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SENATE SPECIAL SESSION - REAPPORTIONMENT

AUGUST 11, 2014

Reported by:

CLARA C. ROTRUCK

Court Reporter

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

2 SECRETARY: Quorum call, please, all Senators
3 indicate your presence. All unauthorized persons
4 will please leave the Gallery. All Senators and
5 guests in the Gallery, please silence all
6 electronic devices.

7 All Senators, please indicate your presence.
8 A quorum is present, Mr. President.

9 PRESIDENT GAETZ: The Senate will be in order.

10 READING CLERK: The quorum is present for the
11 conducting of business.

12 PRESIDENT GAETZ: The Senators and guests in
13 the Gallery will please rise for the opening prayer
14 that will be given this afternoon by the Senator of
15 the 16th, Senator Altman, and following Senator
16 Altman's invocation, please remain standing for the
17 Pledge of Allegiance, and the Pledge will be led
18 this afternoon by the Senator of the 22nd, one of
19 our military veterans, Senator Brandes. Senator
20 Altman.

21 SENATOR ALTMAN: Heavenly Father, we come to
22 you with humility. We give you thanks, we thank
23 you especially for this precious place we call
24 Florida and for those who dwell and visit here. We
25 represent them. May the decisions we make here for

1 them reflect your love, for we know that you are
2 the God of love and we serve you by loving one
3 another.

4 Let us also give thanks to those who serve to
5 protect our freedoms and to those who have come
6 before us and have secured our freedoms. We pray
7 this in your Holy Name, Amen.

8 PRESIDENT GAETZ: Amen. Senator Brandes,
9 thank you for your service, sir, and you are
10 recognized.

11 (Whereupon, the Pledge of Allegiance was
12 recited.)

13 PRESIDENT GAETZ: You may be seated. Thank
14 you all for your presence today and for your
15 service last week and this week during the special
16 session.

17 We have some Senators who are absent today and
18 are excused. Senator Stargel, who is out of the
19 continental United States, Senator Latvala, who has
20 a serious medical condition, he is seeing a
21 physician today. Please, it is not life
22 threatening, but it is orthopedic in nature.
23 Please keep Senator Latvala in your prayers.
24 Senator Evers and Senator Joyner are on their way
25 here, but they have been held up by inclimate

1 weather. Therefore, they will be here, we hope,
2 before the end of the day, but we do have Senators
3 who are absent for reasons that are legitimate and
4 valid.

5 At the suggestion, and it was a good one, of
6 our Democratic Leader, Senator Smith, we delayed
7 the session today to attempt to accommodate
8 Senators who are grounded from air travel, and
9 therefore, had to arrive a little later than they
10 had planned, because they drove long distances, a
11 couple of them are still in the car.

12 I am grateful for the cooperation and the
13 coordination of Leader Smith and Leader Benacquisto
14 in working with us and in working with our partners
15 in the House of Representatives on scheduling and
16 procedures for this week.

17 I certainly want to thank Chairman Galvano and
18 the members of his committee, Leader Smith,
19 Senators Bradley, Montford, Gibson, Lee and Simmons
20 and the Apportionment Committee staff for the work
21 that they have been doing.

22 A few words about our schedule for this week,
23 how we will proceed today. We want everyone to be
24 informed, we want everybody to stay involved. The
25 first thing we will do today is take up the Bill

1 that has been filed, which is the work product of
2 the Reapportionment Committee, including the
3 traveling amendment by Senator Galvano, that is the
4 first thing we will do today.

5 We will have a full explanation of the
6 Committee's recommendations to this body,
7 recommendations which came to this body with the
8 unanimous bipartisan vote. We want a full
9 understanding of those recommendations or
10 implications and consequences. We will take all
11 the time necessary to make sure that we can do
12 that.

13 Then as is customary and according to rules we
14 will take up other amendments which have been
15 filed. Now, I would tell the Senate that we have a
16 couple of late filed amendments that are not in
17 their proper filing posture yet and we are going to
18 be accommodating to the Senators who have filed
19 those amendments, to the committee's work.

20 So therefore, it may be necessary for us
21 because of the schedule and Bill drafting, and they
22 are working very hard with the sponsors of these
23 amendments, it may be necessary for us to take a
24 short recess, and if so, I ask your indulgence, but
25 we want to be respectful to any Senator who has an

1 idea, and we want to take all the time that is
2 necessary.

3 Today our objective is to proceed forward into
4 second reading. Perhaps we will get through second
5 reading. As I noted, we have amendments, including
6 a couple that have not been filed yet and will be
7 late filed. Perhaps we will get further, but we
8 will be pacing along side our partners in the
9 House, and therefore, we want to make sure that we
10 complete our business in tandem with our partners
11 in the House.

12 The members of the Senate will set the pace
13 for the Senate. There is not a leadership pace or
14 a requirement or expectation from either of the
15 caucuses as to how we will proceed in terms of
16 schedule. We are here until Friday noon, and we
17 will be here for every minute of that time if
18 necessary to make sure that everyone has the
19 opportunity to share their ideas and to be heard.
20 The special session has us here on the floor for as
21 long as we need to be here today, tomorrow,
22 Wednesday, Thursday, and until 11:59 a.m. on
23 Friday.

24 If at any time, because we are certainly
25 dealing with issues here that may cause questions,

1 we want questions. If at any time any Senator
 2 needs explanation about the process or about any
 3 matter of substance, please feel free to seek out
 4 the Rule's Chair, seek out your Caucus Leader and
 5 to make inquiries of the Presiding Officer, and we
 6 will make sure that before we proceed we deal with
 7 any questions having to do with either process or
 8 substance.

9 Our method of operation today and for the
 10 remainder of the week is to take all the time
 11 necessary for a complete explanation of every
 12 amendment. Time for questions of the amendment
 13 sponsor, time or every Senator who wants debate, to
 14 debate any and every issue.

15 Let me stop there and ask if there are any
 16 questions about scheduling or about the process
 17 that we will follow as we go forward this week.
 18 Any questions by any Senator?

19 If not, then let's continue with the regular
 20 order. Are there reports of committees?

21 READING CLERK: None on the desk, Mr.
 22 President.

23 PRESIDENT GAETZ: Are there motions relating
 24 to committee reference?

25 READING CLERK: None on the desk, Mr.

1 President.

2 PRESIDENT GAETZ: Are there messages from the
3 Governor and other Executive communications?

4 READING CLERK: None on the desk, Mr.

5 President.

6 PRESIDENT GAETZ: Are there messages from our
7 friends in the House of Representatives?

8 READING CLERK: None on the desk, Mr.

9 President.

10 PRESIDENT GAETZ: Are there matters on
11 reconsideration?

12 READING CLERK: None on the desk, Mr.

13 President.

14 PRESIDENT GAETZ: If not, take up the special
15 order calendar and read the first Bill.

16 READING CLERK: Senate Bill 2-A, a Bill
17 entitled and relating to the establishment of a
18 Congressional Districts of the state.

19 PRESIDENT GAETZ: Senator Galvano, the Senator
20 of the 26, the Chair of the Reapportionment
21 Committee is recognized to explain the Bill.

22 SENATOR GALVANO: Thank you, Mr. President,
23 and if I may, I would go into the traveling
24 amendment and then I guess when the substitute
25 amendment that is in process arrives, then I can

1 make the distinction between the traveling
2 amendment and the substitute amendment, which is
3 technical in nature.

4 PRESIDENT GAETZ: All right, Senator Galvano,
5 let's just get ourselves in proper posture. Take
6 up and read the traveling amendment to which
7 Senator Galvano refers.

8 READING CLERK: Bar Code 726240 by Senator
9 Galvano. Delete everything after the enacting
10 clause and insert amendment.

11 PRESIDENT GAETZ: Senator Galvano.

12 SENATOR GALVANO: Thank you, Mr. President.
13 Mr. President, Senators, this amendment is the
14 amendment that was adopted unanimously in the
15 Senate Reapportionment Committee last Friday.

16 The amendment contains the remedial plan known
17 as 9057 and you can see 9057 on the map behind you,
18 and it was also part of the staff analysis and has
19 been available now since last Thursday.

20 The idea behind 9057 was, first and foremost
21 was to continue to meet the requirements of the
22 Federal Constitution, Federal laws, the State
23 Constitution, and then pursuant to the call to meet
24 the requirements and address the concerns
25 enunciated by the Circuit Court in *Romo versus*

1 *Detzner.*

2 Just by way of recap the Court found concern
3 with two of the 27 Congressional Districts that
4 were enacted by the Legislature. The two districts
5 that the Court had concern with were District No. 5
6 and District No. 10.

7 The concern that the Court had with District 5
8 was that there was an appendage that went off from
9 District 5 into Seminole County capturing Sanford.
10 The Court found that this appendage made the
11 district not compact. The Court also recognized
12 that there was some irregularity in the shape of
13 this district.

14 The Court found that the appendage which
15 captured Sanford elevated the BVAP or black voting
16 age population over 50 percent to make it a
17 majority/minority district and the Court felt like
18 that move was not justified.

19 With regard to District 10, the Court's
20 specific concern was an appendage that wrapped
21 around the bottom and went in between Districts 5
22 and 9, and the Court found that that appendage
23 which would have created a Hispanic opportunity
24 district in No. 9, again, was not justified, and
25 from those two appendages the Court inferred a

1 violation of Tier 1 and 10.

2 So the question was, how do we address the
3 concerns of the Court. Well, at the end of the day
4 the Court's concerns were captured within Tier 2.
5 What I mean by Tier 2 is, once you get passed
6 intent, in other words, that you are not benefiting
7 an incumbent or a party or reducing the ability of
8 a racial minority to elect a candidate of its
9 choice, then you go into the physical
10 characteristics of the district, which include
11 compactness and population and following geographic
12 and political lines.

13 There were three approaches that were looked
14 at. The first approach was more of a minimal
15 approach. Do we just go in and take the very
16 specific language that was in the July 10th Final
17 Judgment, being about the appendages, and just
18 those and regain population solely on the
19 appendages.

20 The next approach was to look at 9043, and
21 9043 as you will recall was the last iteration from
22 the House in the process before the enacted map.
23 And the reason that even became part of the
24 discussion was because the Court in its opinion did
25 use a reference 9043 as a model while impeaching

1 9047. Also the Plaintiffs in the case had
2 referenced 9043.

3 The problem that arose with 9043 is that it
4 would have impacted nine districts in total, and we
5 didn't feel like it was an absolute safe harbor.
6 The language that the Court used was not so strong
7 as to give us confidence that if it were that map
8 then all would be okay.

9 So ultimately what was done as an approach was
10 to address the specific concerns of the Court, to
11 very carefully study the Final Judgment and then
12 cull out any instructive information that we could
13 to use the Judgment, the Order that came afterwards
14 to see if we could make things better across the
15 board and to continue to improve all of the Tier 2
16 scores for District 5 and District 10.

17 So to begin with District 5. The very first
18 thing that was done was to remove the Sanford
19 appendage. The Sanford appendage contained about
20 30,000 people. When that appendage came out
21 Seminole County was then rendered full. We had to
22 regain population though for CD 5.

23 Remember I mentioned the irregular shape. One
24 of the things that was done to regain population
25 was in Putnam County. The western or eastern

1 boundary of CD 5 was along Alachua County, that was
2 moved to the St. Johns River which is a
3 geographical boundary.

4 In doing so it improved the compactness of the
5 district, picked up roughly 23,000 voters and
6 addressed the concerns with the serpentine nature.
7 In addition, some additional voting population was
8 picked in in Marion County, moving to the west and
9 to the south, about 8,000 people.

10 After having adjusted CD 5 we did a functional
11 analysis with regard to the BVAP. We didn't have a
12 goal going in, but we wanted to make sure that in
13 making the adjustments we didn't diminish and
14 violate Tier 1 in Federal law. When we did the
15 functional analysis we found that the black voting
16 age population was now at 48.03. It is down from
17 the benchmark, the benchmark being the map prior to
18 the enacted map that was 49.9. Obviously it was
19 less than over the 50 percent which the Judge found
20 objectionable and not constitutional.

21 So with that BVAP score a functional analysis
22 was run. All of you have seen it in the staff
23 analysis that was put forward, and at the end of
24 the analysis the conclusions of staff and counsel
25 and the Committee was that the impact did not

1 diminish.

2 In other words, this district still performs
3 in such a way that the minority population can
4 elect a candidate of its choice and there is not
5 retrogression.

6 With regard to Congressional District 10, that
7 is the one as I mentioned that has the appendage
8 that went up through the bottom and split 5 and 9.
9 That appendage was removed. That appendage has
10 about 105,000 people in it. The population that
11 was contained in that appendage was regained in
12 Orange, Osceola and Polk County by moving the line
13 of 10 more eastward.

14 In impacting 9 we were also able to then lift
15 CD 17 up so that the northern boundary would run
16 along the southern boundary of Osceola. The
17 districts impacted 6, 7, 9, 11 and 17 were all
18 adjusted and frankly they all came out after the
19 adjustment more compatible both visually and
20 mathematic.

21 So as a result of the new map, 9057 or I
22 should say the proposed map that includes the
23 amendments to 5 and 10, in CD 5 first and foremost
24 you have an improved visual compactness, because
25 this is important, because both the Supreme Court

1 as well as the Circuit Court uses this as a
2 guidance. It is just as valid a criteria as
3 anything else.

4 You can look at it and see that you now have a
5 more compact district. Several areas of the
6 serpentine curves have been removed and it also has
7 a new mathematical compactness that exceeds where
8 it was. Its Reock score, and for those of you who
9 do remember and some of you who don't, the Reock is
10 essentially the test which takes a circle, the
11 smallest circle that can encompass and circumscribe
12 the district, and then you do a ratio of the land
13 mass that is in that circle to the overall area of
14 that circle.

15 Well, the Reock for CD 5 in 9057 represented
16 by this amendment goes from .13 from a point .09.
17 A significant increase. The convex hull score, and
18 this is what we call the rubber band test, because
19 you create a polygon around the district and you
20 use the areas inside of the straight lines that are
21 a calculated area that is not filled with district
22 to come up with that score.

