DE LA PORTILLA: Mr.  
13 Chairman, to your suggestion that we provide  
14 solutions or potential direction and answers  
15 and not a restating of the problem, I think the  
16 best direction that we can give staff in light  
17 of everything is that, yes, as our attorney  
18 told us, be cautious about diminishing minority  
19 numbers, if you will, in these districts, but  
20 we also can't throw out traditional  
21 redistricting principles, meaning that these  
22 districts can't be solely guided by racial or  
23 language or minority considerations alone, we  
24 have to take a look at everything else.

25 So what I would say is, yes, let's take a

1 look at not diminishing those percentages,  
2 staff, while we try to balance that out with  
3 the other competing requirements that we have  
4 in traditional redistricting principles, which  
5 we have discussed ad nauseam for two weeks.

6 SENATOR GAETZ: And we can run the clock  
7 out here, and that is fine, we will just go  
8 back at this at the next meeting, but let me  
9 just ask Senator -- Leader Gardiner, any  
10 comments?

11 SENATOR GARDINER: Mr. Chairman, I will  
12 waive my time.

13 SENATOR GAETZ: Leader Rich.

14 SENATOR RICH: Thank you, Mr. Chair.

15 I would like to just go back to the public  
16 testimony issue because Senator Dean brought  
17 that up. I think public testimony is  
18 incredibly important. We have shown that by  
19 traveling the state, getting input from  
20 hundreds and hundreds of people. But, you  
21 know, sometimes the input from the public --  
22 and I look at some of the maps that Mr. Guthrie  
23 showed us -- actually does not follow the  
24 amendments. So my -- my sense is that, yes, we  
25 have to listen to public testimony, but we also

1 have to follow the law and the amendments, and  
2 that is our number one priority, as far as I am  
3 concerned.

4 The other thing quickly I would like to  
5 say is I want to make sure that when you go  
6 back, Mr. Guthrie, and your staff, that you  
7 check what was said by citizens at the public  
8 hearings in addition to what was said here.  
9 And I use the last meeting as an example. When  
10 I went back, it appeared that everybody was on  
11 target with coastal/rural. When we went back  
12 and looked at some of the testimony from the  
13 hearing there, it was a little bit different.  
14 So I want to make sure that just one public --  
15 one set of testimony here doesn't color what  
16 happened in the public hearings as well, that  
17 we need to make sure that we go back and listen  
18 to that.

19 And those would be just two suggestions,  
20 and also to just obviously not use the maps  
21 that have been submitted that don't abide by  
22 Amendments 5 and 6 and do not take into  
23 consideration the retrogression issue.

24 SENATOR GAETZ: Thank you very much,  
25 Leader.

1           Let me try to see if I can summarize, and  
2           if there is consensus or agreement, then that  
3           is fine. Senator Latvala offered a suggestion,  
4           and that is that we direct professional staff  
5           to go back and use as a Tier 1 first mandate  
6           requirement that we maintain -- and with  
7           Senator Lynn's caveat, that we maintain  
8           minority performing districts, minority voting  
9           rights as a first building block on all of  
10          these maps in northeast and north central  
11          Florida, and that the other maps be developed  
12          for the PCB with due deference to the other  
13          aspects of Amendments 5 and 6.

14                 Is there anyone who disagrees with that,  
15                 that we ought to start with that premise first,  
16                 to preserve minority voting rights, and then go  
17                 forward on that basis? Anybody disagree?

18                 If not, that is direction of professional  
19                 staff. Senator Sachs moves we rise.

20                 (Whereupon, the proceedings were  
21                 concluded.)

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## 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 144  
9 represent a true, correct, and complete transcript of  
10 the tape-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 14th day of November, 2011.

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\_\_\_\_\_  
CLARA C. ROTRUCK

20

Notary Public

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State of Florida at Large

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Commission Expires:

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November 13, 2014

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