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HOUSE OF REPRESENTATIVES REAPPORTIONMENT MEETING
AUGUST 8, 2014

Reported by:
CLARA C. ROTRUCK
Court Reporter

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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2 CHAIRMAN CORCORAN: Call the roll.
3 READING CLERK: Chair Corcoran?
4 CHAIRMAN CORCORAN: Here.
5 READING CLERK: Vice Chairman McBurney?
6 REPRESENTATIVE MCBURNEY: Here.
7 READING CLERK: Representative Berman?
8 REPRESENTATIVE BERMAN: Here.
9 READING CLERK: Representative Caldwell?
10 REPRESENTATIVE CALDWELL: Here.
11 READING CLERK: Representative Cummings?
12 REPRESENTATIVE CUMMINGS: Here.
13 READING CLERK: Representative Fullwood?
14 REPRESENTATIVE FULLWOOD: Here.
15 READING CLERK: Representative McGhee?
16 REPRESENTATIVE MCGHEE: Here.
17 READING CLERK: Representative Metz?
18 REPRESENTATIVE METZ: Here.
19 READING CLERK: Representative Oliva.
20 REPRESENTATIVE OLIVA: Here.
21 READING CLERK: Representative Passidomo?
22 REPRESENTATIVE PASSIDOMO: Here.
23 READING CLERK: Representative Rodriguez?
24 REPRESENTATIVE RODRIGUEZ: Here.
25 READING CLERK: Democratic Ranking Member

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 Thurston?
2 REPRESENTATIVE THURSTON: Here.
3 READING CLERK: Representative Young?
4 REPRESENTATIVE YOUNG: Here.

5 READING CLERK: We have a quorum.

6 CHAIRMAN CORCORAN: Thank you. With regard
7 to, I want to have as much opportunity to ask
8 questions as soon as possible. We have been
9 working with Leader Thurston. There if is a member
10 that would like a question to get it to one of the
11 Committee members and we will make sure that we
12 have ample opportunity of all questions asked.

13 Obviously, we are here, we have read the call,
14 we have read the Order and we know the task at
15 hand.

16 I would like to thank my team member and our
17 Leader Thurston and give you an opportunity, Leader
18 Thurston, if you would like to say a few words.

19 REPRESENTATIVE THURSTON: Thank you, Mr.
20 Chairman. We certainly appreciate the opportunity
21 to work with you on this committee. We look
22 forward to the testimony and we look forward to
23 having an opportunity to fully question all of the
24 witnesses regarding the drawing of the proposed
25 map.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 CHAIRMAN CORCORAN: Thank you, Leader. With
2 that -- Representative Rodriguez?

3 REPRESENTATIVE RODRIQUEZ: Thank you,
4 Mr. Chair. You may be -- because I don't want to
5 get ahead of you, thank you, Mr. Chair, for
6 recognizing me. But if you could describe a little
7 bit of how, you know, how we will be able to go,

8 will the maps be presented and will we have ample
9 opportunity for questions, or will a lot of the
10 questions that many of us have, are they going to
11 be addressed in the presentation of the maps?

12 For example, how they were -- how they were
13 drawn, who was involved in that process, et cetera,
14 et cetera, some of the things that were in the
15 (inaudible).

16 CHAIRMAN CORCORAN: What we will do, it will
17 function identically to a regular committee
18 meeting.

19 What we will do is we will present the map.
20 We will have input on -- from technical analysis
21 and legal analysis in complying with the Order with
22 regard to that map. I would imagine that would
23 answer a lot of the questions that the members
24 might have, both legally and technically.

25 If there is additional questions that you

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 would like to ask after that you are more than
2 welcome to. But with regard to the presentation of
3 the map, per the memo that I sent out earlier in
4 the week, I will be asking anyone who does have a
5 map to comply with the memo and give the criteria
6 listed in the memo and that will be before the map
7 is even presented.

8 Follow up, one follow up?

9 REPRESENTATIVE RODRIQUEZ: Sure, you know, I
10 guess at this point I also wanted to ask if those

11 providing information to the Committee would answer
12 any questions will be placed under oath as we
13 have authority to do under the rules?

14 CHAIRMAN CORCORAN: No, no, they will not.
15 With that I will yield the Chair to Vice Chair
16 McBurney.

17 REPRESENTATIVE RODRIGUEZ: Mr. Chair, if it is
18 appropriate a moment I would like to be recognized
19 to make a motion that under the rules anyone
20 providing information or answering questions with
21 respect to the drawing of the maps be sworn in by
22 this Select Committee so that the answers they
23 provide be under oath.

24 CHAIRMAN CORCORAN: Representative Rodriguez
25 has made a motion to have anybody who testifies

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 before the Committee be sworn in under oath. A
2 vote for the motion would have people being sworn
3 in under oath, a vote against would not.

4 Ms. Heed, please call the roll on the motion
5 to swear in members.

6 READING CLERK: Representative Berman?

7 REPRESENTATIVE BERMAN: Yes.

8 READING CLERK: Caldwell?

9 REPRESENTATIVE CALDWELL: No.

10 READING CLERK: Cummings?

11 REPRESENTATIVE CUMMINGS: No.

12 READING CLERK: Fullwood?

13 REPRESENTATIVE FULLWOOD: Yes.

14 READING CLERK: McBurney?
15 REPRESENTATIVE MCBURNEY: No.
16 READING CLERK: McGhee?
17 REPRESENTATIVE MCGHEE: Yes.
18 READING CLERK: Metz?
19 REPRESENTATIVE METZ: No.
20 READING CLERK: OI i va?
21 REPRESENTATIVE OLIVA: No.
22 READING CLERK: Passi domo?
23 REPRESENTATIVE PASSI DOMO: No.
24 READING CLERK: Rodri quez?
25 REPRESENTATIVE RODRI QUEZ: Yes.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 READING CLERK: Thurston?
2 REPRESENTATIVE THURSTON: Yes.
3 READING CLERK: Young?
4 REPRESENTATIVE YOUNG: Yes.
5 READING CLERK: Chair Corcoran?
6 CHAIRMAN CORCORAN: No.
7 READING CLERK: It fails.
8 CHAIRMAN CORCORAN: What?
9 READING CLERK: It fails.
10 CHAIRMAN CORCORAN: Thank you, show the motion
11 fails. With that I will yield the chair to Chair
12 McBurney so that I can present the PCB. Chair
13 McBurney.
14 VICE CHAIR MCBURNEY: Thank you, Mr. Chairman.
15 Mr. Chairman, you are recognized to explain the
16 Bill. Pursuant to your memo of August 5th, 2014 in
Page 6

17 your presentation, I would ask that you respond to
18 the following.

19 The identity of every person involved in
20 drawing, reviewing, directing or approving a
21 proposal, the criteria used by the map drawers, the
22 sources of any data used in the creation of the map
23 other than the data contained in My District
24 Builder. The nature of any functional analysis
25 performed to ensure that the ability of the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 minorities to elect the candidates of their choice
2 is not diminished, and how the proposal satisfies
3 all of the Constitutional and statutory criteria
4 applicable to a Congressional Redistricting plan.
5 Chair Corcoran, you are recognized.

6 CHAIRMAN CORCORAN: Thank you, Chairman. The
7 identity of the people involved in drawing the map,
8 and for the House, it was myself, Jason Preda, who
9 is to my left, Jeff Tackett, who is behind us, the
10 General Counsel for the House, and outside counsel
11 for the House.

12 For the Senate it was John Guthrie, Jay
13 Ferring, who works with John, General Counsel of
14 the Senate and outside counsel of the Senate, in
15 addition to Chair Galvano.

16 The criteria we used were basically the law
17 which was Section 24 of the Constitution, Fair
18 District Amendments, the Federal Voting Rights Act.
19 In addition to that we had the Court Order from

20 Judge Terry Lewis, which guided the criteria for
21 what we did regarding this July 10th judgment.

22 The source was all in My District Builder.
23 All of that data and that web application, web
24 application which was available in 2012, is
25 currently available today was what where we got the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 data from.

2 The nature and functional analysis performed
3 to ensure that minorities were able to elect
4 candidates of their choice is not diminished. We
5 did the functional analysis in Congressional
6 District 5 which in this remedy to Judge Lewis'
7 judgment is the only district that is protected by
8 Tier 1 standards in the Florida Constitution that
9 requires one.

10 The staff at some point here shortly the
11 Chairman will go through a detailed functional
12 analysis of Congressional District 5.

13 As far as satisfying the Constitutional
14 statutory criteria applicable, Congressional
15 District 5 maintains the minority communities' same
16 ability to elect a candidate of their choice. The
17 map that we will put before you has a BVAP of
18 48.11, complying with the Tier 1 standard of non
19 diminishment.

20 The visual and mathematical compactness scores
21 for all of the affected districts, specifically 5
22 and 10 remained at a similar level with the

23 benchmark map, and in most cases we saw significant
24 improvement. We also followed the geographic and
25 political boundaries where feasible.

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1 And that is the answer to the preliminarily
2 questions, Mr. Chairman. If it is all right now
3 what I would like to do is just give a quick,
4 pursuant to the call and pursuant to the Order, the
5 map that we will get you all to see and go over
6 here in the next few minutes.

7 We addressed the appendages into Seminole
8 County in Congressional District 5 and 10. Those
9 are no longer in the map before you. We maintained
10 a BVAP of 48.11, which is higher than the maps.
11 Well, in a favorable light by Judge Lewis which was
12 the original House map before it was changed by the
13 Senate, which was less than that.

14 We also, you will see from the map it is
15 visually compact, more compact than both. Again,
16 the map that he spoke of in a favorable light, in
17 addition to the map that was thrown out, and it
18 also does better on the compactness scores.

19 And with that I would ask, Mr. Chairman, that
20 Jason be allowed to go up and give the technical
21 analysis to the changes made.

22 VICE CHAIR MCBURNEY: Mr. Preda, you are
23 recognized.

24 MR. PREDA: Mr. Chairman. Okay, what I am
25 going to do now is go through a presentation. I am

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1 going to try to take us step by step, kind of the
2 overall changes in the map first, kind of a general
3 overview similar of what Chair Corcoran did
4 briefly.

5 Then I am going to show you where we will put
6 to the maps stay the same compared to the enacted
7 maps, where there are going to be differences and
8 then we are going to go through each of those
9 differences, district by district to be as detailed
10 as I can to tell you where those changes were made.
11 And then go through some of the compactness scores
12 and the functional analysis that the Chairman
13 mentioned for Congressional District 5.

14 So first, the overall changes, we impacted
15 seven districts on the map, maintaining 20 of the
16 districts that were, as you saw in the enacted map,
17 exactly as they were before. We maintained the
18 county splits at the same level as the enacted map,
19 at 21. We did increase the city splits by one to
20 28 from 27. We did that to increase visual
21 mathematical compactness, and I will show you where
22 we did that and why.

23 In Congressional District 5 we improved the
24 impactness, compactness both visually and
25 mathematically. We actually exceeded the level of

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1 compactness that was in the 9043 map which was the
2 last map that we here in the House had before we
3 came up with the compromised 9047 map that is the
4 currently enacted map. The Reock score you can see
5 there we will go into more detail later. The same
6 with the convex hull, we improved that on both
7 counts.

8 Congressional District 5 maintained the
9 ability to elect with 48.11 BVAP, and I will go
10 through the details as to why that maintains the
11 ability to elect later. And the Congressional
12 District 10 compactness was both improved visually
13 and mathematically. Those are the, I highlighted
14 those two districts because those are the only two
15 districts that Judge Lewis invalidated in his
16 Order, but we also managed to improve the visual
17 compactness of the surrounding region in addition
18 to just those two impacted districts.

19 I am going to begin by showing you kind of an
20 overall statewide map of how, where the maps stayed
21 the same. So you can see this is a statewide image
22 of the 20 districts that remain identical to the
23 enacted map, and the blank space is the area that
24 will change that we will kind of fill in with the
25 changes as we go forward.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 So you can see a kind of zoomed in version,
2 Districts 1 through 4, throughout the panhandle and

3 into northeast Florida, they remain identical to
4 how they were in the enacted map. They are
5 unaffected.

6 Looking down the Peninsula of Florida, you can
7 see the four to five districts in the Tampa Bay
8 region down into Manatee and Sarasota County,
9 District 16, District 12 and Pasco County, Pinellas
10 and Hillsborough, District 15 in Hillsborough and
11 Polk County and Districts 13 and 14 in Pinellas and
12 Hillsborough County. They all remain identical as
13 they were in the enacted map, as Judge Lewis
14 objected to challenges to Districts 13 and 14.

15 District 8 and 18 over on the east coast, they
16 also remained identical. Working further south,
17 Districts 19 through 27 are all identical. So all
18 of the districts affected in the Palm Beach,
19 Broward, Miami-Dade County, as well as Lee, Collier
20 County, Hendry County and Monroe County, they all
21 remain identical as they are in the enacted.

22 So starting to go through some of the changes
23 now, we will start with the First District, which
24 is Congressional District 5. I will get into the
25 details of the numbers of that district at a later

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 point. Right now I am just going to talk about how
2 the district physically changes on the map, and I
3 have them side by side there.

4 So the first change I want to point out is
5 what we did in Putnam County. You can see that the

6 boundary changed dramatically within Putnam County.
7 The district had previously kept the city of
8 Palatka whole, but then, and I apologize, I have
9 added some animations, they are not in the slides
10 that you see in front of you in the packet, but
11 they will be up on the screen, but you can, the
12 images are the same minus the animations, and I
13 apologize about that.