23 The convex hull went from .29 to .42. The
24 district results, though shorten, albeit modestly,
25 but the perimeter now has decreased by 124 miles.

1 With regard to CD 10 the Reock score went to .42
2 from .39. The convex hull went to .83 from .73.

3 And again, the impacts to surrounding
4 districts were minimized. A total of seven
5 districts were impacted, including 5 and 10, and
6 from the standards set forth in the Final Judgment,
7 as well as the existing law in the cull, I am
8 confident that these amendments in the remedial
9 plan meets the requirements.

10 The other point I wanted to make is that the
11 Bill has an applicability date, the applicability
12 date is after the general election in 2014. This
13 is not to somehow create an issue for the Judge.
14 Instead it is consistent with where the Judge has
15 been in the August 1st Order, trying to decide
16 where he would go in terms of an election, but it
17 does ensure that the votes that have taken place
18 now, the military ballots, the absentee ballots,
19 the preparation will continue until the general
20 2014. Should there be a special election post that
21 date, then the new maps will apply. And that is a
22 general overview, Mr. President and Senators.

23 PRESIDENT GAETZ: Thank you very much, Mr.
24 Chairman. Are there questions? Leader Smith.

25 LEADER SMITH: Thank you, Mr. President. My

1 question would be about your last comment and the
2 concerns that I have is the election process.

3 Under this map, say if the map were to pass
4 today and the Judge approve it, will you have
5 people voting in one race, but immediately being
6 represented by someone in another district?

7 PRESIDENT GAETZ: Senator Galvano.

8 SENATOR GALVANO: No, if we pass this map, the
9 election that is pending right now would remain
10 undisturbed. It would only be if another election
11 were to occur post the general in November.

12 For example, if the Judge decided when we go
13 back on the 20th of August, said, you know what, I
14 think we can enact these maps, I am going to call a
15 special election or extend the existing election,
16 then these maps would be addressed. Otherwise the
17 existing maps would control through the end of this
18 general.

19 PRESIDENT GAETZ: Leader Smith.

20 LEADER SMITH: Just so I understand. So
21 currently there are districts that are being deemed
22 unconstitutional. A Judge has said that they are
23 unconstitutional, and people are voting in those
24 districts that are unconstitutional.

25 So if we vote on this today and this map

1 passes, we will continue to elect people and count
2 votes in unconstitutional districts. In essence,
3 that is what we will be doing.

4 PRESIDENT GAETZ: Senator Galvano.

5 SENATOR GALVANO: You will have votes
6 continuing in CD 5 and CD 10. We have had already
7 votes, military votes and otherwise, and this is
8 also, Leader Smith, not a unique situation in
9 American law. Oftentimes when you have a case such
10 as this it actually runs to the next cycle.

11 But given where we are in the process, and we
12 had to have a start date, while at the same time
13 giving the Judge the discretion and leeway that he
14 has begun to opine about, that is why we ended up
15 with this date.

16 PRESIDENT GAETZ: Further in questions?
17 Questions for the Chairman? Further in questions?
18 Senator Clemens for a question.

19 SENATOR CLEMENS: Thank you, Mr. President.
20 Can you talk a little bit about how the map was
21 developed in terms of staff usage and your role and
22 others' roles in developing the map?

23 PRESIDENT GAETZ: Chairman Galvano.

24 SENATOR GALVANO: Yes, thank you, Mr.
25 President. Well, first let me explain the backdrop

1 that we are in. We convened this session under a
2 Joint Approximation that specifically referenced a
3 Court Order. That Court Order created a time
4 constraint for us to gather and complete a remedial
5 plan by next Friday.

6 So with that backdrop, immediately upon
7 appointment of the Committee, both Chairs Corcoran
8 and myself directed staff to work in collaboration
9 with each other, as well as with legal counsel to
10 begin to develop a remedial plan.

11 Last Wednesday myself and Chair Corcoran spent
12 pretty much from dawn until midnight going over the
13 Court Orders, looking at possible ways to address
14 the map and putting together a map that was
15 eventually finalized early afternoon on that next
16 Thursday.

17 After that map was filed, which was an
18 amendment under my name to the Senate Bill 2-A, the
19 hearing was held on Friday, where it was discussed
20 and testimony was taken and voted and here we are
21 today.

22 PRESIDENT GAETZ: Senator Clemens to follow
23 up.

24 SENATOR CLEMENS: Thank you, Mr. President.

25 So the map was developed all with in-house staff,

1 in-house attorneys, no outside consultants of any
2 nature?

3 PRESIDENT GAETZ: Senator Galvano.

4 SENATOR GALVANO: Thank you, Mr. President.
5 We had in-house staff. We did have contract
6 counsel there. Justice Cantero, Meros, Bardos from
7 the House, but there were no consultants and there
8 were no other political interests that participated
9 in the process.

10 PRESIDENT GAETZ: Senator Clemens to follow
11 up.

12 SENATOR CLEMENS: Thank you, Mr. President.
13 Just a question about the map specifically. In
14 order to accommodate the Judge's Order you had
15 mentioned earlier that you moved the, I guess it is
16 the eastern boundary near the southern end of
17 District 10 to the east to increase the population
18 there.

19 That border now that lies under this new map
20 between 10 and 9, is there a geographic nature to
21 that boundary? I know you had said northern that
22 there was a St. Johns River issue that you used as
23 a boundary. But is there a geographical boundary
24 to that portion of the map?

25 PRESIDENT GAETZ: Chairman Galvano.

1 SENATOR GALVANO: Thank you, Mr. President.
2 Yes, there is both geographical and a political
3 boundary. In Osceola it is the western boundary of
4 Kissimmee, I believe, and then in Polk I believe it
5 runs along a roadway.

6 PRESIDENT GAETZ: Before we go to further
7 questions, Madam Secretary, please unlock Senator
8 Evers' button. Thank you for being here, Senator
9 Evers. I know you had to go through some bad
10 weather, and we appreciate you being here, sir.

11 Further in questions for Chairman Galvano?
12 Senator Gibson.

13 SENATOR GIBSON: Thank you, Mr. President.
14 And because we didn't go over this a lot in
15 committee, we dealt mostly with the boundaries and
16 the numbers, I want to make sure I understand the
17 special election piece, because I am a little
18 confused on that part.

19 So when we make the effective date, what did
20 you say the date is, I am sorry?

21 PRESIDENT GAETZ: Senator Galvano.

22 SENATOR GALVANO: Thank you, Mr. President.
23 The applicability date of these maps is for any
24 election held after the 2014 general election.

25 PRESIDENT GAETZ: Senator Gibson.

1 SENATOR GIBSON: Thank you, Mr. President. So
2 if the Judge as he has indicated decides that he
3 wants to call a special for those affected
4 districts, it would be after November 4th, and then
5 qualifying starts all over.

6 And so those Congressional candidates who had
7 already qualified and paid the filing fees for the
8 current unconstitutional districts and those that
9 were constitutional, but certainly impacted, would
10 then have to requalify and pay the filing fees all
11 over again?

12 PRESIDENT GAETZ: Senator Galvano.

13 SENATOR GALVANO: Thank you, Mr. President.
14 Yes, and I think therein lies the whole rub and
15 that is why the Court has not decided that it
16 actually can or will have an extension of the 2014
17 election, or have a general election.

18 When you look at the mechanics of that, and
19 you nailed it, the qualifying, reopening, it just
20 becomes extremely difficult. But in deference to
21 the Judge we wanted to make sure that nothing we
22 did indicated anything but the utmost respect for
23 the Order, we established the date at post-2014, as
24 opposed to the next cycle so that if there were
25 some decision by the Court, his hands wouldn't be

1 tied legislatively. I can't comment on legally.

2 PRESIDENT GAETZ: Senator Gibson, does that
3 exhaust your questions for the moment? Senator
4 Sobel for a question.

5 SENATOR SOBEL: Thank you, Mr. President, and
6 Senator Galvano for your hard work.

7 You mentioned that Congressional Districts 5,
8 10, 6, 7, 9, 11 and 17 would be impacted with your
9 revised map. How many voters are we actually
10 talking about in all those districts?

11 PRESIDENT GAETZ: Chairman Galvano.

12 SENATOR GALVANO: Thank you, Mr. President.
13 If you are talking about voters who are moving, you
14 have, well, if you start with Sanford there is
15 30,000 there. Then you go to CD 10, that is
16 another 105,000. With Putnam County you are
17 talking about 23,000 and with Marion you are
18 talking about 8,000, and then you have a couple of
19 line moves that have tens, total, tens of
20 thousands.

21 So there is a significant number of voter
22 change. Twenty-three counties are involved. So
23 you can't really go in and make any adjustments on
24 just a couple of districts without impacting
25 others, but understand that great care was taken to

1 minimize the impact on the other districts, because
2 frankly the Court upheld 25 out of 27 districts.

3 PRESIDENT GAETZ: Senator Sobel.

4 SENATOR SOBEL: Quick math, about 170,000
5 voters?

6 PRESIDENT GAETZ: Chair Galvano.

7 SENATOR GALVANO: Thank you, Mr. President.
8 Yes, based on your math.

9 PRESIDENT GAETZ: Senator Sobel, are you
10 finished for the moment? Senator Soto.

11 SENATOR SOTO: Thank you, Mr. President.
12 Senator Galvano, what was the reduction in Hispanic
13 voting age population in District 9?

14 PRESIDENT GAETZ: Senator Galvano.

15 SENATOR GALVANO: Thank you, Mr. President.
16 Senator Soto, we only did one functional analysis.
17 We didn't do a performance or functional analysis
18 on any of the other districts, because the Court
19 had recognized that CD 5 was, in fact, a minority
20 district, albeit he didn't feel we were justified
21 in bringing it to a minority/majority district.

22 With regard to CD 9 when we put the appendage
23 in, in the enacted map it did create a Hispanic
24 opportunity district, but the Judge said again that
25 was not justified. So when we moved population, we

1 didn't come back into CD 9 to do a functional
2 analysis on Hispanic voting nor did we do a
3 performance analysis.

4 PRESIDENT GAETZ: Senator Soto.

5 SENATOR SOTO: Thank you, Mr. President. Was
6 it a reduction?

7 PRESIDENT GAETZ: Chair Galvano.

8 SENATOR GALVANO: Again, without seeing the
9 exact numbers I can't tell you, but we did pull the
10 appendage that came up in Orange County out and
11 picked up voters in Polk and Osceola. So most
12 likely there would be a reduction.

13 PRESIDENT GAETZ: Senator Soto.

14 SENATOR SOTO: Thank you, Mr. President. Why
15 was Osceola split in half between Districts 9 and
16 17?

17 PRESIDENT GAETZ: Senator Galvano.

18 SENATOR GALVANO: Thank you, Mr. President.
19 CD 9 had really a significant impact with regard to
20 CD 10. I mean, there was a large number that had
21 moved in that area. So it picked up a significant
22 amount of population.

23 When we looked at the total impacts of CD 9
24 and then the opportunity to in adjusting population
25 bring the northern end of 17 up which picked up

1 maybe 1,000 people in a rural community, and at the
2 same time it would increase the compactness score
3 of 9, which certainly the Judge will find
4 favorable, we decided that that was an appropriate
5 step to take.

6 PRESIDENT GAETZ: Senator Soto.

7 SENATOR SOTO: Thank you, Mr. President. Why
8 was downtown Orlando included in District 9?

9 PRESIDENT GAETZ: Senator Galvano.

10 SENATOR GALVANO: Thank you, Mr. President.
11 Again, the concern that the Circuit Court brought
12 out specifically, and a lot we had to cull out, but
13 one was specific, was the appendage into CD 9.
14 That is where therein lies that area.

15 So we knew at a minimum that the Court found
16 the appendage objectionable, the Court found that
17 it negatively impacted compact scores, compactness
18 scores, and we knew that that was a starting point.

19 PRESIDENT GAETZ: President Margolis.

20 PRESIDENT MARGOLIS: Senator, when you were
21 talking about District 4 and explaining what
22 happened with District 4 because it had gained
23 population, I am sorry, District 5, because it had
24 gained population and you then said, so we had to
25 diminish population.

1 And then you kind of said something about like
2 it is like less 45,000 voting people. You didn't
3 say whether they were blacks or not blacks. You
4 really didn't give us a breakout of who this 45,000
5 was. And in the percentage of that black
6 population, certainly was diminished.

7 So perhaps you can be very specific about how
8 many blacks you have taken out and who is
9 diminished, were they voting age population people.
10 Who was diminished?

11 PRESIDENT GAETZ: Chairman Galvano.

12 SENATOR GALVANO: Thank you, Mr. President.
13 President Margolis, let's start with the benchmark.
14 The benchmark map which is the map prior to the
15 enacted map, had a BVAP, a black voting age
16 occupation of 49.9 percent. In the enacted map in
17 2012, that BVAP was brought from 49.9 to 50.05. So
18 it actually became a majority/minority district.

19 The Court deemed that moving from 49.9 to a
20 50.05 majority/minority was not justified and
21 instead found that the result was an appendage that
22 went into Seminole County that impacted Tier 2
23 considerations, the compactness, et cetera.

24 So when we went back and redrew these maps
25 there wasn't any particular goal. It was just a

1 question of recreating a more compact district, but
2 at the same time we had to be aware of and avoid
3 diminution, a retrogression, and that is not an
4 exact science even legally. There are standards
5 that the Supreme Court put forth to determine
6 whether retrogression has occurred or hasn't
7 occurred.

8 In the after situation we had a 48.11 percent
9 BVAP, black voting age population. The staff ran a
10 functional analysis looking as far back as '08
11 election, '10 election, '12 elections, and it was
12 determined that this would not result in a
13 retrogression of the minorities ability to elect a
14 candidate of its choice.

15 Also we took guidance from map 9043, which had
16 a 48.03 BVAP and the Court had not found that
17 number objectionable. So at the end of the day you
18 are at 48.11 percent.