14 So in Palatka we kept the city whole within
15 Congressional District 5 and then we kind of ran
16 across the county to Alachua County, and the new
17 map you have before you today in the PCB, what we
18 do is we follow, throughout Putnam County we follow
19 the St. Johns River throughout the entire county as
20 the border between District 6 and District 5.

21 That helped us improve both visual and
22 mathematical compactness, and clearly the
23 serpentine nature of the district that the Judge
24 also found objectionable in his ruling was somewhat
25 mitigated by that change. Definitely visually and

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 certainly mathematically.

2 The next change that I will point out is the
3 line there in Marion County, and also to improve
4 visual and mathematical compactness, we moved that
5 line slightly down encompassing more area. The
6 majority of that area that we added in Marion
7 County is unpopulated area. It is a range there,
8 but we better followed some of the roadways that

9 kind of follow that area and were able to improve
10 some mathematical compactness that way.

11 The next change, obviously the appendage is
12 the specific thing that Judge Lewis found
13 objectionable about CD 5 that was used to make the
14 district a little over 50 percent. You can see
15 here that that appendage is in the proposed map
16 does not exist and Seminole County is kept whole.

17 The next district, District 6, which is the
18 district that borders District 5 directly to the
19 east. Its borders were changed in two places. In
20 Putnam County, as I described before, we follow the
21 St. Johns River and actually the entire western
22 border, entire eastern border of CD 5, the entire
23 western border of CD 6 follows the St. Johns River
24 all of the way from Clay County, all the way down
25 into Seminole County where it follows another

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 waterway. So now the border between those two
2 districts is now entirely a geographic boundary
3 that is the St. Johns River that in the area is
4 obviously a very major waterway. So we were able
5 to do that.

6 By making that change we also were able to
7 improve the visual compactness of CD 6, not having
8 of kind of the arm extending out throughout the
9 remainder of Putnam County, and actually in the
10 convex hull score of the district, it becoming more
11 rectangular was improved greatly. So that was also

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a benefit of that change.

Because of the change of population, I think Justice Cantera maybe, as I mentioned yesterday with special districts we have to maintain equal population. So if we move two people somewhere we have to find two people somewhere else in another district. So when we added that population in Putnam County to Congressional District 5, Congressional District 6 was under populated.

It was about, I want to say about 9,000 people in that area of Putnam County that we added. In order to find that down in southwest Volusia County there are a number of cities that are all right up against each other. That area that you see right

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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there is where we had to split the city of Dewberry, which we had previously kept whole but we had to go find more population to equal out the population. So the city of Dewberry in southwest Volusia County is now split.

The next districts, District 7, as I mentioned before, Seminole County is now whole. You can see the appendage right there no longer exists. That is the major change that happened with District 7. Obviously, keeping the city of Sanford whole is an addition to the county of Seminole.

The two other changes that we made with District 7, since District 6 had to come down into Dewberry we had to find a little bit more

15 population for District 7. You can see that the
16 boundary changed a little bit at those arrows where
17 Dewberry was split and it kind of, the boundaries
18 just shifted a little bit in Orange County to kind
19 of equal out population. Also with District 9
20 there, too. A little bit with District 5 down in
21 Orange County as well which I will talk about.

22 The next district, District 9, you can see
23 this is probably the district that separate from
24 District 5 and 10 where we made probably the most
25 dramatic visual change to the district. We had

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 previously kept the Osceola County whole. We
2 made -- the decision had to be made to improve
3 visual compactness, and I will kind of go through
4 how that really works with District 9 to split
5 Osceola County, mostly because of how Osceola
6 County interacts with District 10.

7 You can kind of see in the northwest corner of
8 Osceola County, it kind of extends out into
9 District 10, and if we kept that county whole it
10 would have negatively impacted both the visual and
11 mathematical compactness of District 10. We would
12 not have been able to bring it back to a level of
13 the 9043 map which was the last map that we passed
14 in the House that the Judge referenced many times
15 in his Order as being at least a more acceptable
16 map than the 9047 map.

17 So you can see we split it, the county twice

18 there in that northwest county, corner. And in the
19 southern part of Osceola County, in order to
20 improve the visual compactness of that area, I
21 think in one of the future slides I actually point
22 out why.

23 But you can kind of see where the major
24 changes for District 9, which also was taken out of
25 Polk County, so now it is entirely an Osceola,

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1 Orange County district, but all of the cities
2 within Osceola County are, remain whole.

3 And going back real quick so that this idea of
4 splitting Osceola County is not something that we
5 came up with a new idea. That, this is the
6 configuration of District 9 that was in the 9043
7 map that was the last map that the House passed
8 before we came up to the compromise.

9 So you can see that the idea for doing what we
10 did, doing is very similar to that of the 9043 map.
11 You can see the boundary within Orange County is
12 slightly different now than it was in 9043, and
13 that was to maintain District 8 without affecting
14 that district, also. But we were able to improve
15 the compactness both visually and mathematically
16 District 9 greatly.

17 And in District 10, the other district that
18 the Judge invalidated, you can see that the
19 appendage in Orange County, that was removed. You
20 can see we went into Osceola County and by doing

21 that by not having that Osceola County kind of take
22 a chunk out of District 10, we were able to make a
23 nice smooth line all the way down keeping the city
24 of Kissimmee whole, and greatly improving the
25 visual compactness of Congressional District 10, as

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 well as the mathematical change.

2 We also had to make a slight change based on
3 some of the other districts moving around. You can
4 see in Lake County, the district previously
5 District 11 previously went into Lake County in two
6 different places. Now it is just one, but that
7 little chunk that got taken out of District 10
8 there in the northwest corner got a little bit
9 bigger as a result.

10 And then District 10 had to come down in Polk
11 County and take the population that used to be in
12 District 9 and take that back. And that little
13 flag that I was talking about earlier, that is
14 actually a county boundary. That is the Osceola
15 County boundary and that little flag right there in
16 us trying to figure out a way to increase both
17 visual and mathematical compactness of District 10
18 to at least match what we had in 9043, which is
19 something that the Judge found a better
20 configuration for the district, we really struggled
21 with that little flag, what do we do with that.

22 We had three districts that we could put it
23 into District 17, 9 and 10, and as you can see, we

24 chose to put it in District 17. If we had kept it
25 in either District 9 or District 10 it would have

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 affected the compactness of the area which is part
2 of the reason why we decided to break the county
3 line. But that is actually the boundary of the
4 county, but it follows waterways. There is a lake
5 that kind of sticks out and goes back down and kind
6 of goes up.

7 So the county boundary is very, that is kind
8 of where keeping county boundaries together and
9 compactness kind of conflict. So we were -- that
10 was the better decision.

11 In District 11 you can see as I mentioned
12 before we changed the border and against District 5
13 a little bit up in the northeast corner. We took
14 out its -- so now it only goes in it Lake County in
15 one place, but made that little change bigger.
16 Other than that the district remained mostly,
17 mostly the same, but by making those small changes
18 we actually improved the mathematical compactness
19 of District 11 as well. So that was kind of an
20 added benefit to making the other changes in the
21 region. And you can see there are still three
22 whole counties in that district.

23 The last district that we effected is District
24 17, which was mostly made to accommodate visual
25 compactness for District 10 and District 9, but

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491
Page 19

1 also kind of make the top of the district kind of a
2 nice straight run across between both of those
3 counties, and without really negatively effecting
4 the compactness of District 17 greatly, and
5 although there are -- there is 11 counties now in
6 at least partially or entirely within District 17,
7 by only two of those 11 were impacted by our
8 drawing. The other counties will not have to
9 change their lines or do anything else, but none of
10 that district was effected as well.

11 So I am going to go back, I just kind of
12 walked through all of the -- you can see where we
13 changed it right there in those two. So now having
14 gone through all of the districts that we changed
15 and the changes that were there, I am going to go
16 back through and talk about some of the numbers of
17 compactness, and then the functional analysis for
18 CD 5 to kind of show how the numbers changed. That
19 is how the map changed, how did that effect the
20 numbers.

21 Now really quick, I know Justice Cantero
22 briefly mentioned Reock and convex hull, but those
23 can kind of be abstract terms that we throw around
24 a lot in redistricting, I just wanted to retouch on
25 them briefly.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 Reock and convex hull are two scores that the
Page 20

2 courts have used widely. Reock, what that means,
3 it is the area of the district divided by the area
4 of the smallest circle that can encompass that
5 district. So it is kind of an imaginary circle
6 that fits around the district and you divide it and
7 it becomes a ratio.

8 The scores are always between zero and one,
9 and just like all compactness scores, they all have
10 added benefits and negatives. The circle is the
11 most compact shape that you have. So that is
12 obviously a really good shape to compare to, but a
13 perfect square in the real world would look very
14 compact, but it would only score a .63 with Reock.

15 So you have to keep in mind that in the real
16 world, it is -- you can't really achieve one. It
17 is kind of like a batting average, you are never
18 really going to get 1,000, you are never going to
19 bat 1,000, you are going to bat somewhere in two,
20 300, something like that.

21 So the scores with Reock, even one-tenth of a
22 percent can be a very significant improvement in
23 certain districts. So keep that in mind, it being
24 a ratio.

25 The convex hull is similar. As the Justice

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 mentioned yesterday, it is like putting a rubber
2 band around the district and you take the area of
3 the district and you divide it by that polygon
4 shape that that imaginary rubber band fits around

5 the district.

6 There is advantages to that. Obviously that
7 will show higher scores, because the white space
8 not in the district is smaller, and it can kind of
9 fit around some more real world shapes, like
10 rectangles and squares better to get higher scores.

11 The negative is that if you had a district
12 that was 100 miles long and one inch tall would be
13 a rectangle, would score perfectly in convex hull,
14 but obviously that would -- I don't think anyone
15 would consider that a compact district. So with
16 these scores you kind of have to use them to your
17 benefit, but also understand how they have their
18 weaknesses as well.

19 Now, looking at the compactness scores, there
20 were, the repropose map that you have before you
21 compared to the enacted map, which is 9047 and 9043
22 which was the last version that we had here in the
23 House before the compromise that the Judge
24 referenced in his Order, you can see going through
25 the scores we either maintained a very similar

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 level or improved in basically every area.

2 Congressional District 5 is now a Reock .13
3 and a convex hull of .42, which is greater than the
4 district that the Judge found in 9043. He found a
5 little bit better than in 9047, which was a .10 and
6 a .35. So we improved both of these while still
7 maintaining a 48 percent black voting age

8 population district.

9 District 6 you can see maintained about the
10 same level. It went down slightly in Reock but
11 improved a little bit more in convex hull. So that
12 is kind of the trade off in some of the scores that
13 you have. So that was a good improvement.

14 CD seven remained about the same. It remained
15 exactly the same as it was in Reock in the enacted
16 map and went down slightly in convex hull.

17 CD 9 actually improved on both scores from the
18 enacted map. So that was an added benefit.

19 Congressional District 10 improved in both
20 scores from the enacted and we were able to match
21 the level in 9043 that the Judge referenced.

22 Congressional District 11 improved in both
23 scores from the enacted map, and CD 17 went back to
24 a more similar level in Reock two, the 9043 map,
25 but actually bet the convex hull score for both

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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26

1 maps.

2 So you can see mathematically in addition to
3 all of the visual images that we went through, we
4 maintained the similar level or improved most of
5 the scores across the board.

6 Now, going to city splits, which is something
7 that we used a lot prior and it is something that
8 we still tried to achieve as much as we could, we
9 maintained the amount of county splits that was in
10 the enacted map, but we had to increase one more

Page 23

11 city. I mentioned Dewberry. I should have
12 mentioned the other city that we had to split was
13 Ocoee in Orange County to increase the visual
14 compactness of the extension of Congressional
15 District 5 down into Orange County. We had to
16 split that city, but we were able to keep all of
17 the cities in Osceola County whole despite having
18 split the county. So that was an added benefit
19 without having to split anymore cities.

20 As I mentioned before, the impacted counties
21 are eight and the compacted districts are seven.
22 And now if you go to the functional analysis of
23 proposed District 5. You will see before you a
24 chart. In My District Builder we have more data
25 points available to us, but these are the data

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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27

1 points that Justice Pariente went through in her
2 apportionment one ruling when referring to
3 Congressional District 6. So I used them in this
4 chart. Also it helps to display just on the side a
5 little bit better, but we went through those same
6 data points that she used in that analysis, and I
7 put that up there.

8 So you can see the black voting age population
9 compared to the benchmark, which is again the 2002
10 district lines, with the new updated 2010 census
11 information, was at 49.87 or rounded off, 49.9
12 percent black voting age population.

13 The district that we drew in map 9057 is

14 48.11, and it is a slight decrease, but we were, if
15 you, and -- but that still means, we concluded that
16 that maintains the same voting strength and we
17 conclude that, because as we go through the
18 analysis you can see clearly looking at the
19 election results, which is the next four columns
20 down, you see the 2012 Presidential Democratic
21 candidate, which was President Obama, obviously the
22 same with 2008. The 2010, Governor's race for the
23 Democrats and the 2006, Governor's raise Democratic
24 candidate Davis.

25 You can see the Democrats clearly have control

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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28

1 of that district. They have won all of the last
2 four major statewide elections there, and comparing
3 that to the benchmark all of the percentages are
4 slightly less, but they are within about a percent
5 or two, which in that same district that I
6 mentioned before that Justice Pariente, I am sorry,
7 no, no, District 88 that the Justice ruled on in
8 that same apportionment ruling, we decreased the
9 black voting age population by about two percent,
10 and that -- she found that acceptable in that
11 particular district. We maintained that similar
12 range.