19 PRESIDENT GAETZ: President Margolis.

20 PRESIDENT MARGOLIS: You said something about
21 losing, going down to 45 percent. Not to
22 48 percent, but going down to 45 percent from the
23 49 percent I think, and I just -- I just want you
24 to be very specific about what happened. I am not
25 complaining about it, I am just saying what

1 happened?

2 PRESIDENT GAETZ: Chairman Galvano.

3 SENATOR GALVANO: Thank you, Mr. President.
4 There is no 45 percent. If I led you to understand
5 that, then that is my mistake. It is
6 48.11 percent. I think if you got to 45 percent
7 then we would start to have some legal issues with
8 regard to diminution.

9 PRESIDENT GAETZ: President Margolis.

10 PRESIDENT MARGOLIS: If you will listen to the
11 tape you will hear that.

12 PRESIDENT GAETZ: President, did you have any
13 other comments at this point, any other questions?
14 If not, Senator Montford.

15 SENATOR MONTFORD: Thank you, Mr. President.
16 First of all, Senator Galvano, thank you for your
17 hard work. I know it was early mornings, late
18 evenings, and your staff as well.

19 My question, I believe you said there were 22
20 counties impacted. And I know in the testimony the
21 other day, by the way, thank you for your memo in
22 terms of how sensitive we should be as to who we
23 talk to and I think that was exceptionally good
24 advice. For myself, I know it kept me out of
25 trouble and I appreciate that.

1 In terms of those 22 counties, I know you have
2 been pressed for time, but has there been any input
3 from those Supervisors of Elections? I know we had
4 one that testified before the Committee last week
5 and his answer to my question, is it doable, and I
6 believe he said no.

7 But I am wondering if there has been any input
8 in any way from the Supervisors of Elections which
9 would give support to the recommendation that this
10 take effect after the November 14 election?

11 PRESIDENT GAETZ: Chairman Galvano.

12 SENATOR GALVANO: Thank you, Mr. President.
13 It is actually 23 counties. And the testimony that
14 we heard was heard in committee by the whole
15 Committee. There has not been separate
16 communication with Supervisors of Elections, but I
17 think we had a very thorough explanation of the
18 hardships of conducting an election immediately
19 after the general, before the sitting of the next
20 Congress.

21 So that is the testimony that we have. The
22 call did not require us to make a determination on
23 that and the Court has reserved jurisdiction to
24 make its decision.

25 PRESIDENT GAETZ: Senator Montford, is that it

1 for now? Senator Thompson, you are recognized for
2 questions of the sponsor.

3 SENATOR THOMPSON: Thank you, Mr. President.
4 Senator Galvano, one of the concerns that the Judge
5 had with regard to the constitutionality of the
6 maps was whether or not they were drawn to benefit
7 one party over another.

8 Does the map that you are proposing here
9 address that, and does it change anything with
10 regard to whether one party benefits from the way
11 the lines are drawn compared to another?

12 PRESIDENT GAETZ: Chairman Galvano.

13 SENATOR GALVANO: Thank you, Mr. President.
14 The map that is before you, we took guidance from
15 the Court. Ultimately the Court's inference of
16 intent, which would have the Tier 1 violation was
17 based mainly on what he deemed manifestation in
18 Tier 2, the appendages, et cetera.

19 So we addressed those Tier 2 considerations.
20 The catch-22 is this. If we were to go back and
21 say, let's reengineer these districts so they
22 perform differently, then we have once again or we
23 have then violated Tier 1. The requirements of
24 Tier 1 is that there not be intent irrespective of
25 the effect.

1 So I guess to answer your question, to the
2 extent the Court identified certain features of
3 these districts that gave the Court guidance in
4 inferring intent, yes, we addressed those features.

5 PRESIDENT GAETZ: Senator Thompson.

6 SENATOR THOMPSON: Thank you, Mr. President.
7 Senator, so in term of the outcome, the map that we
8 are going to vote on today, would you say leaves in
9 place the outcome of benefiting one party over
10 another?

11 PRESIDENT GAETZ: Senator Galvano.

12 SENATOR GALVANO: Thank you, Mr. President.
13 The only functional analysis that was done was a
14 functional analysis with regard to the minority
15 performance in CD 5, because the Court had
16 recognized that as a minority district we did no
17 other functional analysis for any of the other
18 districts.

19 PRESIDENT GAETZ: Further in questions?
20 Further in questions? Speaker Thrasher for a
21 question.

22 SPEAKER THRASHER: Thank you, Mr. President.
23 Senator Galvano, I was not on the committee and
24 thank you, Mr. President for that.

25 But could you just kind of give us an overview

1 of the committee structure and the process you went
2 through? I don't mean to belabor it, but I think
3 it is important for everybody to know, because many
4 of us weren't here to hear the committee
5 deliberations, but how you actually approached it,
6 what your process was? What was voted on the
7 committee for the Bill that we are discussing now.
8 That sort of thing. Could you just give us an
9 overview of that?

10 PRESIDENT GAETZ: Senator Galvano.

11 SENATOR GALVANO: Yes, thank you, Mr.
12 President. Again, what occurred is the Court
13 issued an Order on August the 1st. That Order
14 required that the Legislature submit a remedial
15 revised plan no later than noon this Friday.

16 So immediately we were in a different world
17 than traditionally. The Joint Proclamation
18 followed the Court Order and ordered or required us
19 to convene a special session for the sole and
20 exclusive purpose of addressing the concerns raised
21 by the Court in *Romo v. Detzner* with regard CD 5,
22 CD 10.

23 Understanding the short time frame both Chair
24 Corcoran in the House and myself reached out to our
25 staff, which by the way, the President and the

1 staff has been unbelievable in this process. What
2 we said, began to collaborate with your
3 counterparts as well as legal counsel, but that is
4 it. We didn't want any other influences in the
5 process given how we got here and the short time
6 constrains.

7 Once the staff began to lay the background on
8 Wednesday, we began doing some map drawing and that
9 included legal counsel for the House, George Meros
10 and Andy Bardos and legal counsel for the Senate,
11 Justice Raoul Cantero, as well as respective staff.

12 And we looked at different approaches to take,
13 and not to belabor it either, but again we said we
14 can start with the very specific things that the
15 Judge has pointed out, the appendages in 5 and 10.
16 We could go back and look at 9043, because even the
17 Plaintiffs used that to try to impeach 9047, but
18 then ultimately we decided let's address the
19 specific concerns of the Judge, continue to make
20 these districts better in Tier 2 considerations
21 across the board, and impact as few districts as
22 possible.

23 That process went through the day and frankly
24 until midnight and beyond on Wednesday, and then on
25 Thursday, it was finished and early afternoon a map

1 was put out in the House and the Senate for the
2 members to see and review that with a possible
3 amendment deadline for the next day for our
4 committee hearing on Friday.

5 On Friday the committee with Vice Chair Leader
6 Smith, Senator Montford, Senator Gibson, President
7 Lee, Senator Simmons and Senator Bradley convened
8 at 10:15a.m. We had reserved a block until 6:00
9 p.m. We discussed the Bill, we heard public
10 testimony, we voted and adopted the amendment that
11 I am discussing now. The Bill was incidentally
12 unanimously and then we prepared to come in here
13 for special order, and here we are.

14 PRESIDENT GAETZ: Speaker Thrasher.

15 SPEAKER THRASHER: In the testimony that you
16 referred to either on Thursday or Friday in your
17 committee, was there any testimony from the
18 Supervisors of Elections? I know Senator Montford
19 asked that, but I would be curious to know if there
20 was any actual testimony.

21 PRESIDENT GAETZ: Chairman Galvano.

22 SENATOR GALVANO: Thank you, Mr. President.
23 Yes, we did have testimony from the Seminole County
24 Supervisor, who appeared before the committee and I
25 frankly paraphrased this, he said, if there is

1 going to be an election that takes place before the
2 seating of the next Congress, that I think he used
3 the phrase, some Federal and State laws are going
4 to have to change. He didn't see how it was
5 practical.

6 PRESIDENT GAETZ: Mr. Speaker.

7 SPEAKER THRASHER: In reference to the
8 applicability issue, that testimony I presume was
9 somewhat persuasive in terms of how they, because
10 they had actually as I understand it testified in
11 the Court case that brought us to where we are, but
12 they raised some serious and substantial concerns
13 about the implications of the new election prior to
14 the end of the general election cycle this year,
15 did they not?

16 PRESIDENT GAETZ: Senator Galvano.

17 SENATOR GALVANO: Yes, they did. And I think
18 the Court, itself, if you read the August 1st Order
19 by Judge Terry Lewis, he does not conclude he can
20 or will conduct an extended or special election.
21 He recognizes the challenges that take place, but
22 he said he feels as though he at least needed to
23 consider it and that is why he directed in his
24 Order the Department of State to come forward with
25 their recommendations.

1 PRESIDENT GAETZ: Further in questions?
2 Senator Simmons for a question.

3 SENATOR SIMMONS: Thank you, Mr. President,
4 and also thank you for appointing me to the
5 committee.

6 PRESIDENT GAETZ: Well, I love both you and
7 Speaker Thrasher.

8 SENATOR SIMMONS: I do in a way, also, Your
9 Honor, in a way.

10 Chairman Galvano, at the committee meeting on
11 Friday, there was a testimony by the NAACP and they
12 had two individuals who were leaders of the NAACP,
13 long time leaders of the NAACP, and they spoke very
14 eloquently about the need to retain Congressional
15 District No. 5 in the form that you had kept it in
16 your Bill as amended.

17 And they spoke about the historical
18 cohesiveness of the district and they, of course,
19 spoke about the creation of the district by Federal
20 Judges rather than the Legislature. And the idea
21 of going from Duval County down to Orange County
22 being something that was, in fact, created by
23 Federal Judges for the purposes of compliance with
24 the Voting Rights Act.

25 Could you explain to us why you felt it was

1 important to maintain the general location, as well
2 as the black voting age population of 48 percent in
3 the Congressional District in your map?

4 PRESIDENT GAETZ: Chairman Galvano.

5 SENATOR GALVANO: Thank you, Mr. President.
6 And I think you enunciated several of the
7 characteristics, the cohesiveness, the historical
8 nature.

9 Remember the benchmark which is CD 3 as I
10 recall came to us in the '90s, in really a
11 bipartisan at the time the Florida House of
12 Representative was controlled by Democrats. I
13 believe the Senate had a very narrow Republican
14 margin and Lawton Chiles was the Governor and that
15 is when it came together.

16 The testimony was very compelling in committee
17 with regard to the cohesive nature of the
18 north/south district. And incidentally the Judge
19 made no objection to the north/south configuration.
20 Why it was important not to diminish is very
21 simple, that is part of Tier 1, it is part of
22 Federal law and we wanted to, while addressing the
23 Judge's concern that it wasn't necessary to go to a
24 majority/minority district, we didn't want to
25 impact the performance of the district, such that

1 the minority population could not elect a candidate
2 of its choice. That is why we did the functional
3 analysis.

4 Our comfort level at the 48 percent when we
5 ran the numbers was based first on the idea that
6 9043 which was discussed was by the Court, the
7 Court didn't find that was a diminution, but when
8 we ran the functional test later that was
9 confirmed.

10 PRESIDENT GAETZ: Senator Hays for a question.

11 SENATOR HAYS: Thank you, Mr. President.

12 Senator Galvano, back to the potential opportunity
13 for a special election. I am concerned because I
14 was contacted by two Supervisors of Elections.

15 In the remarks to the Committee the other day,
16 did the Supervisor from Seminole County point out
17 the difficulty in securing polling locations for a
18 special election that may conflict with venues that
19 are already obligated?

20 PRESIDENT GAETZ: Chairman Galvano.

21 SENATOR GALVANO: Thank you, Mr. President. I
22 think very specifically the testimony involved the
23 timing, which would if you were looking at where
24 you would have a primary for example would be in
25 that block of time in December, which are commonly

1 the holidays.

2 He raised an antidotal concern about the
3 availability of polls, many being of church
4 properties, and then also poll workers, the
5 availability of poll workers.

6 PRESIDENT GAETZ: Senator Hays.

7 SENATOR HAYS: Is there any allowance going to
8 be made for financial considerations? Because one
9 of the Supervisors who contacted me is from a
10 relatively small county, and if I understood you
11 correctly, you said this impacts 23 different
12 counties, and this small county said just one
13 special election would impact their budget to more
14 than \$375,000.

15 If we multiply that alone times 23 we are
16 looking at some serious money, and that particular
17 county is already considering an 18 percent
18 increase in their property taxes this year. So who
19 is going to fund the special election?

20 PRESIDENT GAETZ: Chairman Galvano.

21 SENATOR GALVANO: Thank you, Mr. President.
22 And all of these are valid concerns. I would just
23 remind all of the Senators that that decision in
24 terms of having an extended special election has
25 not been determined. And when I read the Court

1 Order, I don't believe that the Court feels very
2 confident about the ability to do that, but the
3 Court did not want to just summarily dismiss it.

4 With regard to the cost ultimately, that would
5 be part of the Court Order and it would seem that
6 the Legislature would probably be making that
7 payment, but again the Order has not been issued.

8 PRESIDENT GAETZ: Further in questions?
9 Senator Bradley for a question.

10 SENATOR BRADLEY: Thank you, Mr. President,
11 and I also wanted to thank you for putting me on
12 the Committee. I was not going to comment about
13 matters of the heart, but thank you.

14 Senator Simmons was very correct that we
15 received compelling testimony at Committee from our
16 friends in the NAACP regarding the history of CD 5,
17 why it exist and how it has progressed over time.

18 We also heard from legal counsel, both for the
19 House and the Senate regarding our legal
20 obligations both under these newly adopted
21 amendments to our State Constitution, as well as
22 Federal law, in that we have an obligation to
23 prevent retrogression.

24 So what I would like you to discuss with the
25 Senate because I found it very compelling, was our

1 consideration and discussion of a map that the
2 League of Women Voters had offered that included a
3 horizontal District 5. It was a different way of
4 drawing CD 5, in that it did not go north/south,
5 but instead went east/west, and within it was an
6 impact on the BVAP of going from the benchmark of
7 49.9 in the League map to 49.1.