13 When you are doing a functional analysis it
14 isn't a formula you can plug in and it spits out an
15 exact black voting age population that you are
16 supposed to get at. It is an analysis of whether

17 or not the ability to elect remains the same or
18 lessens. A couple of percent either way
19 statistically you could make the argument, and I
20 believe in this case you do make the argument that
21 it maintains the ability to elect.

22 If you start to go below that level though,
23 because of the non diminishment standard that we
24 have in the Constitution that the lawyers talked
25 about yesterday, any slight decrease in the ability

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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29

1 to elect could be considered a diminishment. So we
2 have to be very careful there.

3 Looking at the next rows of columns down, that
4 is the Democratic registration. So you can see
5 that Democrats have control of the district. The
6 Democrat registration is about 60 percent on both
7 counts. The -- of those Democrats who are
8 registered to vote in the district we drew
9 65.28 percent of them are black, and in the
10 benchmark it was 66.41.

11 Now, of the amount of -- if you look and you
12 kind of do the reverse of that, if you look at the
13 blacks and figure out what parties they are
14 registered in, you can see that both percentages
15 are about 87 percent. So that kind of shows a
16 cohesiveness among the black voters in that
17 district in the connected communities that we
18 connect to, and the percentage remains about the
19 same.

20 You can see those percentages are duplicated,
21 a little increased actually when you look at turn
22 out for the 2010 elections, and then when you look
23 at the primary you can see that the blacks have a
24 clear control of the black, of the Democratic
25 primary and the percentages drop about a percent,

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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1 but still stay within that range that you can
2 maintain the ability to elect there. So that would
3 be the functional analysis for the proposed
4 District 5.

5 And then real quick, there is a slide, that is
6 kind of how everything of all fits together that I
7 went through. That is the presentation.

8 VICE CHAIR MCBURNEY: Thank you, Mr. Preda.
9 Chair Corcoran, you are recognized.

10 CHAIRMAN CORCORAN: Thank you. At this time,
11 Chairman, I would like to have legal counsel give
12 an analysis of its compliance with the Order.

13 VICE CHAIR MCBURNEY: Mr. Meros, I assume that
14 is you. You are recognized, sir.

15 MR. MEROS: Thank you, Chair, members. I can
16 -- I can only say that I am impressed and amazed at
17 the quality of the staff on both the House and the
18 Senate side.

19 What they did was to comply precisely with
20 what the Court ordered, and in doing so also
21 recognized that, that after a lot of work that they
22 could improve the metrics of the affected districts

23 and did so in a way that is perfectly compliant in
24 my view with the requirements that Judge Lewis put
25 out.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

31

1 And that improves the map for all Floridians.
2 It is more legally compliant than perhaps any
3 iteration that has come before. So it is just
4 remarkable effort by staff and a very good one for
5 the people.

6 VICE CHAIR MCBURNEY: Chair Corcoran, you are
7 recognized.

8 CHAIRMAN CORCORAN: I think that is the Bill
9 before us.

10 VICE CHAIR MCBURNEY: Thank you, Chair. Are
11 there any questions of the Bill sponsor?

12 REPRESENTATIVE THURSTON: Yes.

13 VICE CHAIR MCBURNEY: Representative Thurston,
14 Ranking Member Thurston, excuse me, you are
15 recognized for a question.

16 REPRESENTATIVE THURSTON: Thank you,
17 Mr. Chair. With the proposed map, does it improve
18 the -- any other districts in terms of opportunity
19 to be impacted by the minority vote?

20 VICE CHAIR MCBURNEY: Chair Corcoran, you are
21 recognized.

22 CHAIRMAN CORCORAN: In the Order and what we
23 are addressing, Leader Thurston, there is only one
24 district that that would involve and that is
25 Congressional District 5.

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1 REPRESENTATIVE THURSTON: Follow up.

2 VICE CHAIR MCBURNEY: Follow up. You are
3 recognized.

4 REPRESENTATIVE THURSTON: I believe that it
5 was said that there was this proposal affected
6 seven districts, in seven districts. Of those
7 seven affects districts other than 5, is there any
8 improvement in the ability of any type of minority
9 access or minority effect of any of the other
10 districts?

11 CHAIRMAN CORCORAN: None of the other
12 districts --

13 VICE CHAIR MCBURNEY: Chair Corcoran, you are
14 recognized.

15 CHAIRMAN CORCORAN: None of the other, Leader
16 Thurston, none of the other districts affected are
17 Tier 1 protected districts.

18 REPRESENTATIVE THURSTON: Follow up?

19 VICE CHAIR MCBURNEY: You are recognized.

20 REPRESENTATIVE THURSTON: Recognizing that
21 they are in the Tier 1 affected districts, we have
22 had some impact on those other districts, and I am
23 simply asking, will that impact assist in any ways
24 of having any impact on the person who is elected
25 by the minority communities who now would be within

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1 those districts?

2 VICE CHAIR MCBURNEY: Chair Corcoran, you are
3 recognized.

4 CHAIRMAN CORCORAN: I would say my same answer
5 there, Thurston, and to the extent that that wasn't
6 part of the Order that we had to deal with, it
7 wasn't looked at.

8 REPRESENTATIVE THURSTON: Thank you,
9 Mr. Chair.

10 VICE CHAIR MCBURNEY: Any other questions of
11 the Bill sponsor? All right, seeing none -- oh, I
12 looked the wrong way.

13 Representative Berman, you are recognized for
14 a question. And I would request if you do have a
15 question for our analyst, if you will designate
16 that first.

17 REPRESENTATIVE BERMAN: Okay. Thank you.

18 VICE CHAIR MCBURNEY: You are recognized.

19 REPRESENTATIVE BERMAN: Thank you, Mr. Chair.
20 I do have questions for the analyst, or actually
21 the Bill sponsor.

22 So was any performance data collected on the
23 districts, the seven districts that are being
24 changed?

25 VICE CHAIR MCBURNEY: Chair Corcoran, you are

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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34

1 recognized.

2 CHAIRMAN CORCORAN: The only performance data

3 was the functional analysis that was done as
4 required by law on Congressional District 5. No
5 others.

6 VICE CHAIR MCBURNEY: Follow up, you are
7 recognized.

8 REPRESENTATIVE BERMAN: And there was some
9 discussion by staff about the diminishment number
10 having to do with District 5. I would like a
11 little bit more explanation about the diminishment
12 number with regard to District 5.

13 VICE CHAIR MCBURNEY: Chair Corcoran.

14 CHAIRMAN CORCORAN: Can you be more specific,
15 Representative Berman?

16 VICE CHAIR MCBURNEY: Representative Berman,
17 you are recognized.

18 REPRESENTATIVE BERMAN: Thank you, Mr. Chair.
19 Is there a minimum or maximum number that we won't
20 diminish below that number? I guess what I am
21 saying is there a BVAP number that we have to
22 comply with?

23 VICE CHAIR MCBURNEY: Chair Corcoran, you are
24 recognized.

25 CHAIRMAN CORCORAN: This was answered

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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35

1 extensively yesterday by Attorney Meros to a line
2 of questions by Representative Rodriguez, and maybe
3 it would be best if he went back through that for
4 the entire Committee.

5 VICE CHAIR MCBURNEY: Mr. Meros, you are

6 recognized.

7 MR. MEROS: Certainly. I think the answer is
8 no. Black VAP by itself is a measurement to
9 consider, but that is not, it cannot be viewed in
10 isolation. You have to look at the black voting
11 age population, you have to look at turn out in
12 both the primary and general election.

13 You have to look at registration. You have to
14 look at any number of those things, and assess when
15 there is a diminishment in the ability to elect.
16 And it is important, as I said yesterday, to recall
17 that diminishment is not a binary number. It is
18 not a dichotomous value where you can say that at
19 this point there is a 50/50 chance of winning,
20 therefore, it is an ability to elect.

21 If, once you have done the analysis with a
22 real geographic area and the real numbers, a
23 minority community is less able to elect its
24 candidate of choice, that is a diminishment. That
25 is about -- that is not a clearly determinative

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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36

1 number, pretty much ever. You have to look at all
2 of the variables and make a judgment.

3 REPRESENTATIVE BERMAN: Thank you.

4 VICE CHAIR MCBURNEY: Any other questions?

5 REPRESENTATIVE BERMAN: Ross, do you want --

6 VICE CHAIR MCBURNEY: Representative

7 Rodriguez, you are recognized for a question.

8 REPRESENTATIVE RODRIQUEZ: Thank you,

9 Mr. Chair, or Mr. Chair, Vice Chair. I guess this
10 question is for house counsel, and it just follows
11 up on exactly this discussion. And it was
12 something in the -- and it relates to something you
13 were helping enlighten us on yesterday with respect
14 to how the BVAP operates and how we have to take
15 into account.

16 And the information you presented, you know,
17 clearly shows that as drawn, you know, the ability
18 of African-American voters to affect the outcome of
19 the election is preserved, but in terms of how the
20 BVAP comes into it, I just want to ask, page 20 of
21 the Judge's opinion that brings us here, states
22 that it was undisputed in the proceeding that there
23 was never a majority/minority in that district, and
24 yet it consistently performed to elect an
25 African-American to Congress.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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37

1 And it said that according to expert testimony
2 that that would probably be true, or that would be
3 statistically true with a BVAP as low as
4 43 percent, 43.6 percent. Could you comment on
5 that?

6 MR. MEROS: I think --

7 VICE CHAIR MCBURNEY: Mr. Meros, you are
8 recognized.

9 MR. MEROS: I apologize. I think that is a
10 misreading of what Judge Lewis said there. And let
11 me explain the history of that.

12 In the Summary Judgment phase of this trial
13 there was testimony from an expert, Dr. Tom
14 Brunell, who submitted an affidavit about whether
15 there was a diminishment in the plans submitted by
16 the Plaintiffs in the ability to elect.

17 But Dr. Brunell said in his affidavit, and
18 what is not, what was not mentioned by the
19 Plaintiffs, is that his first analysis was to try
20 to assess if you took that district and made it a
21 50/50 district, in other words, it is a toss up
22 whether you can be elected, what might that number
23 look like.

24 And he said there that you would have a flip
25 of the coin ability if it were at 43 point

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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38

1 something percent. He then went on to say that,
2 now, that is not the standard. The standard is
3 whether one makes it, the district makes it less
4 likely to elect, and because it is -- because the
5 district proposes less than 43 percent, I don't
6 even need to get there.

7 So and let me be clear, the Florida Supreme
8 Court, the Legislature and the Congress in the 2006
9 reauthorization of the Voting Rights Act, said that
10 it is not a situation where you can take a minority
11 district from 49.9 percent to the benchmark where
12 there is a clear overwhelming chance to win, and
13 take it down to a flip of the coin as to whether
14 you win. That is fundamentally contrary to what

15 Section V was about.

16 Section V was about don't backslide with
17 regard to the electoral strength of the minority
18 community, and that is a sliding scale dependent
19 upon the sort of careful analysis that we have been
20 talking about.

21 VICE CHAIR MCBURNEY: Do you have a follow up
22 question, Representative? You are recognized.

23 REPRESENTATIVE RODRIQUEZ: Thank you,
24 Mr. Chair. I have another question related to
25 something you were explaining yesterday, but now

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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39

1 that we have a PCB in front of us.

2 With respect to District 9, when we were
3 talking yesterday about the Judge's opinion on
4 District 10, that probably the reason why that some
5 of the Tier 1 factors didn't apply was because of
6 the Judge's determination, and I will just
7 literally read it.

8 "That with respect to District 9 there is no
9 evidence to suggest that a Hispanic majority
10 district could be created in central Florida."

11 And my question is, would it -- what data is
12 this map relying upon, presuming that that is, that
13 this map we are looking at here assumes that,
14 right, assuming that this map assumes that a
15 Hispanic majority is impossible in central Florida,
16 what data is that based on?

17 Is that based on 2010 census? Is it on

18 benchmark 2000 census data? How far back does the
19 data go?

20 VICE CHAIR MCBURNEY: Mr. Meros, you are
21 recognized.

22 MR. MEROS: If I understand correctly, you
23 were citing in part from the Judge's Order about
24 District 9. And so let me explain that and I will
25 explain what data.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

40

1 First of all, historically the population in
2 District 9 largely did not exist 10 years ago.
3 Yes, there was Hispanic population in that
4 geographic area, but it was very substantially less
5 than it is now. So all of a sudden you have a
6 population that may or may not have minority
7 protections that didn't exist in the benchmark.

8 And so what Judge Lewis there was saying is we
9 said to him, we thought a laudable goal to take a
10 minority, a now a minority population and raise the
11 population as much as reasonably possible from
12 39 percent and what the House recently did to
13 approximately 42 percent, because that would hasten
14 the ability of that district ultimately to elect a
15 Hispanic candidate.

16 It was conceded that as of this moment there
17 is not sufficient population to do so. He said in
18 response, well, that may be a laudable goal, but it
19 is not constitutionally protected under Tier 1, and
20 so under Tier 1 you cannot allow non-compactness to

21 trump a laudable goal that isn't required.

22 So what he was referring to there is, you
23 can't get that Hispanic population up to 50 percent
24 which would presumably, conceivably protected under
25 Section II of the Voting Rights Act, and there is

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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41

1 no question that population at this point cannot
2 get to 50 percent. And so he was saying because of
3 that we don't have any Section II type minority
4 protections.

5 We didn't have any diminishment protections,
6 because the population wasn't there in the
7 benchmark, so there is nothing to compare. So then
8 you have to go back to the Tier 2 requirements and
9 the Tier 2 requirements require compactness. The
10 appendage in District 10 has to give way despite
11 the fact it will have an impact on the minority,
12 the Hispanic population in District 9.

13 Now, in the iteration that we have now in this
14 proposal in District 9, the -- despite the fact
15 that Osceola County is split and the district is
16 very compact, the minority population is
17 approximately 39 percent, I believe, and Jason can
18 correct me if I am wrong. But it is very close to
19 39 percent, which is a very small reduction from
20 what the House had originally had been producing.

21 So there is going to be a Hispanic, a
22 performing district there relatively soon despite
23 the fact it is not presently protected under Tier

24

1.

25

VICE CHAIR MCBURNEY: I am going to recognize

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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42

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Mr. Preda to answer that, that part of the

2

question.

3

MR. PRED: Just real quick. The voting age

4

population, the Hispanic voting age population for

5

Congressional District 9 is now 38.37 percent.

6

VICE CHAIR MCBURNEY: Further questions?

7

Representative Berman, you are recognized for a

8

question.

9

REPRESENTATIVE BERMAN: Thank you,

10

Mr. Speaker. I believe at the beginning of the

11

presentation there was a list of who was involved

12

in actually drafting the maps.

13

My question is, were the maps shared with

14

either the Senate President or the House Speaker

15

before they were probably filed?

16

VICE CHAIR MCBURNEY: This question is for

17

who?

18

REPRESENTATIVE BERMAN: I would assume Chair

19

Corcoran.

20

VICE CHAIR MCBURNEY: Chair Corcoran, you are

21

recognized.

22

CHAIRMAN CORCORAN: I mean, I did report back

23

to the Speaker and give him conceptually where we

24

were and what concepts or changes we were making,

25

Representative Berman, but I don't think I ever

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 showed him a final map until it was filed.

2 REPRESENTATIVE BERMAN: Follow up?

3 CHAIRMAN CORCORAN: And just to clarify, I did
4 not show him a final map until it was filed.

5 REPRESENTATIVE BERMAN: Was there any --

6 VICE CHAIR MCBURNEY: Follow up question?

7 REPRESENTATIVE BERMAN: Thank you,
8 Mr. Speaker, Mr. Chair. Were there any other
9 people beside the list that you gave us at the very
10 beginning who saw the maps prior to their being
11 filed?

12 VICE CHAIR MCBURNEY: You are recognized,
13 Chair Corcoran.

14 CHAIRMAN CORCORAN: No, none that I am aware
15 of.

16 REPRESENTATIVE BERMAN: Thank you.

17 VICE CHAIR MCBURNEY: Representative McGhee,
18 you are recognized for a question.

19 REPRESENTATIVE MCGHEE: Thank you, Mr.
20 Chairman. Representative Corcoran, the question is
21 directed to you.

22 Are you aware of whether or not the data used
23 to create this map that sits in front of us was the
24 same data that was used prior to the Order that was
25 issued by Judge Lewis?

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 VICE CHAIR MCBURNEY: Chair Corcoran, you are
Page 39

2 recognized to respond.

3 CHAIRMAN CORCORAN: As I said in my opening
4 remarks, all of the data was the same out of My
5 District Builder that existed in 2012.

6 VICE CHAIR MCBURNEY: Is there a follow up
7 question? You are recognized.

8 REPRESENTATIVE MCGHEE: Thank you, Mr. Chair,
9 Vice Chair. Chair Corcoran, the -- is that -- no
10 question, Mr. Chair, thank you.

11 VICE CHAIR MCBURNEY: Are there any other
12 further questions?

13 REPRESENTATIVE THURSTON: Yes.

14 VICE CHAIR MCBURNEY: Ranking Member Thurston,
15 you are recognized for a question.

16 REPRESENTATIVE THURSTON: I have a question of
17 the counsel.

18 VICE CHAIR MCBURNEY: Mr. Meros.

19 REPRESENTATIVE THURSTON: Thank you again,
20 Mr. Meros. When you were explaining the BVAP
21 requirement you talked about the Order on page 20
22 of Judge Lewis' Order.

23 You are essentially saying there is no minimum
24 in which the BVAP can go to because it is a sliding
25 scale of a number of factors.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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45

1 VICE CHAIR MCBURNEY: Mr. Meros, you are
2 recognized.

3 MR. MEROS: Standing alone one can't simply
4 use black VAP as the only measurement. So whether

5 it is 99 percent black VAP or 40 percent, one still
6 has to look at other factors to make that
7 assessment.

8 REPRESENTATIVE THURSTON: Follow up.

9 VICE CHAIR MCBURNEY: Ranking Member, you are
10 recognized.

11 REPRESENTATIVE THURSTON: And so in your
12 estimation there is no floor, there is no level of
13 BVAP that we can go to where we say, well, that is
14 not enough. That is insufficient, we need to have
15 more?

16 VICE CHAIR MCBURNEY: Mr. Meros, you are
17 recognized.

18 MR. MEROS: Well, standing alone assessment,
19 looking at black voting age population will not
20 determine whether one is less able to elect. Now,
21 there is a point at which one says that you are
22 less likely to elect, but you -- you have to take
23 another plan.

24 So let's say this plan is a 48.11, and you
25 were to take it to whatever you take it, 47.5

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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46

1 percent. Then you have to look at that one and
2 when you do that, once you have a black VAP and
3 then you look at turn out, you look at
4 registration, you look at turn out in a primary
5 election. And one can say at that point or some
6 other point, yes, now there is a less of an ability
7 to elect. It is less likely.

Page 41

8 And so once you look at all of that you can
9 say, I now know that in this district at 47.5
10 percent and considering all of these other factors
11 there is a diminishment. You just can't take a
12 single number. That certainly doesn't mean you can
13 take black VAP to 30 percent. I mean, there is
14 certain obvious things.

15 If it is 99 percent or 30 or 40 percent in
16 this area, clearly, clearly, clearly that is
17 diminishment. At what point it becomes a
18 diminishment has to be based on a -- on a -- on a
19 new district to assess.

20 REPRESENTATIVE THURSTON: Thank you,
21 Mr. Chair.

22 VICE CHAIR MCBURNEY: Any additional
23 questions? Representative McGhee, you are
24 recognized for a question.

25 REPRESENTATIVE MCGHEE: Thank you, Mr. Vice

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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47

1 Chair. My question, and you can answer this
2 question, Mr. Chair, if I can simply put it out
3 there and maybe someone can help me.

4 Did map 9057 exist prior to Judge Lewis' Order
5 in any fashion or form?

6 VICE CHAIR MCBURNEY: Chair Corcoran, you are
7 recognized.

8 CHAIRMAN CORCORAN: No, it did not, and if I
9 could go back to your question, Representative
10 McGhee. Staff informed me that they did prior, all

11 of the data was the same as 2012, but they did add
12 in the 2012 election data, which was not there in
13 2012.

14 And so Representative Berman, staff has
15 informed me that staff did show the Speaker the
16 final version of the map prior to it being
17 released.

18 VICE CHAIR MCBURNEY: Any further questions?
19 Being no further questions are there amendments on
20 the desk? Is there an amendment? I have been
21 handed an amendment. There is an amendment.

22 This is by Representative Thurston, Ranking
23 Member Thurston, Representative, Ranking Member
24 Thurston, you are recognized to explain, to explain
25 the amendment.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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48

1 REPRESENTATIVE THURSTON: Thank you,
2 Mr. Chair. The amendment that we have presented is
3 -- first of all, let me say it is a great
4 amendment, and I want to address the Chairman's
5 criteria for the --

6 VICE CHAIR MCBURNEY: And I apologize, I meant
7 to do the same with you as I did with the Chairman,
8 and ask in your presentation if again you would
9 identify every person involved in drawing,
10 reviewing, directing or approving the proposal, the
11 criteria used by the map drawers, the sources of
12 any data used in the creation of the map other than
13 the data contained in My District Builder. The

14 nature of any functional analysis performed to
15 ensure that the ability of minorities to elect the
16 candidates of their choice is not diminished. And
17 how the proposed, the proposal satisfies all of the
18 Constitutional and statutory criteria applicable to
19 a Congressional Redistricting plan, and with that
20 you are recognized.

21 REPRESENTATIVE THURSTON: Thank you again,
22 Mr. Chair, and I appreciate that, and let me begin
23 by addressing those concerns.

24 First would be the identity of those drawings,
25 reviewing, directing or approving the amendment,

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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49

1 and that would be non other than Senator Dan Soto,
2 who is present here with us today, and his aid who
3 would be Kristen Byron.

4 As to the criteria used by the map drawers,
5 the criteria would be Article III, Section 20 of
6 the Florida Constitution, Fair District Amendment,
7 and Judge Terry Lewis' Final Order.

8 The sources of data for the map would be My
9 District Builder. The nature and the functional
10 analysis as has been explained would only be
11 directed to District 5, which is only Tier 1
12 district that is affected, and to assure the
13 minority ability to elect a representative. That
14 is the criteria.

15 However, this map maintains a BVAP of 43.71,
16 which is how we believe that the minority ability

17 is still protected. That is the geographic and the
18 political concerns for any technical aspect of the
19 drawing of the map.

20 We have with us Senator Darren Soto who will
21 address those concerns.

22 VICE CHAIR MCBURNEY: All right, Senator Soto,
23 you are recognized. Welcome back.

24 SENATOR SOTO: I was going to say that. It is
25 great to be back. Thank you, Chairman. A couple

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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50

1 of geographic concerns. It affects only three
2 districts, Districts 5, 10 and 7. It affects only
3 three counties which are Lake, Orange and Seminole
4 County.

5 It addresses in the Judge's Order the packing
6 issue that the Judge found with District 5, and it
7 also addresses the finger issues as they were
8 described in Judge Lewis' Order with regard to both
9 Sanford and going into Orange County, and the net
10 result is that we have the district that was just
11 explained for District 5, as well as two new
12 competitive districts with regard to District 10
13 since part of the ruling was that this district was
14 drawn to benefit a party and incumbent.

15 And then as a result of addressing District 5,
16 District 7 also became competitive. They are both
17 equally split between Democrats and Republicans
18 which was a top tier analysis under the Fair
19 District Amendments.

Page 45

20 And with that I would be glad to answer any
21 further questions that anybody has.

22 REPRESENTATIVE MCBURNEY: We will go back to
23 Ranking Member Thurston for your presentation.

24 REPRESENTATIVE THURSTON: Well, thank you, Mr.
25 Chairman. Senator Soto.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

51

1 VICE CHAIR MCBURNEY: Are you completed with
2 your --

3 REPRESENTATIVE THURSTON: I am completed with
4 mine.

5 VICE CHAIR MCBURNEY: Okay. Before we get to
6 questions of the Bill sponsor, I am going to ask
7 Mr. Preda to give a technical analysis of the
8 amendment.

9 MR. PREDA: Thank you, Mr. Chairman, this will
10 be very brief. Staff has gotten a chance to review
11 the amendment and do kind of a facial technical
12 analysis similar to what we would do to the maps
13 that we would draw ourselves.

14 This map, as Senator Soto said, changes three
15 districts and three counties. The black voting age
16 population as he mentioned is 43.71 percent.
17 Having done the same basic functional analysis, I
18 don't have the chart with me, but I looked at the
19 same data points that I looked at for the proposed
20 PCB and in my opinion there would be a clear
21 diminishment in the opportunity to elect in that
22 district, but I will let Mr. Meros elaborate more

Page 46

23 on that.

24 The next thing that I would look at would be
25 visual compactness. Looking at the three districts

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

52

1 that are affected, it would be my personal opinion
2 that visual compactness is not improved. The
3 appendage in District 10, which was a key point in
4 the Judge's Order is not entirely gone, and there
5 is still kind of a bump that goes out further that
6 kind of mirrors where the appendage was, so there
7 is that.

8 The compactness measures in Congressional
9 District 7 decreased from the enacted map to .55 in
10 Reock, .6, which it was .60 in the enacted map. It
11 did improve slightly in convex hull, from .77 to
12 .81. Congressional District 10 remained the same
13 in Reock, .39, and improved very slightly in convex
14 hull of .76, but the Reock number of .39 which
15 remains the same as the enacted map was something
16 that Judge Lewis found unacceptable in his ruling.

17 The Reock score for Congressional District 5
18 is .10, which is one one hundredth more than the
19 enacted map, similar to what it was in 9043 and the
20 Reock score is .33, which is four-tenths higher
21 than it was in the enacted map. And that is my
22 analysis.

23 VICE CHAIR MCBURNEY: And I am also going to
24 recognize Mr. Meros to give the legal analysis.

25 MR. MEROS: Thank you, Chair. I certainly
Page 47

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1 agree with Mr. Preda that this is -- this is a
2 clear diminishment of the ability to elect. And
3 Leader, this is an example of how one would look at
4 this, not just black VAP, but also some of the
5 other elements.

6 And I can tell you if one goes all the way
7 down the elements that one looks like, in every
8 element this is a diminishment. And just a couple
9 of examples and we have only had, you know, a
10 relatively small amount of time to look at this.

11 But this map as compared to the benchmark
12 decreases Kendrick Meek's margin of victory in that
13 prior election from 16.2 percent to 1.9 percent.
14 It decreases the black share of 2012 general
15 election turn out, from 51.8 percent to 43.4
16 percent.

17 It is in an area where there is acknowledged
18 racially polarized voting and white block voting
19 that tends to defeat the African-American's
20 candidate, either in a primary or in a general. It
21 takes 45,000 African-American residents from the
22 enacted CD 5, places them in districts that would
23 not elect an African-American.