8 We had a discussion with our lawyers at
9 Committee about whether if the BVAP was reduced to
10 45.1 would that put this map in danger of being
11 subject to challenge and thrown out by a State
12 Court or a Federal Court. Could you discuss that
13 discussion with our lawyers?

14 PRESIDENT GAETZ: And Senator Galvano, before
15 you respond to Senator Bradley. Senator Joyner,
16 thank you for going through storms and bad weather
17 and changing modes of transportation and doing
18 everything you could to get here. We welcome you
19 and we are glad you are here safely. Thank you
20 very much.

21 Chair Galvano to respond to Senator Bradley's
22 question, please.

23 SENATOR GALVANO: Thank you, Mr. President.
24 Yes, that discussion did occur in Committee and
25 counsel was specifically referring to it in terms

1 of being the Plaintiffs' map as we looked at the
2 status of the litigation and what had been put
3 before the Court.

4 And the number in BVAP reduction from the
5 benchmark to the proposed Plaintiff or League map
6 is correct as you have enunciated, too, at the
7 45 percent. The testimony that we heard was not
8 just with regard to the percentage reduction, but
9 the cohesiveness and the historical characteristics
10 of the community that runs back and forth which are
11 all considerations to take into that you look at
12 when you do a functional analysis.

13 When you get, go from a 49.9 down to a 45, I
14 think you then do go into the dubious area of
15 retrogression and it certainly would be a concern.

16 PRESIDENT GAETZ: Senator Bradley, follow up.

17 SENATOR BRADLEY: Thank you, Mr. President.
18 Senator Galvano, isn't it also correct that in
19 Judge Lewis' opinion he spoke approvingly of
20 testimony from Alex Kelly who is a staff member
21 with the House regarding the BVAP performance of
22 particular House iterations of CD 5 that included
23 BVAPs of 47 to 48 percent?

24 PRESIDENT GAETZ: Chairman Galvano.

25 SENATOR GALVANO: Thank you, Mr. President.

1 Yes, you are correct. Again, that is when I
2 reference 9043, that is the map we are talking
3 about, and the BVAP in 9043 was 48.03. The BVAP in
4 9057, which is in the amendment here is 48.11.

5 PRESIDENT GAETZ: Further in questions for
6 Chairman Galvano? Further in questions? Further
7 in questions?

8 My understanding, Chairman, is that you have a
9 substitute amendment which maintains all of the
10 provisions that you have described to the Senate,
11 but makes a couple of clarifications. Take up and
12 read the Galvano substitute amendment.

13 READING CLERK: Late filed Bar Code 642398 by
14 Senator Galvano. To delete everything after the
15 enacting clause and insert amendment.

16 PRESIDENT GAETZ: Senator Galvano, on the
17 substitute, would you please let the Senate know
18 where the clarifications are and any differences
19 between what you have just explained and the
20 substitute.

21 SENATOR GALVANO: Thank you, Mr. President.
22 First of all, there is no substantive differences
23 with regard to the lines and where they are drawn,
24 nor is there any difference with regard to the
25 applicability date.

1 What was adjusted was language within the
2 whereas clause with regard to CD 5 to make it more
3 conforming. And then with regard to the sections
4 we create a new section in the substitute that
5 enacts these maps where we don't find ourselves in
6 a legally precarious position of having competing
7 or no set of enacted maps.

8 PRESIDENT GAETZ: Questions on the substitute?
9 Questions on the substitute?

10 If not, Senators, if I may have your
11 attention. There is a strike hold amendment that
12 is late filed that is being prepared by Bill
13 drafting right now. It is on behalf of Senator
14 Soto.

15 Our commitment is that we are going to be fair
16 to every Senator, we are going to have a thorough
17 and complete discussion of every option. However,
18 because of the fact that it is late filed and it
19 came in rather late, it is not prepared yet for
20 everyone to see.

21 So therefore, I ask the Senate in deference to
22 the fairness that this body is known for and in
23 deference to Senator Soto that you bear with us on
24 a short recess.

25 Therefore, the Senate will stand in recess

1 until, what time do you want to stand in recess to?
2 We will stand in recess until, informal recess,
3 until 3:00 and we ask Senators to remain close to
4 the floor in case Senator Soto's amendment is
5 available sooner.

6 (Whereupon, the Senate was in recess.)

7 SECRETARY: Quorum call, quorum call, all
8 Senators indicate your presence, all Senators
9 indicate your presence. Quorum call, quorum call,
10 all Senators indicate your presence.

11 A quorum is present, Mr. President.

12 PRESIDENT GAETZ: I would ask all Senators to
13 take their seats, please.

14 When last we tuned in the Galvano substitute
15 amendment 642398 was pending when we went. Mr.
16 Reading Clerk, please read the amendment.

17 READING CLERK: Late filed Bar Code 642398 by
18 Senator Galvano, delete everything after the
19 enacting clause and insert amendment.

20 PRESIDENT GAETZ: Senator Galvano moved to
21 postpone action on his amendment so that we may
22 take up to the Soto amendment. Show that motion
23 adopted without objection. Read the next
24 amendment.

25 READING CLERK: Late filed Bar Code 671078 by

1 Senator Soto, delete everything after the enacting
2 clause and insert amendment.

3 PRESIDENT GAETZ: Senator Soto, you are
4 recognized on your amendment, sir.

5 SENATOR SOTO: Thank you, Mr. President.
6 Senators, as you know we are here in special
7 session because of the Order of Judge Lewis
8 striking down as unlawful the previous map. And
9 there were two findings in that Order.

10 One was that District 5 was boosted up above
11 50 percent black voting age population. And the
12 second, that it contained two unusual appendages,
13 one consisting of Sanford and the other going deep
14 into Orange County.

15 The other ruling was that District 10 was
16 drawn to favor a party and an incumbent. So I,
17 along with my assistant, Christine Byron, my
18 legislative assistant, drew a map that affects
19 three districts, 5, 10 and 7 and it affects three
20 counties, Orange, Seminole and Lake.

21 We used the District Builder program, as well
22 as Judge Lewis' Order as our resources. And from
23 there what we had to do was address a few things.

24 First, we had to adjust the appendage that was
25 in Seminole County which contained Sanford and we

1 had to adjust the appendage that went down into
2 Orange County. Those have been shaved back in
3 accordance with the Order.

4 Second, we had to make sure under the top tier
5 standards that we weren't diminishing of the
6 minority electorate to elect the candidate of their
7 choice. In that order the Judge quoted Dr. Brunell
8 by saying that they would at least have a 50/50
9 chance if the black voting age population was at
10 43.6 percent, and this puts it at 43.7 percent, and
11 for the reason being that African-Americans make up
12 68 percent of the primary and 55 percent of the
13 total -- and Democrats make up 55 percent of the
14 total electorate.

15 So I believe that their ability to elect their
16 candidate of choice is still equal, and that even
17 Dr. Brunell's estimate was a conservative one.

18 The second part was dealing with Congressional
19 District 10, which again, the Judge held was
20 drafted to benefit a party and an incumbent. And
21 so that district had to be adjusted in accordance
22 with the top tier standard to not benefit a party
23 or incumbent. And as a result the only other
24 district we had to affect because of the Sanford
25 appendage was District 7, which also then complies

1 now with the top tier factor which is to not
2 benefit or favor one party or incumbent over other
3 and that is the amendment, Mr. President.

4 PRESIDENT GAETZ: Thank you, Senator Soto.
5 Questions for the Senator? Questions for the
6 amendment sponsor? Senator Simmons.

7 SENATOR SIMMONS: Thank you, Mr. President.
8 Senator Soto, my questions to you are if you
9 compare your amendment to Senator Galvano's Bill as
10 amended, I am looking at the numbers and I see that
11 for yours for District 5 the black voting age
12 population is 43.71, right?

13 PRESIDENT GAETZ: Senator Soto.

14 SENATOR SOTO: Sorry about that, Mr.
15 President. Correct.

16 PRESIDENT GAETZ: And Senator Simmons, before
17 you ask your next question, I would like to
18 acknowledge Senator Latvala being on the floor, who
19 is here at some personal inconvenience to himself,
20 but came because he is serious about his
21 constitutional duties. So thank you for driving
22 all the way up here after a medical appointment
23 today, Senator Latvala. Senator Simmons.

24 SENATOR SIMMONS: Thank you, Mr. President,
25 for a series of questions.

1 PRESIDENT GAETZ: Let's take them one at a
2 time.

3 SENATOR SIMMONS: All right. Then for yours,
4 for District 5, the black voting age population is
5 43.71 percent.

6 PRESIDENT GAETZ: Senator Soto.

7 SENATOR SOTO: Yes.

8 PRESIDENT GAETZ: Senator Simmons.

9 SENATOR SIMMONS: That is a reduction of about
10 four and-a-half percent, five percent?

11 PRESIDENT GAETZ: Senator Soto.

12 SENATOR SOTO: It is a reduction down to 43.7
13 percent.

14 PRESIDENT GAETZ: Senator Simmons.

15 SENATOR SIMMONS: All right, now, for the
16 surrounding districts what happens is that the
17 black voting age population in the two other
18 districts that you affect which are 7 and 10,
19 Senator Galvano had for District 7, 10.87 percent
20 black voting age population and you have
21 10.73 percent black voting age population, correct?

22 PRESIDENT GAETZ: Senator Soto.

23 SENATOR SOTO: If that is what the analysis
24 suggest, then yes.

25 PRESIDENT GAETZ: Senator Simmons.

1 SENATOR SIMMONS: Then for District 10 the
2 other affected district, the black voting age
3 population for Senator Galvano is 12.21 percent and
4 for yours for District 10, is 15.34 percent, is
5 that right?

6 PRESIDENT GAETZ: Senator Soto.

7 SENATOR SOTO: If the analysis suggest that,
8 then yes.

9 PRESIDENT GAETZ: Senator Simmons.

10 SENATOR SIMMONS: It is fair to say then that
11 probably that results in the reduction from the
12 original 50 percent down to 48 percent?

13 PRESIDENT GAETZ: Senator Soto.

14 SENATOR SOTO: Thank you, Mr. President. As
15 you know the Judge told us that we had to unpack
16 District 5 because it was unconstitutionally packed
17 and reduce it above 50 percent. So as a result
18 certain African-American communities by necessity
19 of the Order had to be absorbed into other
20 districts. In Senator Galvano's map there were
21 seven districts, in my map there are two and those
22 were the resulting percentages.

23 PRESIDENT GAETZ: Senator Simmons.

24 SENATOR SIMMONS: So the affect then, Senator
25 Soto, is that if you look, other than that one

1 change, the surrounding districts insofar as black
2 voting age population is concerned really is
3 negligible, as a matter of fact, very similar
4 between yours and Senator Galvano's, is that right?

5 PRESIDENT GAETZ: Senator Soto.

6 SENATOR SOTO: My understanding is that it is
7 boosted to 20 percent in Congressional District --
8 sorry, it is not a huge difference in the
9 African-American population difference between both
10 Senator Galvano and my map.

11 PRESIDENT GAETZ: Senator Simmons.

12 SENATOR SIMMONS: It is basically the same
13 other than the little two percent that we talked
14 about, right?

15 PRESIDENT GAETZ: Senator Soto.

16 SENATOR SOTO: There would be a difference,
17 because I don't take in those other five districts,
18 and not African-Americans in those districts, and
19 that was based again upon the Order that it was
20 unlawful packing in the Congressional District 5.

21 PRESIDENT GAETZ: Senator Simmons.

22 SENATOR SIMMONS: So the effect is there is no
23 reasoning that would justify creating minority
24 access districts in 7 and 10. You clearly have not
25 created a minority access district in 7 and 10, but

1 you have, in fact, reduced minority access in
2 District 5, is that right?

3 PRESIDENT GAETZ: Senator Soto.

4 SENATOR SOTO: District 5 required us through
5 Judge Lewis' Order to reduce the African-American
6 vote because there was unlawful packing, and Judge
7 Lewis also said that Congressional District 10 was
8 unlawful because it was there to benefit an
9 incumbent and a party.

10 And it also said that Sanford which was in
11 Congressional District 7 was an unlawful appendage.
12 The other appendage being in Congressional District
13 10. So necessarily by his Order there were certain
14 populations of African-Americans that had to be
15 absorbed in those two seats, and they are in fact
16 in Senator Galvano's seat, Congressional District 7
17 absorbs Sanford because it is in that Seminole
18 County seat, and then Webster's seat, Congressional
19 District 10 held by Webster currently, absorbed
20 part of that African-American population.

21 PRESIDENT GAETZ: Senator Simmons.

22 SENATOR SIMMONS: So then the answer to my
23 question is, yes, you have not created a minority
24 access district out of 7 and 10, is that correct?

25 PRESIDENT GAETZ: Senator Soto.

1 SENATOR SOTO: It was not my intent to create
2 minority access seats in either of those.

3 PRESIDENT GAETZ: Senator Simmons.

4 SENATOR SIMMONS: Therefore, we know that the
5 purpose of what you have done is not to create
6 minority access districts in 7 and 10, but there
7 has been a diminution of voting access rights for
8 African-Americans in 5.

9 Let's look at the Reock scores between yours
10 and Senators Galvano's. Now, Senator Galvano's map
11 has a Reock score of .127, is that right?

12 PRESIDENT GAETZ: Senator Soto.

13 SENATOR SOTO: Whatever Senator Galvano said
14 his Reock score was, I am certain he is correct.

15 PRESIDENT GAETZ: Senator Simmons.

16 SENATOR SIMMONS: You have a significant
17 reduction in the Reock score from his, and your
18 Reock score is .099, is that right?

19 PRESIDENT GAETZ: Senator Soto.

20 SENATOR SOTO: Thank you, Mr. President. I
21 applied Tier 1 standards primarily which require
22 that you cannot favor a party or an incumbent. So
23 therefore, the only compactness I looked at was
24 visual. Also we were given strict rules about what
25 resources we were allowed to use.

1 So I didn't have anything other than visual
2 compactness from the tools that I described and
3 utilized. But I applied Tier 1 factors primarily
4 of not benefiting a party or an incumbent in
5 Congressional District 10. So it didn't get to
6 Tier 2 factors.