24 It takes a district that has elected an
25 African-American candidate of choice in 11 straight

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1 elections, going back to the time when no
2 African-American had been elected since
3 reconstruction and takes it to a near certainty
4 that an African-American will be elected and takes
5 that down to a flip of the coin at the very best.

6 That is a -- that is clearly in violation of
7 the Tier 1 standard of non diminishment.

8 VICE CHAIR MCBURNEY: Now, members, are there
9 -- and again, I would ask that you direct the
10 question if it is to the analyst or to the
11 amendment sponsor.

12 So I think Ranking Member Thurston has a
13 question. You are recognized.

14 REPRESENTATIVE THURSTON: I have a question of
15 the attorney, Mr. Chair.

16 VICE CHAIR MCBURNEY: You are recognized.

17 REPRESENTATIVE THURSTON: Mr. Chair, counsel,
18 when you say that Kendrick Meek's position, now, he
19 was running in a statewide election, correct?

20 VICE CHAIR MCBURNEY: You are recognized.

21 MR. MEROS: Yes, sir, but one can evaluate in
22 that district what his percentage, what his
23 electoral results were. We are not talking about
24 statewide, we are talking about that district.

25 REPRESENTATIVE THURSTON: Follow up,

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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55

1 Mr. Chair?

2 VICE CHAIR MCBURNEY: Follow up, you are

3 recognized.

4 REPRESENTATIVE THURSTON: So in a statewide
5 election those individuals may have been shifted to
6 another district, but you gave a percentage that I
7 didn't understand. Explain that to me again.

8 VICE CHAIR MCBURNEY: Mr. Meros, you are
9 recognized.

10 MR. MEROS: If one takes the comparative
11 districts, District 5, and the enacted, the
12 benchmark map, and in this amendment, you -- and
13 you impose on that Kendrick Meek election results
14 in the other map, the benchmark map, his margin of
15 victory was over 16 percent. If you now impose
16 that same election in the amendment, that goes down
17 to 1.9 percent.

18 REPRESENTATIVE THURSTON: Follow up,
19 Mr. Chair.

20 VICE CHAIR MCBURNEY: You are recognized for a
21 follow up, Ranking Member.

22 REPRESENTATIVE THURSTON: Thank you,
23 Mr. Chair. When we asked the question about the
24 benchmark map, we asked the individuals who would
25 be moved to those other districts, but the other

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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56

1 districts, the other seven districts that were
2 affected by the benchmark map, would the
3 African-Americans in those districts who would now
4 be in those seven districts, would they have the
5 same consequences?

6 VICE CHAIR MCBURNEY: Mr. Meros, you are
7 recogni zed.

8 MR. MEROS: I am not sure I understand the
9 questi on. Are you talking about the 45,000
10 residents that I was referenci ng or --

11 VICE CHAIR MCBURNEY: Ranki ng Member Thurston,
12 you are recogni zed.

13 REPRESENTATIVE THURSTON: Thank you, thank
14 you, Mr. Chair. I am not sure about the actual
15 number, but in order to make the changes to the
16 benchmark map there is certain i ndi vi dual s who
17 would have been in Congressi onal Di strict 5 who are
18 no longer in Congressi onal Di strict 5.

19 Would they have the same consequences now in
20 the district that they have been moved to such that
21 they would not have any impact on the electing of
22 thei r representati ves?

23 VICE CHAIR MCBURNEY: Mr. Meros, you are
24 recogni zed.

25 MR. MEROS: I am not sure I understand, but I

FOR THE RECORD REPORTING TALLAHASSEE FLORI DA 850.222.5491

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57

1 can tell you that the -- the change in populati on
2 that came about from the 2010 census, did not
3 result in any, any movement of thousands of
4 Afri can-Ameri cans from CD 5 to another di strict.

5 So, in other words, and the seven affected
6 di stricts that the proposal that staff has done di d
7 not do that. There were 38.1 percent
8 Afri can-Ameri cans in thi s proposal. The House had

9 had anywhere from 47 and-a-half to close to 49 in
10 its iterations before, the Senate had more.

11 So what I am saying is that when you look
12 separately at this proposal and what it does to CD
13 5 as compared to the benchmark or, and that is the
14 proper comparison, or as compared to the enacted
15 map, it vastly decreases the ability of
16 African-Americans to elect a candidate of their
17 choice. And what that also does is there is 45,000
18 African-American residents by the very nature of
19 both the geography and the performance will be
20 disbursed into districts that will elect white
21 Democrats. That will clearly not elect an
22 African-American candidate of choice.

23 Now, which is precisely one of the reasons why
24 the voters voted for non diminishment as a Tier 1
25 standard.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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58

1 REPRESENTATIVE THURSTON: One last.

2 VICE CHAIR MCBURNEY: You are recognized for
3 one last follow up.

4 REPRESENTATIVE THURSTON: Thank you.
5 Representative, when Senator Soto says that it
6 improves the ability and makes competitive two
7 other districts, is that not accurate?

8 VICE CHAIR MCBURNEY: You are recognized.

9 MR. MEROS: I don't know the answer to that
10 because we have not assessed that, but I am glad
11 you asked that question, because I need to counsel

12 the Committee that with due respect to Senator
13 Soto, the notion that a map drawer can consistently
14 with the amendments make districts more competitive
15 is clearly illegal under the Florida Supreme Court
16 decision interpreting the amendments and what the
17 amendments say.

18 If one is drawing districts to make them more
19 competitive, whether more competitive for
20 Republicans or more competitive for Democrats, that
21 is an intent to favor an incumbent or a political
22 party. The Florida Supreme Court made that very
23 clear.

24 There is nothing in the amendments that says,
25 make districts more competitive. What the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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59

1 amendments do is constrain the Legislature to use
2 specific standards with the hope that that will
3 make the districts fairer. Whether they are
4 competitive or not is entirely dependent upon voter
5 preference. But geographic boundaries,
6 compactness, Tier 1 standards are nothing about
7 making something more competitive.

8 I would suggest that if I got up here and
9 argued that the 9057 makes the districts more
10 competitive for five Republicans, it would be
11 immediately stricken down by the courts.

12 VICE CHAIR MCBURNEY: Representative Young,
13 you are recognized for a question.

14 REPRESENTATIVE YOUNG: Thank you, Mr.

15 Chairman. And this question is for counsel.

16 In your various presentations you have
17 mentioned that in analyzing the diminishment issue
18 there are many factors that need to be considered,
19 in addition to the BVAP, and in assistance to the
20 Committee in making sure that we can effectively
21 analyze this amendment, I was wondering if you
22 could take a few minutes and go through for all of
23 us the various factors.

24 Just list them that need to be considered in
25 evaluating diminishment so that we can then

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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60

1 effectively question the Bill sponsor on how he
2 addressed each and every issue and the comparison
3 of the PCB.

4 VICE CHAIR MCBURNEY: Mr. Meros, you are
5 recognized.

6 MR. MEROS: And I will be happy to provide a
7 piece of paper that was available to the Committee
8 yesterday. But let me just go through the various,
9 the various elements. The black population, the
10 black voting age population, Hispanic, I am sorry.

11 REPRESENTATIVE YOUNG: I want to write it
12 down, thank you.

13 MR. MEROS: Black population, black voting age
14 population, Hispanic voting age, white population,
15 and white voting age population, and we are going
16 to go to registration data.

17 Voters registered as Republicans, registered

18 voters who are black, registered voters who are
19 Hispanic, registered Democrats who are black,
20 registered Hispanics who are Democrats, registered
21 Hispanics who are Republicans, registered voters
22 who are black, registered voters who are Hispanic,
23 registered Democrats who are black, registered
24 Hispanics who are Democrats, registered Hispanics
25 who are Republicans.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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61

1 The next area is turn out data. That is
2 general election voters who are black, general
3 election voters who are Hispanic, Democratic voters
4 at the general election who are black, Hispanic
5 voters at the general election who are Democrats,
6 Hispanic voters at the general election who are
7 Republicans, general election voters who are black,
8 Democratic voters who are black, Hispanic voters at
9 the general election who are Democrats, Hispanic
10 voters of the general election who are Republicans.
11 Democratic primary voters who are black, Hispanic
12 voters at the primary who are Democrats, Hispanic
13 voters at the primary who are Republicans.

14 Now, that with then be applied to various
15 elections, and those elections would be
16 presidential, gubernatorial, from 2012 to 2008. And
17 in addition I can tell you and Mr. Preda can talk
18 more specifically about this, even this list is not
19 inclusive of all characteristics that My District
20 Builder includes, and I may be wrong, Mr. Preda,

21 but I believe that to be the case, so it is -- it
22 is a detailed analysis.

23 VICE CHAIR MCBURNEY: Follow up, you are
24 recognized.

25 REPRESENTATIVE YOUNG: Thank you, Mr.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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62

1 Chairman. And counsel, is it an appropriate
2 expectation that any map that is brought before
3 this Committee would have prepared this detailed
4 analysis of every one of these factors to be able
5 to ensure that we could consider diminishment in an
6 effective way? Is that a fair statement?

7 VICE CHAIR MCBURNEY: Mr. Meros, you are
8 recognized.

9 MR. MEROS: It -- it certainly would be
10 important to have any -- any real ability to try to
11 determine whether there is diminishment.

12 VICE CHAIR MCBURNEY: Any additional --
13 Representative Fullwood, you are recognized for a
14 question.

15 REPRESENTATIVE FULLWOOD: Thank you. Thank
16 you, Mr. Chair. Mr. Chair, I would like to ask
17 Senator Soto to come up and respond to the
18 counselor's, to the House attorney's statements
19 regarding, I guess regarding the validity of the
20 map, and the process that was used to create the
21 map.

22 VICE CHAIR MCBURNEY: Senator Soto, you are
23 recognized to respond.

24 SENATOR SOTO: Thank you, Mr. Chairman. And I
25 have great respect for Mr. Meros. This isn't the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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63

1 first time we have actually put in an election
2 lawsuit on the other side of each other, right, and
3 it probably won't be the last.

4 The first test of the detailed analysis, I
5 wish I had the resources to be able to do that. It
6 was my aid and I who put this together. So I am
7 thankful for staff to start looking at a lot of
8 this, but I just didn't have the resources to put
9 it altogether when this map was created over the
10 last three days, and so for that I do apologize. I
11 wish I had more information for you.

12 But there were strict guidelines about who to
13 be able to work with and what resources to use, and
14 so that did limit the kind of nice analysis that
15 was done in the other map.

16 I did want to talk briefly about the word
17 competitiveness. I use that as a general term.
18 What I was referring to is the top tier analysis to
19 not make districts in favor of any party or any
20 incumbent. Under Judge Lewis' Order he found that
21 District 10 was created to benefit an incumbent and
22 so necessarily I had to address that and make sure
23 it wasn't benefiting a particular incumbent or a
24 party as a result.

25 And so part the of the map that I fashioned

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491
Page 57

1 along with Ms. Byron was to address that specific
2 point that it was drafted to favor a party and an
3 incumbent and change it back to something that was
4 equal that did not favor either party or either
5 incumbent.

6 With regard to diminishment, I looked at what
7 Dr. Brunell had said, who was the House's expert,
8 and he said that, and I thought it was a
9 conservative estimate, but that 43.6 percent would
10 still allow a 50/50, and if you go above that for
11 African-Americans in a district to be able to elect
12 the representative of their choice.

13 The reason why I think it is a conservative
14 estimate is when you look at the primary, you are
15 going to have to have staff look at the exact
16 percentage, but African-Americans represented well
17 into the 60s as far as a percentage of the primary
18 and then the general election is 50 something
19 percent Democrat to 20 something percent
20 Republican.

21 So the chances of under the map as drawn by
22 the first map or the second map of someone coming
23 out of that primary not winning are slim to nil,
24 but I also wanted to deal with the concept of
25 diminishment in general.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 District 9 under the standards that are being
Page 58

2 critiqued of District 5 in the Thurston map would
3 also find that District 9 has been diminished in
4 the first map, because there has been a reduction
5 numerically in Hispanics in District 9 from the
6 original map that was ruled upon by Judge Lewis and
7 the map proposed here today.

8 So if we were just to take a strict numerical
9 interpretation of diminishment, both maps would be
10 in violation, but I believe and I believe also
11 staff had talked about that a numerical
12 diminishment could, but is not an actual
13 diminishment.

14 You have to look at many factors and that was
15 what -- what House counsel had discussed as well.
16 So I think at best we are looking at two maps where
17 the Judge will have to decide whether District 9 in
18 the first map or District 5 in the second map was a
19 diminishment.

20 VICE CHAIR MCBURNEY: Representative Coble,
21 you are recognized for a question.

22 REPRESENTATIVE COBLE: Thank you, Mr.
23 Chairman, I will probably have a series for Senator
24 Soto.

25 VICE CHAIR MCBURNEY: You want to direct your

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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66

1 questions to Senator Soto. Let's go ahead and
2 continue working through the Chair so we remain
3 consistent.

4 REPRESENTATIVE COBLE: Thank you, Chairman.
Page 59

5 Senator Soto, thank you for this. I had a couple
6 of just fundamental questions. You were talking a
7 moment ago about your view of whether or not your
8 proposal reflects diminishment in the ability.

9 So first I want to, I want to set up, would
10 you submit that you agree or disagree with the way
11 in which House counsel views Section II and how
12 diminishment works in the abstract?