7 PRESIDENT GAETZ: Senator Simmons.

8 SENATOR SIMMONS: So what you did do is you
9 did not consider the Reock scores, right?

10 PRESIDENT GAETZ: Senator Soto.

11 SENATOR SOTO: Yes.

12 PRESIDENT GAETZ: Senator Simmons.

13 SENATOR SIMMONS: Not only with respect to the
14 convex hull scores, Senator Galvano's convex hull
15 score is .417, is that right?

16 PRESIDENT GAETZ: Senator Soto.

17 SENATOR SOTO: Whatever he had stated in his I
18 am sure is correct, but his map does not correct
19 the fact that Congressional District 10 was found
20 by the Court to be drawn to the benefit of the
21 Republican Party and the incumbent on page 34.
22 Therefore, I didn't get to the Tier 2 compactness
23 standards for Congressional District 10 because I
24 was complying with the Tier 1 standards that were
25 iterated in Judge Lewis' opinion.

1 PRESIDENT GAETZ: Senator Simmons.

2 SENATOR SIMMONS: Are you aware that the
3 convex hull result for yours is .329 and for
4 Senator Galvano is .417?

5 PRESIDENT GAETZ: Senator Soto.

6 SENATOR SOTO: Thank you, Mr. President. I
7 did not do a convex or Reock analysis, so I
8 wouldn't know.

9 PRESIDENT GAETZ: Senator Simmons.

10 SENATOR SIMMONS: For the perimeters of
11 Congressional District 5, are you aware that the
12 perimeter for Senator Galvano's Congressional
13 District 5 is 582.7 miles, therefore, being more
14 compact and the perimeter on yours is 661.8 miles?

15 PRESIDENT GAETZ: Senator Soto.

16 SENATOR SOTO: If that is what the facts bear
17 out, then sure.

18 PRESIDENT GAETZ: Senator Simmons.

19 SENATOR SIMMONS: So if we look at all of
20 these issues and bring them to a culmination, we
21 know then, Senator Soto, that there was no
22 appreciable change in the black voting age
23 population for surrounding counties and Districts
24 10 and 7 as a result of what you have done.

25 We know that there has been a diminution in

1 the Reock scores. We know that there has been a
2 diminution in the convex hull scores and an
3 increase in the perimeters.

4 Senator Soto, that only leaves political
5 considerations. Did you make any political
6 considerations with respect to the changes that you
7 made?

8 PRESIDENT GAETZ: Senator Soto.

9 SENATOR SOTO: No. What I did is apply the
10 Tier 1 standards. First you had to deal with the
11 packing issue of Congressional District 5. And
12 then second, you had to deal with the Tier 1
13 violation for Congressional District 10, and what
14 came about is two seats that neither favor a party
15 or an incumbent in compliance with the Order,
16 unlike the original map which is still in violation
17 of the Order because it still has not changed
18 Congressional District 10 to change from what Judge
19 Lewis says.

20 I also find that District 10 was drawn to the
21 benefit of the Republican Party and the incumbent.
22 So my map considered those Tier 1 standards in
23 order to correct those, and so it did not go to the
24 Tier 2 standard with regard to compactness other
25 than visual compactness.

1 PRESIDENT GAETZ: Senator Simmons.

2 SENATOR SIMMONS: So because although I
3 disagree with what the Judge said about our duty to
4 inquire, I strongly disagree with the duty that is
5 imposed upon us to make a thorough and complete
6 inquiry into any map that is presented to us, and I
7 will discuss that more in my, in my debate.

8 But is it fair to say then, you did not look
9 and have anyone in your staff to analyze whether or
10 not there were any changes in the voting age
11 populations of either Democrats or Republicans in
12 the surrounding districts?

13 PRESIDENT GAETZ: Senator Soto.

14 SENATOR SOTO: We applied Tier 1 factors which
15 require us to look at whether or not a party or an
16 incumbent is favored or not, and that as I said
17 before, the resources we used were the information
18 on District Builder, as well as Judge Lewis'
19 opinion.

20 PRESIDENT GAETZ: Senator Simmons.

21 SENATOR SIMMONS: Because we are required
22 under the Judge's Order to make this inquiry, is it
23 then true that someone on your staff or on behalf
24 of your staff did an analysis as to the voting age
25 populations and the particular political parties in

1 District 7 and 10?

2 PRESIDENT GAETZ: Senator Soto.

3 SENATOR SOTO: We looked at the voting age,
4 the black voting age populations in District 5 per
5 the Order, and then as I said, I applied the Tier 1
6 standards to both 7 and 10 as a result.

7 PRESIDENT GAETZ: Senator Simmons.

8 SENATOR SIMMONS: One last question then,
9 Mr. President, and that is, I am not sure I
10 understand.

11 Did you have or did you ask anyone to do an
12 analysis in 7 and 10 of the actual party
13 participation or performance?

14 PRESIDENT GAETZ: Senator Soto.

15 SENATOR SOTO: Again, it was a Tier 1 standard
16 that we applied to make sure that both of these
17 districts are not favoring either party or
18 incumbent, and that was my direction to the one
19 staff member who helped me out, Christine Byron.

20 There were no other parties who participated
21 in it per the very strict instructions with regard
22 to Senator Galvano and Representative Corcoran.
23 And so that was my instruction to my staff, to
24 apply those standards.

25 PRESIDENT GAETZ: For the moment, are you

1 finished, Senator Simmons? All right. In that
2 case, Senator Bradley, you are recognized for a
3 question of the sponsor.

4 SENATOR BRADLEY: Thank you, Mr. President.
5 Senator Soto, so am I to understand you modified
6 the boundaries of District 10 and District 7 so
7 that it would be more likely that a Democrat would
8 be elected in Districts 7 and 10, isn't that
9 correct?

10 PRESIDENT GAETZ: Senator Soto.

11 SENATOR SOTO: No, I modified it to apply the
12 Tier 1 standard that it would not favor either
13 party or an incumbent.

14 PRESIDENT GAETZ: Senator Bradley.

15 SENATOR BRADLEY: Is District 10 and District
16 7 under your map configured so that it is now more
17 likely for a Democrat to be elected than they would
18 be under the prior configuration of District 10 and
19 District 7?

20 PRESIDENT GAETZ: Senator Soto.

21 SENATOR SOTO: I couldn't tell you because I
22 didn't run projections based upon voting trends.

23 PRESIDENT GAETZ: Senator Bradley.

24 SENATOR BRADLEY: Senator Soto, haven't you
25 said on social media, for instance, that your

1 districts are drawn so that they are equally split
2 between Democrats and Republicans?

3 PRESIDENT GAETZ: Senator Soto.

4 SENATOR SOTO: Correct, and that is to apply
5 the Tier 1 standards that make sure that neither
6 party is favorable or an incumbent.

7 PRESIDENT GAETZ: Senator Bradley.

8 SENATOR BRADLEY: Okay, that is what I thought
9 you were getting at. So what you are saying is,
10 you knew that District 10 and District 7 under the
11 current configurations have a certain
12 Republican/Democrat split and that the map that you
13 filed has more Democrats than the map that
14 currently exists, correct?

15 PRESIDENT GAETZ: Senator Soto.

16 SENATOR SOTO: Judge Lewis required us under
17 Congressional District 10 to do just that, to make
18 sure we applied the Tier 1 standards and not favor
19 a party or an incumbent, because he previously
20 found that it was drawn to benefit a party and an
21 incumbent. So under the Order we were required to
22 do that.

23 PRESIDENT GAETZ: Senator Bradley.

24 SENATOR BRADLEY: Thank you, Mr. President.

25 So it is your understanding of Judge Lewis' Order

1 and the law that it is our job to look at districts
2 and make sure that there are equal numbers of
3 Democrats and Republicans?

4 PRESIDENT GAETZ: Senator Soto.

5 SENATOR SOTO: It is our job to apply the Tier
6 1 standard that says that you are not supposed to
7 benefit a particular party or incumbent, and
8 because the Judge said, I also find that District
9 10 was drawn to benefit the Republican Party and
10 the incumbent, that required us under this Order to
11 look at District 10 and apply the Tier 1 standard.

12 PRESIDENT GAETZ: Senator Bradley.

13 SENATOR BRADLEY: I will take that as a yes.
14 Going to a Congressional District 5 which Senator
15 Simmons referred to, isn't it true that the
16 benchmark district has a 49.9 BVAP percentage, and
17 the Soto plan has a 43.71 BVAP?

18 PRESIDENT GAETZ: Senator Soto.

19 SENATOR SOTO: Thank you, Mr. President. The
20 plan does have a 43.7 percent BVAP. The other
21 reference of 48 is not anywhere in the Judge's
22 Order. It has been a legal conclusion that we are
23 bound to this benchmark, but it is not said
24 anywhere in that Order that we are bound by that.

25 PRESIDENT GAETZ: Senator Bradley.

1 SENATOR BRADLEY: Perhaps you didn't
2 understand my question. What I asked was, isn't
3 the benchmark district, the 49.9 percent BVAP and
4 the Soto plan, 43.71 percent BVAP?

5 PRESIDENT GAETZ: Senator Soto.

6 SENATOR SOTO: Please clarify what you mean by
7 benchmark district.

8 PRESIDENT GAETZ: Senator Bradley.

9 SENATOR BRADLEY: The benchmark district is
10 District 3, 2002.

11 PRESIDENT GAETZ: Senator Soto.

12 SENATOR SOTO: The benchmark district as you
13 are referring to would be what it is then.

14 PRESIDENT GAETZ: Senator Bradley.

15 SENATOR BRADLEY: Thank you, Mr. President.
16 Okay. Assuming that you are accepting that the
17 benchmark district is 49.9 BVAP and the Soto plan
18 you have acknowledged is 43.71 BVAP, does your map
19 decrease the ability of African-Americans to elect
20 a candidate of their choice in CD 5, which used to
21 be numbered in the benchmark district CD 3?

22 PRESIDENT GAETZ: Senator Soto.

23 SENATOR SOTO: No. According to page 20 of
24 the analysis by the Judge, Dr. Brunell, an expert
25 retained by the House, suggested that there would

1 be a 50/50 ability to elect a minority candidate of
2 choice with a BVAP as low as 43.6 percent.

3 We put it up 43.7 percent and I assert that
4 that is a conservative estimate. And the reason is
5 is that African-Americans make up 68 percent of a
6 primary of the Democratic primary and they are also
7 55 percent, Democrats are 55 percent of the general
8 election. So I assert that they have an equal
9 ability to pick the candidate of their choice.

10 PRESIDENT GAETZ: Senator Bradley.

11 SENATOR BRADLEY: Thank you, Mr. President.
12 So you do not accept the testimony that they only
13 have a 50/50 chance of selecting the candidate of
14 their choice?

15 PRESIDENT GAETZ: Senator Soto.

16 SENATOR SOTO: We exceeded that and I believe
17 it to be a conservative estimate.

18 PRESIDENT GAETZ: Further in questions,
19 Senator Bradley?

20 SENATOR BRADLEY: You exceeded it by going to
21 43.7 instead of 43.6, is that what you are
22 describing as exceeding that?

23 PRESIDENT GAETZ: Senator Soto.

24 SENATOR SOTO: Yes.

25 PRESIDENT GAETZ: Yes, sir, Senator Bradley

1 for a question.

2 SENATOR BRADLEY: So you, so you don't accept
3 the testimony contained in Judge Lewis' Order,
4 instead you dismiss it as being quote, unquote,
5 conservative?

6 PRESIDENT GAETZ: Senator Soto.

7 SENATOR SOTO: I looked at it and considered
8 it as a factor, but not the only and dispositive
9 factor.

10 PRESIDENT GAETZ: Further in questions?
11 Senator Bradley.

12 SENATOR BRADLEY: Thank you for allowing me to
13 ask several questions. I really appreciate the
14 courtesy, Mr. President.

15 What other factors then did you consider?

16 PRESIDENT GAETZ: Senator Soto.

17 SENATOR SOTO: I just briefly discussed the
18 primary aspect.

19 PRESIDENT GAETZ: Further in question, further
20 in questions for the sponsor? Senator Bradley.

21 SENATOR BRADLEY: One more question,
22 Mr. President, and again, thank you for your
23 courtesies.

24 I thought, I thought and maybe I
25 misunderstood, that you had made some statements

1 publicly that you did not feel like you had
2 sufficient access to Senate staff, and that you
3 were an a lone wolf having to prepare this with you
4 and your aid, and if I misunderstood that statement
5 to the House, please clarify it.

6 But my question to you is, did you have any
7 requests that were made of Senate staff with
8 regards to preparation of this map that were
9 denied?

10 PRESIDENT GAETZ: Senator Soto.

11 SENATOR SOTO: I make no allegation that I was
12 denied any access to Senate staff. Everybody has
13 been wonderful here. I just merely, because of the
14 instructions given by Senator Galvano and
15 Representative Corcoran to identify the resources
16 and those who helped out in it, suggested that that
17 was the only resource I used because that seemed to
18 be the cleanest way to do this.

19 What you are referencing is a response to
20 whether I did a Reock or convex analysis and, no, I
21 did not do those analysis, but I don't allege that
22 at any point that I was denied access to any staff
23 if I wanted to have those analysis done whatsoever,
24 everybody has been great.

25 PRESIDENT GAETZ: Speaker Thrasher for a

1 question.

2 SENATOR THRASHER: Thank you, Mr. President.
3 This is just a real simple question, not as complex
4 as the ones you have been asked, Senator Soto,
5 because this is really coming from me, but it is
6 really out of curiosity, okay.

7 The President put together this committee and
8 three members of your political party were on the
9 committee, Senator Smith, Senator Montford, Senator
10 Gibson.

11 I was just curious why you didn't offer this
12 amendment in the committee or have one of those
13 members offer it for you given the fact that you
14 obviously don't like Senator Galvano's amendment
15 that was before us right now.

16 PRESIDENT GAETZ: Senator Soto.

17 SENATOR SOTO: I discussed it with my Leader
18 and because I was the one who drafted the amendment
19 he felt it more appropriate that I present it on
20 the floor directly.