13 SENATOR SOTO: I --

14 VICE CHAIR MCBURNEY: Senator Soto, you are
15 recognized.

16 SENATOR SOTO: Sorry, Mr. Chair. I would
17 agree with what staff counsel or what House staff
18 stated already, which is that a numerical
19 diminishment could be a diminishment, but you have
20 to look at many factors and I believe that was kind
21 of a hybrid of what both staff and what Mr. Meros
22 said.

23 VICE CHAIR MCBURNEY: Representative Coble,
24 you are recognized.

25 REPRESENTATIVE COBLE: Thank you, Mr. Chair.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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67

1 I may want to come back to that. But the follow up
2 that I already had, if I heard the way you
3 described your response a moment ago then, do you
4 then disagree with the expert testimony that was
5 provided in the case that 43 percent would reflect
6 a 50/50 coin toss?

7 SENATOR SOTO: I believe --
Page 60

8 VICE CHAIR MCBURNEY: Senator Soto, you are
9 recogni zed.

10 SENATOR SOTO: I apol ogi ze.

11 VICE CHAIR MCBURNEY: Remember we have a
12 Chai r.

13 SENATOR SOTO: I am so sorry about that. I
14 di d look at Dr. Brunell's opini on. I am not an
15 expert, but I tried to use an expert's opini on as
16 far as what would be a 50/50 flip, at least in
17 consi derati on of it. But I would also argue that
18 you have to look at other factors just like what
19 was di scussed.

20 And I find the fact that it is an
21 overwhel mi ngly Afri can-Ameri can pri mary for an
22 overwhel mi ngly Democrati c di stri ct is something
23 that the Court may eventu ally consi der in the
24 abi li ty of an Afri can-Ameri can communi ty to elect a
25 candi date of thei r choi ce in the ul ti mate re vi ew of

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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68

1 the map.

2 VICE CHAIR MCBURNEY: Representati ve Cobl e,
3 you are recogni zed.

4 REPRESENTATIVE COBLE: Thank you, Mr. Chair,
5 and thank you, Senator Soto. A di fferent li ne of
6 questi oni ng.

7 I am looking at the map that we are currently
8 operati ng under and then compari ng it to the
9 submi ssi on we have before us. I know you di dn' t
10 have time to prepare a Power Poi nt wi th fancy

11 animations like staff had, but if you could, I
12 would expect since you have worked diligently on
13 this, you could kind of walk us through the actual
14 geographic areas in District 5 where there is a
15 substantial change.

16 VICE CHAIR MCBURNEY: Senator Soto, you are
17 recognized.

18 SENATOR SOTO: Thank you, Mr. Chairman. I had
19 my -- my assistant help me prepare that. The only
20 counties affected by the district lines in this map
21 are Orange, Lake and Seminole. The northeast
22 Seminole County line is followed along the eastern
23 border of Congressional District 5 to Highway 46
24 where the district heads east until Orange
25 Boulevard just west of I-4.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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69

1 The district continues southwest and this
2 discusses the natural boundaries, neighborhoods and
3 streets, and I could also provide the Committee
4 with a copy of this analysis prepared by my
5 assistant, Christine Byron, after the Committee
6 meeting, but I will go on.

7 The district continues southwest until State
8 Road 434 where the district continues south to
9 Edgewater Drive and then follows Lee Road to
10 Highway 50, which is a major artery in Orlando,
11 also known as Colonial Ave. Senate District -- I
12 am sorry, Congressional District 5 then goes east a
13 long Highway 50 to I-4 where it continues south to

Page 62

14 L. B. McLeod Road, encompassing the downtown
15 Orlando neighborhood of Paramore.

16 The district then heads north along Kirkman
17 Road to State Road 408, which is a highway, it is
18 our east/west expressway highway, also a major
19 street, well, highway in the area.

20 Encompassing neighborhoods, I am sorry, the
21 district then heads north along State Road 435,
22 Clarcona Ocoee Road, another major State Road in
23 west Orange County encompassing the neighborhood of
24 Pine Hills, until reaching Apopka.

25 Congressional District 5 then heads west along

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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70

1 441, a State Road through Zellwood and north around
2 Lake Road to Sorrento. The district then heads
3 west to Mt. Dora along State Road 46 to 19A, and
4 then turns north encompassing Umatilla to the
5 northern Lake County border, and then east along
6 the county border along Highway 42 until reaching
7 439 heading north. The northern parts of
8 Congressional District 5 were unchanged.

9 And just to go by neighborhood so everybody
10 can visualize it, Congressional District 5 kept the
11 traditional African-American neighborhoods of Pine
12 Hills and Paramore, which were part of the -- are
13 part of the city of Orlando and Orange County.
14 Congressional District 7 now contains both Sanford
15 and Eatonville, Sanford in particular was discussed
16 by Judge Lewis as one of the fingers and it was

17 also removed on your map as, or sorry, the first
18 map as well.

19 And then Webster's district, excuse me,
20 Congressional District 10 now contains Tangelo
21 Park, Holdens Heights and South Apopka, those being
22 far south and encompassing part of the other finger
23 that was discussed by staff and by Judge Lewis, as
24 well as the fact that they are to the west. And so
25 they more naturally go into Congressional District

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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71

1 10.

2 And that is a rough geography of the districts
3 and I will be able to help -- we have a copy here
4 that I can present to staff if the Sergeant and
5 Arms wouldn't mind bringing it over.

6 VICE CHAIR MCBURNEY: Representative Caldwell,
7 you are recognized for a question.

8 REPRESENTATIVE CALDWELL: Thank you, thank
9 you, Mr. Chairman and thank you, Senator Soto.

10 Could you, I guess you have described yourself
11 and your aid were the primary people working on
12 this.

13 SENATOR SOTO: The only people working on it.

14 REPRESENTATIVE CALDWELL: Okay, could you
15 describe to us kind of the thought process in
16 adding these, these communities, Umatilla, Eustis,
17 Mt. Dora, why those and not for example going
18 deeper to the east into Seminole County and into
19 Sanford?

20 I also see that your map would add Maitland
21 and parts of, well, not as part of Mountain
22 Springs, but those areas, what why was the thought
23 process that you had in those choices?

24 VICE CHAIR MCBURNEY: Senator Soto, you are
25 recognized.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

72

1 SENATOR SOTO: I am sorry.

2 VICE CHAIR MCBURNEY: You remember how to do
3 that.

4 SENATOR SOTO: I know, I am sorry. I applied
5 the second tier factors as far as using natural
6 boundaries that I just described, and then also
7 looking at what districts were contiguous to -- to
8 make sure that it wasn't disruptive.

9 VICE CHAIR MCBURNEY: Representative Caldwell,
10 you are recognized.

11 REPRESENTATIVE CALDWELL: I am all right now,
12 Chairman. I will think for a few minutes.

13 VICE CHAIR MCBURNEY: Okay, Representative
14 Oliva, you are recognized for a question.

15 REPRESENTATIVE OLIVA: Thank you, Mr. Chair.
16 Senator Soto, I am still and I can fully appreciate
17 your lack of staff on this. I can understand the
18 complexity of all of this.

19 What I am still trying to understand is if you
20 contend, and it sounds like you do, that both the
21 visual compactness of your proposed map, and also
22 that there is a clear diminishment in ability to

Page 65

23 elect, if you refute those can you walk us through,
24 you said there were several factors, can you walk
25 us through why there would not be a clear

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

73

1 diminishment and ability to elect in your proposed
2 map?

3 VICE CHAIR MCBURNEY: Senator Soto, you are
4 recognized.

5 SENATOR SOTO: Thank you. Let's talk about
6 visual compactness. I wasn't able to do any of the
7 analysis that staff has done, both the -- both the
8 Reock and the other one.

9 So there has been no analysis done because I
10 didn't have those type of resources, but I am sure
11 staff will be able to work on that for you. So I
12 wasn't able to do any analysis on compactness,
13 admittedly.

14 With regard to diminishment, my belief is that
15 this is not a diminishment because --

16 A VOICE: Thank you.

17 SENATOR SOTO: Because first, the House's
18 expert testified that they even believed that it
19 would be a 50/50 chance under 43.6 percent at trial
20 which was included in the opinion. No other
21 percentage was included in the -- in Judge Lewis'
22 opinion. So we can't infer that it is any other
23 percentage because there hasn't been any.

24 And I believe that that is a conservative
25 estimate because of the fact that African-Americans

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1 represent a large portion going into the 60s of the
2 Democratic primary, and that the district is
3 overwhelmingly Democratic as drawn in both the
4 original and post map, thus making it -- making it
5 not a diminishment for African-Americans to elect a
6 candidate of their choice, both the primary and
7 ultimately in the general election.

8 VICE CHAIR MCBURNEY: All right, any other
9 questions? All right, seeing no further questions.
10 Okay. Just one follow up?

11 REPRESENTATIVE OLIVA: Thank you, Mr.
12 Chairman, and I guess this would be, this question
13 would be for Mr. Meros. Because again, I am
14 seeking clarity here. It seems like we have an
15 opinion on whether there is a diminishment on the
16 proposed map or not, and Senator Soto seems to
17 believe there isn't and staff and legal believes
18 there is. Can you give some clarity on that?

19 MR. MEROS: Certainly.

20 VICE CHAIR MCBURNEY: Mr. Meros, you are
21 recognized.

22 MR. MEROS: I apologize. To be very clear as
23 to what Judge Lewis said and did not say about a
24 district at 43 percent and above. What he said was
25 just what I said before and that is Dr. Brunell

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1 said that one could have a 50/50 chance, a flip of
2 the coin at 43.6 or 43.7 percent.

3 He never said and did not hint that going from
4 a certainty of an African-American being able, the
5 population being able to elect its candidate of
6 choice to a coin toss is not a diminishment. As a
7 matter of law, as a matter of common sense, it is.

8 You might recall that the supporters of the
9 original Amendment VI to this body said with,
10 because the legislators had a concern about what
11 that might mean and whether that might mean that
12 there would be a deterioration or wiping out
13 minority districts. They assured the Legislature
14 that diminishment means diminishment, not fancy, it
15 is simple terms, diminishment.

16 What does diminishment mean? Does it lessen?
17 Does it lessen the ability to elect? I think as a
18 matter of common sense, as a matter of law, if you
19 go from 100 percent to tossing a coin you have
20 lessened the ability.

21 VICE CHAIR MCBURNEY: Further questions?

22 REPRESENTATIVE FULLWOOD: Yes.

23 VICE CHAIR MCBURNEY: Representative Fullwood,
24 you are recognized for a question.

25 REPRESENTATIVE FULLWOOD: Thank you,

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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76

1 Mr. Chair. I do have a question for either Senator
2 Soto or Representative Thurston, Leader Thurston,

3 regarding this map. It appears, how many counties
4 are affected or how many congressional seats are
5 affected, and how many special elections would it
6 call for versus --

7 REPRESENTATIVE THURSTON: I am sorry, go
8 ahead.

9 REPRESENTATIVE FULLWOOD: Versus the PCB that
10 is before us?

11 VICE CHAIR MCBURNEY: Thank you, Leader
12 Thurston, you are recognized.

13 REPRESENTATIVE THURSTON: Yes, as counties
14 affected is three, districts affected is three as
15 well. As far as how many special elections, I am
16 not sure about that.

17 REPRESENTATIVE FULLWOOD: So is it suffice to
18 say that --

19 VICE CHAIR MCBURNEY: Representative Fullwood,
20 do you have a follow up?

21 REPRESENTATIVE FULLWOOD: Yes, Mr. Chair.

22 VICE CHAIR MCBURNEY: Okay. You are
23 recognized.

24 REPRESENTATIVE FULLWOOD: You run a great
25 meeting, Mr. Chairman. I want to say that.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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77

1 VICE CHAIR MCBURNEY: Is that your question?

2 REPRESENTATIVE FULLWOOD: No, no, no, that was
3 just a statement. So my question to whomever would
4 be, since it only affects three districts, would
5 this equate to only needing three special elections

6 versus potentially seven special elections with the
7 committee piece?

8 VICE CHAIR MCBURNEY: Thank you, Member
9 Thurston, you are recognized.

10 REPRESENTATIVE THURSTON: I would defer to
11 staff to that question.

12 VICE CHAIR MCBURNEY: Mr. Preda, do you have
13 an answer then, you are recognized?

14 MR. PEREN: Well, as of right now there
15 wouldn't be any special elections. That is up for
16 Judge Lewis to decide.

17 VICE CHAIR MCBURNEY: All right, seeing no
18 further questions.

19 REPRESENTATIVE FULLWOOD: Follow up, thank
20 you, Mr. Chair. Hypothetically if the Judge
21 decides to -- to have special elections for all of
22 the districts that were affected, would this
23 hypothetically only cause three special elections
24 versus the seven special elections if we adopt the
25 Bill that is before us, the primary Bill, the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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78

1 Committee Bill?

2 VICE CHAIR MCBURNEY: Who is your question
3 directed to, Representative?

4 REPRESENTATIVE FULLWOOD: To staff.

5 VICE CHAIR MCBURNEY: Mr. Preda, you are
6 recognized?

7 MR. PREDAS: I suppose that would be correct
8 hypothetically.

9 VICE CHAIR MCBURNEY: Representative Berman,
10 you are recognized for a question.

11 REPRESENTATIVE BERMAN: Thank you, Mr. Chair.
12 When Mr. Preda did his analysis there was a piece
13 called, Proposed District 5 Functional Analysis
14 Chart, and it references the presidential and
15 gubernatorial campaigns.

16 Was any -- I know this is all very recent, but
17 was any type of similar analysis done for the
18 amendment proposed by Representative Thurston?