21 PRESIDENT GAETZ: Further questions, further
22 questions for the amendment sponsor? Yes, Senator
23 Sobel for a question.

24 SENATOR SOBEL: Thank you, Mr. President, and
25 thank you, Senator Galvano for your very hard work.

1 So I asked Senator Galvano how many voters are
2 impacted by his plan, and my math was wrong. I did
3 it too quickly and I added up it was about 207,000,
4 and I had asked about voters. I am not sure if he
5 includes the voters rather than population so that
6 is still up in the air.

7 How many voters actually are impacted by you,
8 how many Congressional Districts and how many
9 voters might be impacted by your plan?

10 PRESIDENT GAETZ: Senator Soto.

11 SENATOR SOTO: Thank you, Mr. President.
12 There are three districts and three counties
13 impacted. I do not know the exact number of voters
14 that are impacted.

15 PRESIDENT GAETZ: Further questions for the
16 sponsor? Questions for the sponsor?

17 Leader Smith.

18 LEADER SMITH: How many as compared to the
19 Galvano plan, how many are impacted by your plan
20 and Senator Galvano's plan? I am interested
21 because if we do have special elections, which one
22 would impact those Supervisors of Elections more?

23 PRESIDENT GAETZ: Senator Soto.

24 SENATOR SOTO: Thank you, Mr. President. My
25 plan affects three districts in three counties, his

1 affects, I believe, seven districts and seven
2 counties. So I would reasonably conclude that
3 there would be seven special elections under the
4 Galvano plan and three special elections under my
5 plan.

6 PRESIDENT GAETZ: Further in questions for the
7 sponsor, further in questions? All right, we will
8 go into debate on the amendment.

9 Debate on the Soto amendment. Who wishes to
10 be heard in debate? Senator Simmons in debate, you
11 are recognized, sir.

12 SENATOR SIMMONS: Thank you, Mr. President.
13 Senator Soto, I rise in opposition to your
14 amendment for two reasons.

15 The first is that the Judge was very clear
16 about retrogression, and he specifically said that
17 there should not be any retrogression. He did not
18 take any flexible standard that results and the
19 Constitution says, and I will just quote from his
20 own opinion, his Order and his Final Judgment on
21 page 4.

22 "The second minority protection prohibits a
23 plan or district from diminishing their ability to
24 elect representatives of their choice. Commonly
25 referred to as retrogression, this clause tracks

1 Section V of the Voting Rights Act and prohibits
2 backsliding in the ability of minority groups to
3 elect candidates of their choice."

4 So on its face what I see is as you have
5 stated, a plan that significantly backslides
6 because it goes from approximately 49 percent black
7 voting age population to 43.71 percent black voting
8 age population, and to me, and I think anyone else
9 that when there is a prohibition against
10 diminution, that means just what it says, a
11 prohibition against diminution.

12 And only in I guess the Florida Legislature
13 can a, when somebody diminishes from 49 percent to
14 43 percent, can that not be a diminution? So I
15 believe that the amendment that you have proposed
16 is, is unconstitutional because our fair
17 amendments, contrary to the suggestions of some
18 people, does protect the access of minorities.

19 Just like the NAACP spoke about at the time of
20 the Committee meeting last Friday, and the fact of
21 it is, is we are not supposed to diminish the
22 ability of, in this case, African-Americans, to
23 have access, and when I look around this Chamber I
24 see that the Voting Rights Act has done what it is
25 supposed to do.

1 Not only have individuals who are
2 African-Americans or Hispanics be able to vote for
3 somebody, but, in fact, be able to be part of the
4 process here with us, and that is the reason that
5 this was done. This was a decision by Federal
6 Judges to create what it is now Congressional
7 District 5, and we are prohibited from diminishing
8 the ability of those individuals, those minorities
9 to elect candidates of their choice, and yours does
10 not do that.

11 Secondly, we are still operating under Judge
12 Lewis' Order, and his Order says that we are
13 supposed to, in fact, thoroughly vet any kind of
14 plan that is presented to us. As a matter of fact,
15 if we don't do that, then we are subject to the
16 criticism of having this transferred intent. I
17 call it the doctrine of transferred intent, that
18 the bad intent of somebody else is transferred to
19 the Legislature.

20 And if anyone has any doubts about what he
21 ruled, if you turn to page 25, he says, "The
22 reality and the irony is that there would be
23 absolutely nothing wrong about the attendees at
24 those meetings submitting proposed maps or partial
25 maps. The difference is, if done in the open, then

1 those reviewing the submissions could take into
2 account the source in evaluating whether it was
3 neutral or whether it might tend to favor or
4 disfavor a political party or an incumbent. One of
5 the political consultants lamented that if he had
6 submitted maps in his own name he would probably
7 have come under attack, accused of trying to favor
8 his party or its incumbents. Well, of course, his
9 submission might be closely scrutinized in the same
10 way that a map proposed, a proposed map submitted
11 by the Florida Democratic Party might be taken with
12 a grain of salt. That is how it should be if one
13 is concerned about improper partisan intent
14 influencing the drawing of the map."

15 Then he goes on and says that he thinks that
16 staff and legislative leaders would find it
17 extremely strange and that they might ask why not,
18 as to a person in a public hearing, why somebody
19 didn't appear.

20 And then he goes on and says, "And the
21 Defendants point out, all of this was open,
22 transparent and on the record. Although that
23 sounds like a good idea, who can argue that
24 openness and transparency are not good things when
25 it comes to government. It provided the means by

1 which partisan maps secretly drawn and submitted by
2 political operatives can be incorporated into the
3 enacted map."

4 He goes on and says that, "If so, relying upon
5 publicly submitted maps may not be the best way to
6 protect against partisan influence."

7 And finally results and concludes that we are
8 supposed to thoroughly inquire. That is the sum
9 and substance of it, that we are supposed to
10 thoroughly inquire. And, of course, just as
11 Senator Thrasher said, we probably could have done
12 a much better job of thoroughly inquiring if at
13 least this had been presented in the Committee
14 meetings in which we could thoroughly analyze and
15 question rather than here on the floor of the
16 Senate in which we cannot do that.

17 And do I disagree with the Judge's
18 conclusions? I definitely disagree with any kind
19 of disdain for, for the right of the public to have
20 any kind of input into our maps. And I say to you
21 that our Constitution says that the people have the
22 right peaceably to assemble, to instruct their
23 representatives and to petition for redress of
24 grievances.

25 This was even cited in the Florida Supreme

1 Court's decision on redistricting in 2012, the
2 right to instruct our representatives. So every
3 citizen, no matter who that citizen is, has the
4 right to be here, to petition us no matter who it
5 is. And we don't have the right to keep that from
6 occurring.

7 As a matter of fact, the United States Supreme
8 Court said that under our Constitution, anonymous
9 pamphleteering is not a pernicious fraudulent
10 practice, but an honorable tradition of efficacy
11 and a dissent, anonymity is a shield from the
12 tyranny of the majority.

13 The Supreme Court went on to say, it thus,
14 exemplifies the purpose behind the Bill of Rights
15 and the First Amendment in particular to protect
16 unpopular individuals from retaliation and their
17 ideas from suppression.

18 Members, the sum and substance of it is, is
19 that the suppression of expression inevitably leads
20 to oppression. So as much as I disagree with the
21 Judge, as much as I believe that his opinion and
22 his ruling is unconstitutional on its face, we are
23 here in this dilemma in which we are required to
24 thoroughly, completely vet any kind of proposal and
25 we have got a proposal here on the floor of the

1 Senate that cannot be adequately and appropriately
2 vetted. We just can't.

3 Waited too late, had an opportunity at least
4 to do a good vetting of it or a decent vetting of
5 it in Committee meetings. But we can't do it here.
6 As a matter of fact, you have seen, if anyone
7 questions the obligation that this Court has placed
8 upon us to thoroughly vet a map that is submitted
9 to us, you can see the millions of dollars in legal
10 fees that have been spent and the depositions taken
11 of people just to see who actually prepared a map.

12 Those same people being constitutionally
13 protected in their ability to present a map to us,
14 but we are where we are, and that is here today
15 with a map that is given to us that we have no
16 ability to thoroughly vet, simply ask questions,
17 ask questions and then get an answer, because when
18 the Reock score is reduced the convex hull score is
19 reduced, the perimeter is inappropriately
20 increased, there can only be one other conclusion
21 that is reached, members.

22 The conclusion that is reached is that just as
23 Senator Bradley pointed out, that the purpose of
24 this map is for political purposes, because all of
25 the standards that the courts continue to use have

1 been violated here by this proposed map. But most
2 of all, members, most of all, the citizens of
3 Congressional District number 5 have become the
4 collateral damage, the collateral damage to a
5 political war. That is what it is.

6 That is the reason the Constitution is put in
7 place, to protect their rights. We are bound not
8 to diminish the ability of the minorities in
9 Congressional District number 5 to elect the
10 candidates of their choice, that in and of itself
11 answers the question for us, because this amendment
12 by Senator Soto violates that requirement.

13 PRESIDENT GAETZ: Further in debate, debate on
14 the Soto amendment.

15 Further in debate, Leader Smith.

16 LEADER SMITH: Thank you, Mr. President, and I
17 guess there are a couple of things that were said
18 that was surprising to me.

19 First, members, as we look at this and we talk
20 about the Reock score and the convex hull score,
21 those are not dispositive of whether a map is
22 constitutional or not. Those are factors the Judge
23 looks at, as well as the factors that Senator Soto
24 took into consideration.

25 So this map, along with the map by Senator

1 Galvano will be looked at, can be looked at by a
2 Judge and those are only factors, it is not
3 dispositive that is unconstitutional.

4 And second, we have had a chance to look at
5 this map. This map was actually filed before we
6 went into session. This map was filed last week
7 before we went into session. You have had all
8 weekend to look at this map, but at the same time
9 we have had to look at the Galvano map with this
10 map.

11 So we have had a time to vet this map and I
12 think it is a good map and I think it still
13 complies, it complies with the Judge's Order, and I
14 think if that is the reason that we are looking to
15 vote for this map or not vote for this map. I
16 don't think we have heard anything dispositive that
17 the map is unconstitutional.

18 We have had time to fully vet this map as we
19 have vetted, the same time we have had to vet both
20 maps. Look at this map, consider all of the
21 districts, I think Senator Soto has done a great
22 job, he and his aid only, of putting that map
23 together after reading the Judge's decision and
24 trying to do what the Judge said to do, and I
25 appreciate him for putting the time and effort at

1 this and I support this map.

2 PRESIDENT GAETZ: Further in debate, further
3 in debate? Senator Galvano.

4 SENATOR GALVANO: Thank you, Mr. President,
5 and Leader Smith, you are right. The Soto map was
6 filed and I think I mentioned it on Wednesday, when
7 I was going through the schedule. And so it was
8 out there and there was opportunity to look at it.

9 My concern with the map is this. We have come
10 to session based on a Joint Proclamation that asked
11 us to comply specifically with the Court Order and
12 more specifically with the concerns raised by Judge
13 Lewis with regard to CD 5 and CD 10.

14 With regard to CD 10, I think the Judge made
15 it very clear that the appendage that came up in
16 between CD 5 and CD 9 was not acceptable.
17 Unfortunately, in the Soto iteration that appendage
18 is not cured, and I would think that if we went in
19 the very first thing the Court is going to do,
20 because at the end of the day we can talk about the
21 Tier 1 considerations, but the Judge had to base
22 his Tier 1 findings, in fact, he used the word
23 inferred Tier 1 violations from Tier 2
24 manifestations, the compactness, the appendages, et
25 cetera. So right out of the gate we have not cured

1 the CD 10 appendage.

2 Then with regard to CD 5, if you look at the
3 map, the 9057 which is the underlying amendment, we
4 have increased the compactness and cured that
5 serpentine like nature that existed through and
6 against Alachua County by bringing the line
7 eastward. The Soto map does not address that
8 aspect of CD 5.

9 And then lastly, I think Senator Simmons makes
10 some very salient points with regard to
11 retrogression. I know 48 percent is not a magic
12 number, it was a number though that existed in
13 9043, which was a map that the Court held out as a
14 model and the Plaintiffs used as a reference in
15 order to impeach 9047. And so that was a rule of
16 thumb that was used.

17 So, and lastly, I would say it is a tricky
18 business this, because Tier 1 considerations are
19 really about intent. It is a specific intent
20 prohibition, it is not about effect, and the courts
21 have made it clear that without ill intent the
22 effect is not going to negate the map.

23 And so you can't draw a map based upon effect,
24 you can only look towards intent, and like the
25 Judge in this case did, as I mentioned earlier,

1 found an inference for that intent through the Tier
2 2 manifestations that in the map before us under
3 Senator Soto's name has not been cured.

4 PRESIDENT GAETZ: Further in debate? Senator
5 Soto to close on the amendment.

6 SENATOR SOTO: Thank you, Mr. President. And
7 I want to thank both you, Mr. President, and
8 Senator Thrasher and Senator Galvano for your
9 courtesy in allowing us to have a straight up
10 debate on this, and I appreciate that. Map making
11 is not easy to do.

12 This amendment has some clear differences. I
13 affect three districts, the other proposal affects
14 seven. I affect three counties. The other
15 proposal affects seven. I deal specifically with
16 the appendages.

17 Sanford was required to be pulled out because
18 they, Judge Lewis said that this district was
19 boosted. Another way of describing it is packing.
20 And so it was required for us to look at District
21 7.

22 He also said, I find that District 10 was
23 drawn to benefit the Republican Party and the
24 incumbent. I reached this conclusion based in part
25 on the inference of the Florida Supreme Court

1 suggested could be drawn from oddly shaped
2 appendages that had no legal justification. That
3 was the argument that was just discussed by Senator
4 Galvano.

5 But he says this inference is also buttressed
6 by the general evidence and improper intent
7 outlined by my analysis of District 5 and the
8 following evidence related specifically to the
9 drawing of District 10. I won't belabor you with
10 the rest of it. I am sure all of you have looked
11 at that opinion.

12 But it is, he is saying that there is a
13 violation of Tier 1 with regard to favoring one
14 party and one incumbent in District 10, and so one
15 of our duties here is to fix that, and my map does
16 fix that.

17 What I also want to discuss is diminishment.
18 There are many factors that the Court will apply
19 when dealing with a diminishment of the
20 African-American's ability, in this case with
21 District 5 to elect the candidate of their choice.
22 Black voting age population is one of them. We
23 have the testimony of Dr. Brunell about
24 43.6 percent and I already went through the issue
25 of the primary, with 68 percent being

1 African-American and that every election has
2 favored the Democrat in District 5 because of the
3 overwhelming advantage of 55 to 20.

4 My map and Senator Galvano's map doesn't
5 change that. So based upon that there isn't a
6 diminishment. However, there was a reference to
7 whether a numerical reduction, whether a numerical
8 reduction is in fact a diminishment. If that is
9 true then the other map also has that same problem,
10 because this is an African-American opportunity
11 seat just like District 9 was drawn to be a
12 Hispanic opportunity seat, and District 9 is
13 reduced numerically.

14 Now, I believe that the Judge will apply many
15 factors, not only to this map but to the other map
16 if it was considered. If the numerical reduction
17 analysis applies, then both maps would be invalid.
18 The Judge asked us to do a few specific things.

19 My map takes care of it and I thank everybody
20 for the opportunity to be able to present it today.

21 PRESIDENT GAETZ: Thank you, Senator Soto.
22 Senator Soto, having closed on his amendment, all
23 favoring the Soto amendment say aye.

24 (Chorus of ayes.)

25 PRESIDENT GAETZ: All opposed, say nay.

1 (Chorus of nays.)

2 PRESIDENT GAETZ: The amendment fails. I see
3 one, two, three, four, five, I see five hands, we
4 will go to the board. All favoring the Soto
5 amendment will vote yes, the green button, all
6 opposed vote no with the red button.

7 The Secretary will open the board and the
8 Senators prepare to vote.

9 Have all Senators voted? Have all Senators
10 voted? We will ask the Clerk to record the vote.

11 READING CLERK: Twelve 12 yeas, 25 nays,
12 Mr. President.

13 THE COURT: And so the amendment is defeated.
14 Please take up and read the postponed amendment.

15 READING CLERK: Late filed Bar Code 642398 by
16 Senator Galvano, delete everything after the
17 enacting clause and insert amendment.

18 PRESIDENT GAETZ: Senator Galvano, we are back
19 on your amendment. And my understanding is that
20 there is another Soto amendment and there may be
21 another Galvano amendment.

22 Do you have any further comment before we go
23 further in the amendatory process, Senator Galvano?

24 SENATOR GALVANO: Thank you, Mr. President.

25 No, I do not at this time. There won't be another

1 Galvano amendment.

2 PRESIDENT GAETZ: All right, take and read the
3 next amendment.

4 READING CLERK: Late filed Bar Code 599060 by
5 Senator Soto, delete lines 39 through 6003, 381 and
6 insert amendment.

7 PRESIDENT GAETZ: Senator Soto, on the
8 amendment.

9 SENATOR SOTO: Thank you, Mr. President. I
10 withdraw this amendment.

11 PRESIDENT GAETZ: Show the amendment
12 withdrawn. Take and read the next amendment.

13 READING CLERK: No further amendments,
14 Mr. President.

15 PRESIDENT GAETZ: All right, we are now on the
16 Galvano substitute which is 642398, is that
17 correct, Mr. Reading clerk?

18 READING CLERK: Yes, Mr. President.

19 PRESIDENT GAETZ: All right. Is there a
20 debate on the amendment? Debate on the pending, on
21 the amendment that is pending, which is 642398. Is
22 there a debate? Is there a debate?

23 Senator Galvano, I apologize. Senator Gibson
24 in debate.

25 SENATOR GIBSON: I was lost, Mr. President,

1 for a minute.

2 PRESIDENT GAETZ: I apologize, let's catch up.
3 We are on, we are Amendment 642398, which is the
4 Galvano substitute.

5 Do you wish to have Senator Galvano explain
6 the essence of it, or are you caught up or how
7 would you like to proceed, ma'am?

8 SENATOR GIBSON: I am caught up,
9 Mr. President.

10 PRESIDENT GAETZ: All right, then you are
11 recognized in debate if you would like to be.

12 SENATOR GIBSON: Thank you, Mr. President.
13 Certainly I want to thank you for the appointment
14 to the Committee. I certainly studied all of the
15 information that we were privy to, and support the
16 map that Senator Galvano has put forward for us
17 today.

18 And I do that because, number one, we are here
19 because of a Judge who ordered certain districts to
20 be unconstitutional, and we as a body then have to
21 fix that.

22 And the other reason I support the map has to
23 do with the protection of the rights of many people
24 who are impacted by even a minimal change. Some of
25 those people live in Senate District 9.

1 I also support what is being put forward,
2 because it is not about the number of districts
3 that are Congressional Districts that are impacted,
4 it is about the people and the families who live in
5 those districts. And so if we have to change even
6 one district to make sure that a population of
7 people gets to choose their representative of their
8 choice, for not only themselves as voters, but for
9 entire families.

10 A certain level of sensitivity that exists by
11 a member who represents a particular district, not
12 to say that someone else not of color couldn't, but
13 there is a certain level of sensitivity and an
14 understanding of certain issues within certain
15 communities.

16 And so I believe that we have done what we
17 were sent here or called here to do. The map that
18 is before us or the plan that is before us
19 certainly meets the compactness level test,
20 particularly given where we started from with the
21 benchmark, which I believe was 0.9 or .09 and we
22 are at a compactness Reock score now of .13, which
23 makes the district more compact.

24 When you look at the map it is also visually
25 compact to the eye. That is the other test the

1 Judge talked about in his Order, and we have done
2 that, and we have the black VAP at 48 percent,
3 which is less than the 50 percent that the Judge
4 had an issue with, but it is still within the realm
5 that those persons within particularly District 5,
6 I know we are here about more than District 5, but
7 those persons in District 5 can still potentially
8 elect the representative of their choice.

9 And let me, while I am on the percentages
10 segment, when you talk about percentages and you
11 talk about VAP or BVAP or any VAP for that matter,
12 it is not so much what that figure does just in
13 black and white, but it is also those folks who may
14 not even turn out and vote. And so when you are
15 looking at 43 percent, let's say 10 or 20 percent
16 of those folks don't even bother to turn out.

17 That further reduces the opportunities for a
18 choice in the representative of that district. And
19 so I have looked at all of the numbers, I think
20 many of my colleagues know that I do my homework, I
21 take home my notes, I draw lots of lines, I make
22 lots of points before I come to a final decision,
23 and I believe that is how many of us, I hope all of
24 us in this Chamber operate.

25 And so I want to thank the Chair also for his

1 hard work, his availability for questions and
2 answers, the way the Committee was run, and I
3 certainly look forward to supporting this
4 amendment.

5 Thank you, Mr. President.

6 PRESIDENT GAETZ: Thank you, Senator Gibson.
7 Just so that we all understand where we are, we are
8 now on the Galvano substitute amendment, 642398.
9 We are going to take as much debate as the Senators
10 would like to take on that amendment. Then we will
11 vote on that amendment and then we will be back on
12 the main Bill.

13 All right, further in debate on the Galvano
14 amendment. Further in debate, further in debate.
15 Senator Galvano to close on the amendment.

16 SENATOR GALVANO: Thank you, Mr. President. I
17 think I have explained it, so I will waive close on
18 the substitute amendment.

19 PRESIDENT GAETZ: Senator Galvano having
20 closed on the amendment, all favoring the Galvano
21 amendment, 642398 say aye.

22 (Chorus of ayes.)

23 PRESIDENT GAETZ: All opposed, say nay.

24 PRESIDENT GAETZ: The amendment passes without
25 objection. Take up and read the next amendment.

1 READING CLERK: No further amendments,
2 Mr. President.

3 PRESIDENT GAETZ: All right, we are back on
4 the main Bill. Read the Bill.

5 READING CLERK: Senate Bill 2-A, a Bill to be
6 entitled an act relating to the establishment of
7 the Congressional Districts of the state.

8 PRESIDENT GAETZ: All right, you have the Bill
9 before you. And my understanding, Leader Smith,
10 and Leader Benacquisto, is that an agreement has
11 been made between the two Leaders to roll the third
12 reading on this Bill. And so consequently we are
13 on third reading, and we are in debate.

14 Debate on the Bill? I apologize, Senator
15 Gibson in debate.

16 SENATOR GIBSON: Mr. President, I don't know
17 what is going on.

18 PRESIDENT GAETZ: We will stop until everybody
19 does.

20 SENATOR GIBSON: I am just not used to being
21 here in August, I don't think, but the heat has
22 gotten to me. All of my comments that I previously
23 made are applicable right now.

24 Thank you, Mr. President.

25 PRESIDENT GAETZ: Yes, ma'am. Yes, ma'am.

1 Further in debate on the main Bill. Leader Smith
2 in debate.

3 LEADER SMITH: Thank you, Mr. President. I
4 rise in opposition for a specific reason. It may
5 not be cost effective and it may not be what the
6 Supervisors want, but I just fundamentally believe
7 that you shouldn't have people voting in
8 unconstitutional districts.

9 Once the Judge ruled, once the Judge ruled and
10 we haven't appealed, and when I say that the
11 districts are unconstitutional, why have people
12 vote in those unconstitutional districts? I was
13 looking up close and I found it great when
14 sometimes inefficiency is the price we pay for
15 democracy.

16 It may not be efficient. It may not be cost
17 effective, but democracy costs, and if the
18 districts are unconstitutional we should stop the
19 voting. If we have to send out more ballots to
20 military overseas and we have to pick new dates, we
21 have done special elections. Florida ain't new to
22 doing different stuff when it comes to elections.

23 We can do new elections, but just the mere
24 fact that if we were doing this map because we
25 agreed or we haven't objected or haven't appealed

1 that these districts are unconstitutional, how can
2 we rightly have people vote in unconstitutional
3 districts?

4 Now, I ask that question in the Committee when
5 we were vetting it and I received a huge binder and
6 I appreciate it from our legal staff, put in a lot
7 of work to give me a lot of cases saying that we
8 should do this, but not really any of these cases
9 are dispositive in Florida.

10 They are cases from all over, North Dakota,
11 South Dakota, Texas, everywhere saying you could do
12 it, you know, for convenience, but this isn't about
13 convenience. This is about democracy. If someone
14 is going to vote in a district they should be
15 voting for their representative. Not voting for
16 someone who is not really their representative
17 until the next time there is an election there. If
18 they are going to vote it should be their
19 representative.

20 So within this map, without going into all of
21 the scores and everything that Senator Simmons can
22 so eloquently talk about, I just look at the mere
23 fact that we are voting today to say, people, vote
24 in unconstitutional districts and we are just going
25 to let it ride will until the next election. If

1 they are unconstitutional, they are
2 unconstitutional. We should have subsequent
3 elections and so that is why I rise against this
4 map. Thank you.

5 PRESIDENT GAETZ: Further in debate? Further
6 in debate, Sheriff Dean from the Fifth.

7 SENATOR DEAN: May I direct to my colleague a
8 question I would like to ask about?

9 PRESIDENT GAETZ: Which colleague would you
10 like to direct this to, please?

11 SENATOR DEAN: Yes, sir, going back to the
12 issue of these districts, these two districts that
13 are being unconstitutional, the record that I have
14 seen they were directed to be drawn by two Federal
15 Judges by a Special Master.

16 If that was acceptable at that time and that
17 place, and we haven't basically done anything,
18 except try to follow the lead of those districts,
19 explain why we feel that they are unconstitutional.

20 PRESIDENT GAETZ: All right, we are in debate
21 here, but we will, in the interest of fairness we
22 have asked that we have Sheriff Dean to ask the
23 question.

24 Leader Smith, do you care to comment or
25 Senator Soto, either one, I would be happy to hear

1 your comment?

2 LEADER SMITH: Thank you, Mr. President. I
3 always get nervous when Sheriffs ask me questions.
4 I am just basing it under the Order that we are
5 going under. The Judge, Judge Lewis said these are
6 unconstitutional and that is why we are here today.

7 Circuit Judge, a Circuit Judge said, I looked
8 at these and they are unconstitutional,
9 Legislature, go back and vote and change the maps
10 because of the way they are currently done, they
11 are unconstitutional and that is what I am going
12 off of, the current opinion that we are working
13 under now.

14 PRESIDENT GAETZ: All right, we are in debate.
15 We are in debate on the main Bill. Further in
16 debate, President Margolis.

17 SENATOR MARGOLIS: I was here, as a matter of
18 fact, I was President of the Senate when we passed
19 this, this Bill that said we were going to give
20 minorities every opportunity that they could have
21 to vote in the state of Florida. Every
22 opportunity.

23 Well, guess what? If I describe the people in
24 the audience and the black members of this body,
25 they were ecstatic. It was like they found

1 themselves. They feel like they are the real
2 people of this, of this state. I will never forget
3 that. I will never forget that, and I, every time
4 I looked at this district I would say, oh, this
5 looks awful, it looks awful, but it made a lot of
6 people happy.

7 It made a lot of people know that they were
8 voting for somebody they knew, somebody they went
9 to church with. They knew that it was important
10 that that happen. And I tell you that, that
11 although it might look weird to you or some of you,
12 it has been a boom. It has been a boom to the
13 people who now vote and have their voices heard.

14 PRESIDENT GAETZ: Thank you, Madam President.
15 Speaker Thrasher in debate.

16 SENATOR THRASHER: Thank you, Mr. President.
17 I have to tell you, I am, obviously I am going to
18 vote for Senator Galvano's amendment and the Bill
19 that was worked on in Committee. But I have to
20 tell my good friend, the Leader, and Senator Soto,
21 I am a little confused about where you guys are to
22 be honest with you.

23 You wrote an amendment that you think that was
24 a good amendment, obviously better than Senator
25 Galvano's and you presented it to the House, but

1 you don't get somebody to present it to one of our
2 committees so it can be vetted and heard. I am
3 confused about that.