19 VICE CHAIR MCBURNEY: Mr. Preda, you are
20 recognized.

21 MR. PEDA: Thank you, Mr. Chairman. As I
22 mentioned before, yes, we looked at the same data
23 points, we did the same basic functional analysis.
24 I didn't have time to prepare a chart, but I could
25 certainly prepare those numbers for you. They are

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

79

1 all available in My District Builder, but I looked
2 at those same data points as well as any others
3 that are available in the program.

4 VICE CHAIR MCBURNEY: Do you have a follow up?

5 REPRESENTATIVE BERMAN: Yes.

6 VICE CHAIR MCBURNEY: You are recognized.

7 REPRESENTATIVE BERMAN: Thank you, Mr. Chair.
8 When Attorney Meros just did his presentation he
9 referenced the Kendrick Meek race which is a
10 Senatorial race, and these two on this chart are
11 the President and Governor race.

12 And I was wondering why there was a difference
13 between that, the races that were being used in the
14 analysis?

15 VICE CHAIR MCBURNEY: Mr. Meros, you are
16 recognized.

17 MR. MEROS: That is a particularly important
18 race because that is a race where there is an
19 African-American versus a white candidate, and also
20 a Hispanic candidate. So one is always looking at
21 and hopefully being able to assess turn out,
22 performance in -- in an election relating to, that
23 has an African-American and a white.

24 And so statewide elections, presidential,
25 Senatorial, gubernatorial are all good elections.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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80

1 One can also look at local elections for
2 polarization, so.

3 REPRESENTATIVE BERMAN: Any question?

4 MR. MEROS: So there is no one subset of
5 election data that is perfect.

6 VICE CHAIR MCBURNEY: Ranking Member Thurston,
7 you are recognized for a question.

8 REPRESENTATIVE THURSTON: Thank you,
9 Mr. Chair. Counsel, I think it goes to our
10 question about earlier that I asked you why were
11 you infusing the Kendrick Meek's numbers, because
12 that election, I remember it was, the Kendrick Meek
13 race was when I guess Governor Crist was running as
14 an Independent and you had a Democrat, an

15 Independent and -- and you had a Republican.

16 So wouldn't those numbers be skewed in terms
17 of you trying to do some analysis based on a
18 Hispanic and a black and a white? And these other
19 races you have got you don't have an Independent
20 throwing the numbers and the figures off like that.
21 So wouldn't that make your analysis kind of
22 irrelevant?

23 VICE CHAIR MCBURNEY: Mr. Meros, you are
24 recognized.

25 MR. MEROS: Respectfully, no, sir, I think in

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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81

1 fact it is, it is more probative than most
2 elections, because it is a white candidate or white
3 candidates versus an African-American candidate,
4 and the extent to which the African-American
5 candidate loses the black vote in another
6 configuration.

7 If Kendrick Meek gets 16 percent of the
8 African-American vote, has a margin of victory by
9 16 percent, and that goes down to one point
10 whatever percent, then that to me is a clear
11 showing that a -- that that alternative
12 configuration makes an African-American candidate
13 far less likely elected. So the fact that it was a
14 black and white election, so to speak, is very
15 probative.

16 Now, if one were to look at other issues,
17 Republican versus Democrats or the impact of

18 Independence apart from race, maybe that would be a
19 run off election, but it is very probative for this
20 sort of analysis in my opinion.

21 REPRESENTATIVE THURSTON: Follow up,
22 Mr. Chair?

23 VICE CHAIR MCBURNEY: I am going to let Chair
24 Corcoran, the Bill sponsor, he wants to respond to
25 that as well.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

†

82

1 CHAIRMAN CORCORAN: No, I think, Leader, I
2 think what you are asking and in agreement with
3 counsel, but the comparison is, it is the two
4 districts with the outcome of that race with the
5 Independent involved in both evaluations. So when
6 you see Kendrick's numbers significantly drop in
7 comparison to the two races and the two districts
8 is identical with the Independent being involved in
9 both analysis.

10 REPRESENTATIVE THURSTON: That --

11 VICE CHAIR MCBURNEY: Do you have a follow up
12 question?

13 REPRESENTATIVE THURSTON: To the Chair, my --
14 thank you, Mr. Chairman. I just was wondering
15 though, when you do that type of comparison, I
16 don't know how you can determine, you know, whether
17 the white Democratic voted for Kendrick Meek
18 because he was a Democrat or the white Independent
19 didn't vote for him.

20 I think that, you know, your analysis now

21 become so convoluted that I don't know what type of
22 probative value I would give that or, I guess that
23 is why we were wondering why all of the other
24 analysis that race wasn't used, but here it is
25 being used as some significant factor.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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83

1 VICE CHAIR MCBURNEY: Chair Corcoran, you are
2 recognized to respond.

3 CHAIRMAN CORCORAN: I think Attorney Meros has
4 gone over all of it. It is a multitude of factors,
5 but in that particular race it is probative that
6 looking at the two districts side by side in the
7 exact same identical race, that Kendrick Meek would
8 go from a 16 point margin of victory to less than
9 two.

10 That is the probative value that clearly
11 suggests something in the difference between the
12 district's ability to elect a candidate of their
13 choosing.

14 VICE CHAIR MCBURNEY: Are there any other
15 questions? Mr. Meros, I am sorry, you are
16 recognized.

17 MR. MEROS: Yes, sir, thank you. If I may add
18 one thing so that the Leader can understand
19 something that I have not yet said, and that is in
20 the trial the expert witness on behalf of the
21 NAACP, Dr. Richard Instagram, who is the preeminent
22 voting rights expert over the past 30 years,
23 testified that that election, the Meek election,

24 was the most probative election to assess polarized
25 voting in the northeast area and to assess whether

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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84

1 an alternative configuration of CD 5 was a
2 diminishment.

3 And so this is not just George Meros talking,
4 this is an expert on whom many have relied for
5 many, many years on careful Voting Rights Act
6 analysis.

7 VICE CHAIR MCBURNEY: Representative
8 Rodriguez, you are recognized for a question.

9 REPRESENTATIVE RODRIQUEZ: Thank you,
10 Mr. Chair. So to continue along this line, I don't
11 think, I don't think any of this line of
12 questioning is -- it questions what the Judge
13 determined that there is racially polarized voting
14 in northeast Florida. I don't think that is the
15 question.

16 But when we look at the -- the Meek, Crist,
17 Rubio race, the question I have is, was there any
18 analysis done of the Democratic primary, because in
19 that, in that race you did have a white candidate
20 and a black candidate in the Democratic primary?

21 Did you look at any of that, and the reason I
22 am asking the question is because what seems
23 troubling with the analysis that you present is it
24 seems, it makes an assumption that every single non
25 African-American Democrat would have not voted for

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491
Page 76

1 Meek. It sort of seems to be implication of the
2 data you presented, which intuitively doesn't make
3 any sense.

4 So if you could talk about did you look at the
5 primary election in that year?

6 VICE CHAIR MCBURNEY: Mr. Meros, you are
7 recognized.

8 MR. MEROS: Representative, I can tell you
9 that Dr. Instagram and with regard to the
10 diminishment standard I believe did look at all of
11 that. I would be happy to provide that from the
12 testimony at trial and he has a report. So I
13 cannot recount exactly what was analyzed there, but
14 I feel confident that something like that was
15 evaluated.

16 Now, certainly this does not suggest that
17 there is no crossover voting, but there is a
18 substantially less crossover voting in this area
19 than there is in many others. So it may not be
20 zero crossover, but it is much, much less
21 crossover.

22 And so that very much factors into the
23 diminishment issue, and also the issue of whether a
24 black Democrat can win a primary versus a white,
25 but I will be happy to provide that, the transcript

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

1 and the exhibits.

2 VICE CHAIR MCBURNEY: You are recognized for a
3 follow up.

4 REPRESENTATIVE RODRIQUEZ: Thank you Mr. Chair
5 on follow up. So the answer to the question is
6 that you did not look at that from the primary?

7 VICE CHAIR MCBURNEY: Mr. Meros.

8 MR. MEROS: At trial the NAACP presented
9 Dr. Instagram's testimony. That was -- we were
10 not, he was not a co-expert, but we relied on his
11 expert testimony in support of the fact that an
12 east/west configuration would be a diminishment.

13 VICE CHAIR MCBURNEY: Any further questions?

14 REPRESENTATIVE THURSTON: One last question.

15 VICE CHAIR MCBURNEY: One last question,
16 Ranking Member Thurston, you are recognized.

17 REPRESENTATIVE THURSTON: On the map that is
18 proposed today, can -- what is the break down of
19 the Kendrick Meek race on that map?

20 VICE CHAIR MCBURNEY: Mr. Meros, you are
21 recognized.

22 MR. MEROS: I don't have that in front of me.
23 I don't know if Mr. Preda does, but we can provide
24 it and perhaps Mr. Bardos. Mr. Bardos does, my
25 law partner.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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87

1 VICE CHAIR MCBURNEY: All right, seeing no
2 further questions. We do? Okay, he does have it.

3 MR. MEROS: If I may, Mr. Chair, if I may just
4 Mr. Bardos to answer that question.

5 VICE CHAIR MCBURNEY: Okay.
6 MR. MEROS: Okay, I apologize, I am ready.
7 VICE CHAIR MCBURNEY: All right.
8 MR. BARDOS: With regard to this 2010, Senate
9 Kendrick Meek, 46.7 percent, Rubio, 35 percent,
10 Crist, 18.3 percent.
11 REPRESENTATIVE THURSTON: All right, follow
12 up.
13 VICE CHAIR MCBURNEY: Follow up, you are
14 recognized.
15 REPRESENTATIVE THURSTON: What is the
16 diminishment there, if any?
17 VICE CHAIR MCBURNEY: Mr. Meros, you are
18 recognized.
19 MR. MEROS: That has to be compared to the
20 other map, and I don't -- I don't have that number
21 right here.
22 VICE CHAIR MCBURNEY: All right, seeing no
23 further questions we will go on to public testimony
24 on the amendment.
25 Is there any public testimony on the

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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88

1 amendment, on the amendment alone? All right,
2 seeing no public testimony we will go into debate.
3 Does anybody wish to debate the amendment?
4 All right, seeing no one wishing to -- Chair
5 Corcoran, you are recognized in debate on the
6 amendment.
7 CHAIRMAN CORCORAN: First, thank you, Senator,
Page 79

8 I appreciate your effort, I appreciate your concern
9 for the state. More than anything I appreciate
10 that it was not a rhyme and we had to sit through a
11 poem or something along those lines, but it was
12 probably hard to get all of those BVAPs and make
13 them rhyme, but maybe you could put it in a Rap
14 song or something.

15 But anyway, I just want to say that, but to
16 his map and to the map that -- the underlying map,
17 the underlying map, basically the only thing as
18 Representative Fullwood pointed out, is it affects
19 three Congressional Districts and three counties,
20 but nowhere in the opinion was that an issue.

21 The whole reason we are here is because the
22 Judge said, find and tender and validated it, and
23 would those be invalidated, fix those in relation
24 to the compactness, maintaining Tier 1 standards,
25 and only those that are necessary to fix 5 and 10.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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89

1 And so when you look at the legal requirements
2 of why we are here, both in the call and both in
3 the Order, when it comes to compactness both visual
4 compactness, our plan is more visually compact than
5 theirs. Under all of the measurements and all of
6 our affected districts compared to Senator Soto's
7 map, in all of them we have at least one of the
8 Reock or convex hull performance measures that are
9 better than his map, and four of the seven we are
10 better in both measurements than in his map, and in

11 both 5 and 10, which is why we are here and what
12 was ruled as invalid, we are better in both
13 measurements in Reock and convex hull.

14 On the BVAP, our BVAP again is 48.11. His I
15 think from counsel and from reading the case as was
16 described by the expert that Judge Lewis even
17 mentioned about it being a 50/50 coin toss, it is a
18 clear diminishment and a clear Tier 1 violation of
19 the Constitution.

20 His still goes into Seminole County which the
21 Court went to great lengths to talk about the
22 finger that went into Seminole County with relation
23 to Congressional District 5. And in addition they
24 split one more city than we do.

25 So, so all of the legal aspects of why we are

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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90

1 here, our map is superior on every single
2 measurement and the only thing that you could say
3 is that his affects three Congressional Districts
4 where our affects seven, but nowhere did the Judge
5 say that was something that needed to be addressed.
6 He said fix 5, fix 10 and those Congressional
7 Districts necessary to do that, which our map does.

8 And finally I would say as counsel pointed
9 out, I also believe given the testimony there
10 certainly appears to be a clear Tier 1 violation in
11 terms of intent.

12 All of that being said I would ask you to vote
13 down the amendment.

14 VICE CHAIR MCBURNEY: Any further debate? All
15 right, seeing no further debate, Ranking Member
16 Thurston, you are recognized to close on your
17 amendment.

18 REPRESENTATIVE THURSTON: Thank you,
19 Mr. Chair, and thank you for providing a tight
20 meeting as well.

21 I just want to say that I, too, want to thank
22 Senator Soto for all of the effort that he and his
23 staff put in putting this map together, and, you
24 know, certainly, certainly he didn't have all of
25 the bells and whistles of the staff and didn't --

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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91

1 certainly didn't have thousands of pounds of
2 resources that you all had to put the map together
3 as well, but notwithstanding that, I think this
4 gets to the heart of the concern of some in the
5 state with regards to his process or with regards
6 to drawing these maps.