4 And Leader, you, on the committee, and I
5 understand you voted to quote, end quote, get the
6 Bill out of committee. I got a feeling it was
7 going to get out of committee anyway, but you
8 should have, this is serious business, and you
9 should have rejected. If you had an objection to
10 this Bill in committee when we had the staff and we
11 had the people there to talk about these issues,
12 they should have been, they should have been
13 objected to then.

14 It is a little late now to do that. I think
15 the reason we ought to vote for his Bill today is
16 because it has been vetted. Just as Senator
17 Simmons said, the Court is looking at us to make
18 sure that we have gone through a Bill that has gone
19 through all of those statistical analysis that
20 David knows, or Senator Simmons knows better than
21 probably anybody and Senator Galvano, and they all
22 work.

23 They all meet the objections of what the Judge
24 said he was concerned about for those two
25 districts, and yet we are sitting here talking

1 about other amendments that were offered to another
2 body, not to our own committee. I don't, I really
3 don't quite understand where you all are coming
4 from. But I do understand what our obligation is,
5 and our obligation I believe has been met by
6 Senator Galvano and the Committee to adjust those
7 two districts that the Court found problems with,
8 and I believe it is a plan that we all, every
9 single one of us ought to support and vote for.

10 PRESIDENT GAETZ: Further in debate? Further
11 in debate. Senator Soto in debate.

12 SENATOR SOTO: Thank you, Mr. President. And
13 as everybody knows, the other map was available
14 since an hour before the session. I apologize if
15 Committee staff and others didn't feel like they
16 had the opportunity to review it beforehand.

17 The, and I know Senator Galvano, that is hard
18 so I appreciate all of your efforts. The reason
19 why I am voting against it is because if we are
20 going to apply to the map I propose that a
21 numerical reduction is, in fact, a diminishment,
22 then that would also apply to District 9 which is a
23 Congressional District of the folks that I
24 represent are in, and it splits Osceola in half and
25 so I just can't support this map as a result.

1 PRESIDENT GAETZ: Further in debate? Further
2 in debate? Senator Clemens in debate.

3 SENATOR CLEMENS: Thank you, Mr. President. I
4 am going to vote against this Bill and I am going
5 to do so because the Judge has told us that we
6 passed unconstitutional maps before. And we have
7 come back now in my estimation personally we have
8 done the least amount possible that we can to send
9 another map back to the Judge that again in my
10 estimation doesn't meet the goals that we need to
11 meet.

12 We have talked a lot about BVAP today as is
13 that is sort of Holy Grail of minority
14 participation, but that really isn't, isn't it at
15 all. The legal standard should be and is, does it
16 allow minority participation and for the minority
17 community to elect leaders of their choice.

18 And clearly we have gone beyond that standard,
19 and by doing so left the surrounding districts
20 unable to be able to do that in the same way. I
21 think this map, while it is a good effort and a
22 nice try by Senator Galvano, I don't think it does
23 anything to change the Judge's determination that
24 the original map was drawn for political purposes,
25 because when you look at the map and you look at

1 the numbers and how the Democrat versus Republican
2 numbers play out, this is going to result probably
3 in the exact same congressional makeup in terms of
4 Democrats and Republicans that we have right now.

5 So how does that deal in any way with the
6 Judge's, the Judge's decision that the original map
7 was drawn for political purposes. If we are going
8 to come back with the exact same number of
9 Republican and Democratic congressional members,
10 what we have done is, is really just, just window
11 dressing.

12 So to me this doesn't meet the Judge's Order
13 in any way and I am sad to say that I am not going
14 to be able to support it today.

15 PRESIDENT GAETZ: Further in debate? Further
16 in debate? Senator Thompson in debate.

17 SENATOR THOMPSON: Thank you, Mr. President.
18 I will not be voting for this Bill because we are
19 at the same place now than we were before when the
20 maps were drawn to benefit a political party.

21 And we are talking about a district where
22 minorities can vote for a person of their choice, a
23 district. And so we still have a one is enough
24 mentality it seems to me, and we are packing
25 individuals into a district while we are bleaching

1 all of the districts around that particular
2 district that we are talking about.

3 And I have here comments about the NAACP and
4 their testimony, and of course, the NAACP addressed
5 the issue of having a person, having one person and
6 being concerned about having none, one versus none.

7 My concern is that, one, we should not be
8 talking about one is enough. We should be talking
9 about what Senator Margolis mentioned and having
10 minorities given every opportunity to vote for an
11 individual of their choice. This map does not do
12 that.

13 And I cannot be mollified, I cannot be quiet.
14 I cannot accept that we are talking about a single
15 district when the population of the state of
16 Florida, the population of the area that we are
17 talking about suggests that one is not enough, and
18 because these maps benefit a political party and
19 that is what the Judge addressed in the first
20 place, and we have not done anything to change
21 that, I will not be supporting the map.

22 Thank you, Mr. President.

23 PRESIDENT GAETZ: Further in debate? Further
24 in debate? Senator Abruzzo in debate.

25 SENATOR ABRUZZO: Thank you, Mr. President. I

1 would like to start off with my remarks, members,
2 by just saying you know I have the greatest respect
3 for the members in this Chamber, especially Chair
4 Galvano who has put in his time and worked very
5 hard on a lot of complicated issues, and there has
6 been some great debate today on both sides, legal
7 arguments, I have listened to it all.

8 The reason I am not going to be supporting the
9 Bill or the amendment today is simply for this
10 reason. I have never voted for any of the maps
11 over when I was in the House and I will not be
12 voting today. And when I look at Florida and that
13 is what I want to talk about for a minute, Florida,
14 this is a state in 2000, that decided a
15 Presidential election by 537 votes. A few years,
16 next term later for President it was decided by
17 236,000 votes. Governor Scott got elected by
18 61,000 votes and change and President Obama just
19 won Florida by 74,000 votes.

20 This is a 50/50 state. This is a battle
21 ground state, this is the state, our state that the
22 nation looks towards where we have a congressional
23 delegation that is not anywhere near 50/50. We
24 have a State House members there with 81 members to
25 39 members. Quite frankly, that is completely out

1 of order as well.

2 And here in the Senate, again I have the
3 greatest respect for the members in this Chamber,
4 but every single, every two years our fight
5 shouldn't be amongst a caucus for who is going to
6 be the Senate President, it should be between the
7 parties of who is going to be Senate President. We
8 are a 50/50 state, I cannot support a map unless it
9 looks more like what Florida is.

10 So members, Chair Galvano, again, I really
11 appreciate your work, but out of principle until we
12 get to a place where we represent Florida and our
13 districts look like Florida, I will not be
14 supporting it.

15 Thank you, Mr. President.

16 PRESIDENT GAETZ: Thank you, Senator Abruzzo.
17 Further in debate? Further in debate on the
18 motion? The main Bill?

19 Senator Thrasher, our Rules Chair moves that
20 the rules be waived to read the Bill a third time
21 by the required two-thirds. Show the motion
22 adopted without objection.

23 Read the Bill.

24 READING CLERK: Senate Bill 2-A, a Bill to be
25 entitled an act relating to the establishment of

1 the Congressional Districts of the state.

2 PRESIDENT GAETZ: The Bill is now before you.
3 It has been read a third time. You have heard the
4 debate. Senator Galvano to close on the Bill.

5 SENATOR GALVANO: Thank you, Mr. President.
6 Mr. President, first of all, thank you for the
7 members appointed to the Committee. We did good
8 work in a very short order under a very tight time
9 constraint. And I would also like to personally
10 thank the staff, Jay and John worked tirelessly to
11 be able to put forth a product under that very
12 short time constraint.

13 Senators, I can assure you that the Committee
14 on Reapportionment, including myself, took very
15 seriously the Joint Proclamation, and by taking the
16 Joint Proclamation very seriously, that meant we
17 took very seriously the Court Order that is the
18 substance of that Joint Proclamation, and that
19 Order was very clear to us.

20 It wanted us to address two districts, CD 5
21 and CD 10. The Court in his, in its instructive
22 Final Judgment, found that there were appendages in
23 both districts that needed to be revisited. The
24 Court also decided that there was not justification
25 for moving CD 5 to a majority/minority district,

1 and the Court felt like there was not a
2 justification for creating a Hispanic opportunity
3 district in CD 9.

4 And so that is, that is where we began, and
5 the reality is that we had to deal with Tier 2
6 characteristics in order to address the findings of
7 the Court. What the Court did not do was tell us
8 to make a determination as the Legislature as to
9 whether or not he, Judge Lewis, could hold a
10 special election. That was not part of the call.
11 That was not part of the Order, and the Judge
12 specifically reserved jurisdiction on that after
13 having a dissertation in his own Order in which he
14 was not confident that he could go one way or the
15 other.

16 In fact, if you read the Order it seems more
17 to the contrary that the Judge felt like it would
18 be impractical and difficult to go and have a
19 special election. And the Judge also recognized
20 that there are situations and there have been
21 throughout the country times when maps that have
22 had concerns or have been adjudged invalid were
23 maintained until the next cycle.

24 So what we did was what every reapportionment
25 Bill requires, we put in an effective date, and we

1 did so in such a way so that when it goes back to
2 the Judge, who reserved jurisdiction to make that
3 determination, the Judge's hands won't be tied.
4 This is not rocket science, this is not a mystery
5 here. We have a Bill that has an effective date
6 for any election, including a special election held
7 after the 2014 general election. Beyond that, that
8 is all we can do. There is nothing beyond that we
9 can do. It was not in the call, it was not in the
10 Order and it is not a basis to hang your hat on a
11 no vote today.

12 With regard to non diminution. We understood
13 that the Court felt like it was not justified that
14 we go over 50 percent, but we had a benchmark. We
15 start with a benchmark and that benchmark of BVAP
16 was 49.9. So there is implicit guidance in the
17 process when you go forward, and that is a very
18 serious consideration. It is both Federal and
19 State, in our Constitution it is the Tier 1
20 consideration that we have to be aware of.

21 And so when we drew the map we didn't have a
22 goal, we didn't set a goal. There was no magic
23 number, we said, let's address the appendage, let's
24 look at the compactness, let's address the
25 serpentine like movement, but then we have to do a

1 functional analysis, just like the Florida Supreme
2 Court told us we should do.

3 And we had to ask a series of questions that
4 the Florida Supreme Court felt were valid in
5 determining whether or not we were impacting the
6 ability of a minority population to elect a
7 candidate of its choice. And that analysis was
8 performed on the map that is before you for the
9 vote, and the result of that analysis was that at
10 48.11 percent, we did not diminish.

11 There was reference to 48.03, again, that was
12 with regard to House Bill 9043 which we used as
13 instructive. Why, because the Court did. Why,
14 because the Plaintiffs did. When we put these
15 districts back together we had to impact other
16 districts. I wish I could tell you we could do it
17 in a vacuum, but you cannot do it in a vacuum and
18 if you are going to do a real job and if you
19 remember when I opened this morning we had
20 different paths to go and we chose the more
21 difficult path which was address the specific
22 concerns that you can read very clearly in the
23 Order, but at the same time make every effort to
24 improve the visual and mathematical Tier 2 scores
25 of the districts in question, and the districts

1 that will be impacted.

2 And frankly, Senators, across the board, we
3 did it, in 6, 7, 9, 11 and 17. 9057, every
4 district that was impacted by the amendment or the
5 Bill before you has a better score than it did
6 under the enacted map, and that is important, and
7 that is something that the Court is going to look
8 at.

9 And the Court finally is going to really
10 specifically look at 5 and 10, and I think any one
11 of you with knowing nothing about the background,
12 can walk back here, look at the 9047 districts, and
13 then take a few steps to the right and look at the
14 9057 districts and see that there is a marked
15 improvement.

16 Clearly, with regard to performance, you
17 cannot engineer the political performance. There
18 is no such thing as I will fix the performance. If
19 you fix it you are violating the Constitution.
20 Tier 1 requires that there not be ill intent. It
21 does not require that an outcome is one way or
22 another. When you start playing with the outcome
23 you are violating Tier 1 considerations.

24 That is why your Committee, Mr. President, did
25 not do a performance analysis on any of the

1 impacted districts. Only did a functional analysis
2 on CD 5 to make sure we were complying with Federal
3 and State law. So I am very confident that the
4 product that the Committee put forward, that we are
5 about to vote on is going to be approved by the
6 Circuit Court, and I ask for you to support it.

7 PRESIDENT GAETZ: Thank you, Senator Galvano.
8 Senator Galvano having closed on his Bill, the
9 Secretary will open the board and Senators prepare
10 to vote.

11 Have all Senators had the opportunity to vote?

12 Then lock the board and record the vote.

13 READING CLERK: 25 yeas, 12 nays,
14 Mr. President.

15 PRESIDENT GAETZ: Show the Bill passes. Thank
16 you very much, Senator Galvano and Leader Smith and
17 all of those who served on the Committee.

18 So that you will understand, members, in
19 special session a Bill will be passed as
20 immediately certified to the other chamber. And
21 so, Madam Secretary, this Bill is immediately
22 certified to our partners in the House of
23 Representatives.

24 Members, it is our intent to stay in session
25 for a while longer for the House of Representatives

1 to consider the Bill we have just sent them. I
2 recognize that some members have commitments of a
3 personal and business and even medical in nature
4 and I would simply ask you to be, to be patient
5 with the House of Representatives as they would
6 have been patient with us had the roles been
7 reversed. We simply completed our business ahead
8 of time.

9 (Whereupon, the Senate was in recess.)

10 SENATOR THRASHER: Mr. President, thank you
11 for the last two years, here, here, absolutely.

12 Mr. President, I move that the Senate adjourn,
13 sine die.

14 PRESIDENT GAETZ: We are adjourned, thank you,
15 Speaker.

16 (Whereupon, the proceedings were adjourned.)
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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 2 through 108, is a true and correct record of my stenographic notes.

Dated this 12th day of August, 2014, at Tallahassee, Leon County, Florida.

CLARA C. ROTRUCK

Court Reporter