7 We all had a limited amount of time to review.
8 In fact, your Bill, your map that we received
9 yesterday, we only had a couple hours to review
10 before we were asked to come here and make a
11 decision on that, but I would say this.

12 We received hundreds of calls about other
13 districts that if we are coming in here for a
14 session that individuals want us to address and
15 they think that, even some of our members have made
16 some suggestions to me about their districts and we

17 understand that the Judge has limited us to 5 and
18 10.

19 But if 5 and 10 inadvertently gives us the
20 ability to have impact on others, not with the
21 intent of making it more competitive, but if we are
22 going to move people around and we are, then
23 certainly I think that is a factor that we should
24 consider when we look at Senator Soto's Bill,
25 because one of the things he talked about was that

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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92

1 while his intent was to focus on 5 and 10, it had
2 to affect evening up the lines a little bit in some
3 other districts. And, you know, I think if you ask
4 the general public that is probably what they want
5 to see us do.

6 I find it interesting that there was an
7 analysis done on the map that Senator Soto drafted
8 as it relates to Kendrick Meek's race, but not as
9 it relates to the map that we are here to vote on
10 that we don't have an analysis of that. That is
11 just kind of a little strange to me if that was
12 going to be a line of defense to say why we
13 shouldn't go with this map.

14 But in all due respect, the fact that there is
15 impact only on three counties as opposed to seven,
16 the fact that we are going to have potentially have
17 a special election for three as opposed to seven, I
18 think those are factors that we should actually
19 give some consideration to.

Page 83

20 Again, I do want to thank the Senator for his
21 technical expertise that he brought to this
22 process, and I would ask that you let's consider
23 this map seriously and vote up on the Thurston/Soto
24 amendment.

25 VICE CHAIR MCBURNEY: Ranking Member Thurston

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

93

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1 having closed on his amendment.

2 All those in favor of the amendment signify by
3 saying yes.

4 (Yes.)

5 VICE CHAIR MCBURNEY: All those opposed
6 signify by saying no.

7 (Chorus of nays.)

8 VICE CHAIR MCBURNEY: The no's have it.

9 Seeing two hands, Missy, will you call the roll?

10 READING CLERK: Representatives Berman?

11 REPRESENTATIVE BERMAN: Yes.

12 READING CLERK: Caldwell?

13 REPRESENTATIVE CALDWELL: No.

14 READING CLERK: Corcoran?

15 CHAIRMAN CORCORAN: No.

16 READING CLERK: Cummings?

17 REPRESENTATIVE CUMMINGS: No.

18 READING CLERK: Fullwood?

19 REPRESENTATIVE FULLWOOD: Yes.

20 READING CLERK: McBurney.

21 VICE CHAIR MCBURNEY: No.

22 READING CLERK: And McGhee?

23 REPRESENTATIVE MCGHEE: No.
24 READING CLERK: Metz?
25 REPRESENTATIVE METZ: No.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

94

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1 READING CLERK: Oliva?
2 REPRESENTATIVE OLIVA: No.
3 READING CLERK: Passi domo.
4 REPRESENTATIVE PASSI DOMO: Yes.
5 READING CLERK: Rodri guez?
6 REPRESENTATIVE RODRI QUEZ: Yes.
7 READING CLERK: Thurston?
8 REPRESENTATIVE THURSTON: Yes.
9 READING CLERK: And Young.
10 REPRESENTATIVE YOUNG: No.
11 READING CLERK: It fails.
12 VICE CHAIR MCBURNEY: The amendment having
13 been defeated we are back on the Bill, and I
14 understand there is public testimony.
15 The first appearance card, Evelyn Fox with the
16 NAACP. Hello. Ms. Fox, you are recognized.
17 MS. FOX: Thank you, Mr. Chair. Good morning,
18 Mr. Chair, members of this Committee. My name is
19 Evelyn Fox and I am a resident of Gainesville,
20 Alachua County, and Congressional District number
21 5.
22 I am the Vice Chair of the Alachua County
23 Democratic Party. I currently serve as President
24 of the Alachua County Branch of the NAACP.
25 I testified in the Romo-Detzner trial recently

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1 held in the Second Circuit Court. I have reviewed
2 the Judge's ruling concerning Congressional
3 District number 5 being unconstitutional, and
4 understand that the responsibility that has been
5 placed upon this body to create a legally
6 enforceable Congressional Redistricting Plan.

7 Alachua County has benefited from being a part
8 of Congressional District 5. Our Congressional
9 Representative has been a hands on and accessible.
10 She has brought millions of dollars to our
11 community. She was responsible for the renovating
12 of our VA Hospital, and most recently our transit
13 system has been completely revamped and is being
14 named in her honor.

15 African-American voters in Alachua County will
16 be harmed if Gainesville is not a part of the Fifth
17 District. Minority voters already face challenges
18 to their full participation of the political
19 process. We share the common concerns of all of
20 the communities in District 5. Our history and
21 continuing needs are the same.

22 I am familiar with the Plaintiffs' proposal to
23 remedy the issues found in the Court with the
24 current Congressional Plan. The plan calls for
25 District 5 to run along the Florida/Georgia border

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1 between Jacksonville and Tallahassee. Alachua
2 County will be left out of the district.

3 So ladies and gentlemen of this Committee,
4 after sitting here and listening to all of the
5 testimonies, I strongly urge you to support House
6 Bill 50, excuse me, 9057.

7 Thank you so much. I appreciate that.

8 VICE CHAIR MCBURNEY: Thank you. The next
9 appearance card is Dave Landry, Vice President of
10 Florida State Conference, NAACP. Mr. Landry.
11 Dale, I am sorry, Dale. Mr. Landry, in any event
12 you are recognized, thank you.

13 MR. LANDRY: Mr. Chair, thank you, and
14 members, my name is Dale Landry. I am here today
15 to speak on behalf of the Florida State Conference
16 of the NAACP Branches on the Congressional
17 Redistricting process on the way here, and I am
18 asking that this be read into the record as I read.

19 I am the fourth Vice President of the Florida
20 State Conference under the leadership of our State
21 Conference President, Adora Obi Nweze, the Florida
22 NAACP has been involved in the recent redistricting
23 process and litigation in an effort to ensure that
24 the voting rights of black voters in the state are
25 not diminished or diluted.

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97

1 Because I will not have time to cover all of
2 the information that I would like to cover with

3 you, I have brought copies of a letter the Florida
4 NAACP sent to the members of the Senate
5 Reapportionment Committee and the House Select
6 Committee and submit those as my additional written
7 testimony.

8 The Florida NAACP formally and publicly
9 supported Amendment V and VI because of the
10 minority voting protection that those amendments
11 would enshrine in the State Constitution. We
12 certainly did not support an interpretation of the
13 amendments that would undermine the electoral
14 successes achieved by black voters in recent years.

15 We are being dismayed that parties in recent
16 litigation have adopted such an interpretation and
17 have vigorously argued that Congressional District
18 5 still serves as a much needed remedy in north
19 central Florida. A remedy that offers black voters
20 a fair opportunity to participate in the political
21 process.

22 We understand the ruling of Judge Lewis and
23 what you all are tasked with doing during this
24 Special Session. We are here to convey our demand
25 that the district remain oriented in a north/south

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98

1 direction and that it continue to offer to black
2 voters in the existing district the opportunity
3 they have enjoyed since 1992.

4 Judge Lewis did not rule that Congressional
5 District 5 was unconstitutional because it went

6 north and south, that much is clear. The
7 Legislature did the right thing in 2012, when it
8 maintained the districts general orientation that
9 way.

10 I am a resident of Leon County. I know what
11 taking district, Congressional District 5 out to
12 the west that some people have urged would mean. A
13 Congressional District that goes from Jacksonville
14 to Tallahassee cannot be a replacement for a
15 Congressional District that runs from Jacksonville
16 to Orlando.

17 First, a dramatic change to the district like
18 that will leave out thousands and thousands of
19 black voters used to being in Congressional
20 district 5. They would no longer be able to elect
21 a candidate of their choice. This is not an
22 acceptable or constitutional option.

23 Second, an east/west configuration of the
24 district will create the illusion of a black
25 opportunity district, but it will be just that, an

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99

1 illusion. There are a number of prisons in
2 northern Florida counties and those people cannot
3 vote.

4 Additionally, black voter turn out in this
5 region of the state isn't as strong or reliable as
6 it is down south of here.

7 Finally, during litigation the Florida NAACP
8 commissioned Dr. Richard Instagram to analyze the

9 effect of taking a district in a westward direction
10 from Jacksonville. He found that would diminish
11 the ability of black voters to elect their
12 candidates of choice. As such, you simply cannot
13 trade off these districts like some have suggested.
14 The district must be maintained in its current
15 configuration.

16 The Florida NAACP strongly urges the
17 Legislature to maintain the current configuration
18 of District 5 to the extent possible. The counties
19 in the current district have been -- have benefited
20 greatly from being in the district and voters there
21 would be irreparably harmed if they were excluded
22 from the district when the Legislature redraws it.

23 When the redistricting amendments were adopted
24 in 2010, we celebrated the fact that Florida was
25 going to be a leader in the country by offering

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100

1 state constitutional protection to minority voters.
2 The action that this body is about to take needs to
3 adopt that spirit and remember that black voters
4 are not just numbers on a map.

5 The NAACP and its members have fought long and
6 hard to ensure that the electoral gains we have
7 made are not lost, and we ask you to join in that
8 fight with us.

9 Again, we want to thank you for your time and
10 we want to thank this Committee for giving us the
11 opportunity to speak.

12 VICE CHAIR MCBURNEY: Thank you, Mr. Landry.

13 Is there any other public testimony?

14 Seeing none, is there any debate?

15 Seeing no debate, Chair Corcoran, you are
16 recognized to close on your Bill.

17 CHAIRMAN CORCORAN: Members, I would just like
18 to say thank you for everyone's participation in
19 the questions. Obviously we are here, it is always
20 difficult to be called back in having been told by
21 a court that something we did was impartially
22 invalid. But I think that the Court Order was
23 clear, come and fix 5 and 10 and only those
24 districts that were directly related to the fix in
25 5 and 10, I think we have done that.

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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101

1 The plan that he had issue with, again, if you
2 compare it to the plan that we have put before you
3 today, again, in the compactness test in all seven
4 districts, this plan is superior to the one that
5 was thrown out in at least one measurement. In
6 four of seven of the measurements it is better in
7 both the Reock and the convex hull score. And
8 again, in 5 and 10, it is significantly better in 5
9 and 10.

10 In addition to that, we, I believe split one
11 less city, we split one more city and one less
12 county, city and counties. So in addition to that
13 we took care of the appendages that were in 47. As
14 one other point comparison throughout the Order the

15 Judge spoke in a favorable light in 9043.

16 If you compare this plan to 9043, again on
17 visual compactness, we score higher. In most of
18 the Congressional Districts we score higher on 5
19 and 10. We are better in 5 and identical in 10
20 that he spoke favorable of.

21 In addition to that, we have a higher BVAP of
22 48.11 where the Judge clearly spoke favorably of a
23 BVAP of 48.03 and 43. So I think that we have
24 clearly addressed his issue, we have done it with
25 affecting as minimal districts as possible, keeping

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102

1 20 of the districts that he held valid completely
2 intact, and I would ask for your favorable support.

3 VICE CHAIR MCBURNEY: Chair Corcoran having
4 closed on his Bill, Missy, will you call the roll?

5 READING CLERK: Representatives Berman?

6 REPRESENTATIVE BERMAN: Yes.

7 READING CLERK: Caldwell?

8 REPRESENTATIVE CALDWELL: Yes.

9 READING CLERK: Corcoran?

10 CHAIRMAN CORCORAN: Yes.

11 READING CLERK: Cummings?

12 REPRESENTATIVE CUMMINGS: Yes.

13 READING CLERK: Fullwood?

14 REPRESENTATIVE FULLWOOD: No.

15 READING CLERK: McGhee?

16 REPRESENTATIVE MCGHEE: No.

17 READING CLERK: Metz?

18 REPRESENTATIVE METZ: Yes.
19 READING CLERK: Oliva?
20 REPRESENTATIVE OLIVA: Yes.
21 READING CLERK: Passi domo?
22 REPRESENTATIVE PASSI DOMO: Yes.
23 READING CLERK: Rodriguez?
24 REPRESENTATIVE RODRIQUEZ: No.
25 READING CLERK: Thurston?

FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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103

1 REPRESENTATIVE THURSTON: No.
2 READING CLERK: Young?
3 REPRESENTATIVE YOUNG: Yes.
4 READING CLERK: Chair McBurney?
5 VICE CHAIR MCBURNEY: Yes.
6 READING CLERK: It passes.
7 VICE CHAIR MCBURNEY: By your vote we have
8 adopted the Bill.
9 And at this time I would return the Gavel to
10 Chair Corcoran.
11 CHAIRMAN CORCORAN: Thank you, Chair McBurney,
12 and thank you for doing a wonderful job.
13 And with that, members, Representative
14 Caldwell moves we rise. Without objection, the
15 meeting is adjourned. Thank you.
16 (Whereupon, the proceedings were concluded.)

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FOR THE RECORD REPORTING TALLAHASSEE FLORIDA 850.222.5491

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104

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CERTIFICATE OF REPORTER

I, CLARA C. ROTRUCK, do hereby certify that I was authorized to and did report the foregoing proceedings, and that the transcript, pages 02 through 103, is a true and correct record of my stenographic notes.

Dated this 14th day of August, 2013, at Tallahassee, Leon County, Florida.

CLARA C. ROTRUCK
Court Reporter

LR-9820-HOUSE-8-8-P1

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