2017

HOUSE SELECT COMMITTEE ON REDISTRICTING

MINUTES

House Select Committee on Redistricting

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
Lewis	Grace Rogers	919-715-3015	2301	6
Dollar	Candace Slate	919-715-0795	307B	4
J. Bell	Susan Horne	919-715-3017	301F	5
Jackson	Angela McMillan	919-733-5974	506	57
Stevens	Lisa Brown	919-715-1883	419	7
Szoka	Beverly Slagle	919-733-9892	2207	30
Torbett	Viddia Torbett	919-733-5868	538	41
Brawley	Lynn Taylor	919-733-5800	534	19
Brockman	Grady O'Brien	919-733-5825	1311	106
Burr	Dina Long	919-733-5908	307A	16
Davis	Judy Lowe	919-733-5786	417B	27
Dixon	Michael Wiggins	919-715-3021	2226	18
Dobson	Julie Ryan	919-733-5862	301N	114
Dulin	Wanda Benson	919-715-3009	609	4
Farmer-Butterfield	Portia Bright	919-733-5898	1220	33
Floyd	Dorothy McLean	919-733-5959	1325	83
Garrison	Anita Bennett	919-733-5824	1017	95
Gill	Lisa Ray	919-733-5880	1303	45
Grange	Laura Holt Kabel	919-733-5830	604	89
Destin Hall	Katelyn Garlow	919-733-5931	306C	87
Hanes	Wanda Kay	919-733-5829	1006	60
Hardister	Jayne Nelson	919-733-5191	638	39
Harrison	Sue Osborne	919-733-5771	1218	70
Hastings	James Jenkins	919-715-2002	1206	17
Howard	Cody Huneycutt	919-733-5904	302	1
Hunter	Brenda Bennett	919-733-5780	1307	46
Hurley	Deborah Holder	919-733-5865	532	10
Johnson	Rhonda Todd	919-733-5861	301D	3
Bert Jones	Brenda Olls	919-733-5779	416A	54
Jordan	Emma Benson	919-733-7727	420	42
Malone	Ben Malone	919-715-3010	1229	38
Michaux	Anita Wilder	919-715-2528	1227	11
R. Moore	Charmey Morgan	919-733-5606	402	36
Pierce	Janice Fenner	919-733-5803	1204	34
Reives	Veronica Green	919-733-0057	1323	92
Rogers	Baxter Knight	919-733-5749	418C	86
Saine	Stephen Wiley	919-733-5782	1326	26
Speciale	Hazel Speciale	919-733-5853	1008	50
Willingham	Johnna Smith	919-715-3024	513	96
Wray	Susan Burleson	919-733-5662	503	24
Yarborough	Leslie Murray	919-715-0850	1301	67

Attendance
House Redistricting Committee
2017

Date	7-26	8/4	8/10	8/25	8/29									
Lewis	✓	✓	✓	✓	✓									
Dollar	✓	✓	✓	✓	✓									
Bell	✓	✓	✓	✓	✓									
Jackson	✓	✓	✓	✓	✓									
Stevens	✓	✓	✓	✓	✓									
X Szoka	✓		✓	✓	✓									
Torbett	✓	✓	✓	✓	✓									
Brawley	✓	✓	✓	✓	✓									
Brockman	✓	✓	✓		✓									
Burr	✓	✓	✓	✓										
Davis	✓			✓	✓									
Dixon			✓	✓										
Dobson	✓	✓		✓	✓									
Dulin	✓	✓	✓	✓	✓									
Farmer-Butterfield	✓	✓	✓	✓	✓									
Floyd	✓	✓		✓	✓									
Garrison	✓	✓	✓	✓	✓									
Gill	✓	✓	✓	✓	✓									
Grange	✓	✓	✓	✓	✓									
D. Hall	✓	✓	✓	✓	✓									
X Hanes		✓	✓											
Hardister	✓	✓	✓	✓	✓									
Harrison		✓	✓	✓	✓									
Hastings	✓	✓	✓	✓	✓									
Howard	✓	✓	✓	✓	✓									
Hunter	✓	✓	✓	✓	✓									
Hurley	✓	✓	✓	✓	✓									
Johnson	✓	✓	✓	✓										
Jones	✓	✓		✓	✓									
Jordan	✓	✓		✓										
Malone	✓		✓	✓										
Michaux	✓	✓	✓	✓	✓									
R. Moore	✓	✓	✓	✓	✓									
Pierce	✓	✓	✓	✓										
Reives	✓	✓	✓	✓										
Rogers	✓	✓	✓											
Saine	✓	✓	✓	✓										
Speciale	✓	✓	✓	✓	✓									
Willingham	✓	✓	✓		✓									
Wray	✓	✓	✓	✓	✓									
Yarborough			✓	✓	✓									

House Select Committee on Redistricting
July 26, 2017

MINUTES

The House Select Committee on Redistricting met jointly with the Senate Standing Committee on Redistricting at 1:30 on Wednesday, July 26, 2017 in room 643 of the Legislative Office Building. Representatives Lewis, Dollar, Bell, Jackson, Stevens, Torbett, Brawley, Brockman, Burr, Davis, Dobson, Dulin, Famrer-Butterfield, Floyd, Garrison, Gill, Grange, D. Hall, Hardister, hastings, Howard, Hunter, Hurley, Johnson, Jones, Jordan, Malone, Michaux, R. Moore, Pierce, Reives, Rogers, Saine, Speciale, Willingham, Wray, and Yarborough were present.

Senator Hise, Chair of the Senate Standing Committee on Redistricting, presided.

The meeting was solely for organizational and informational purposes.

Representative Lewis, Chairman of the House select committee, presented. Representative Lewis stated the committee's intention to comply with court orders and expressed his intent to provide opportunities for public input. Representative Lewis explained the documents presented to the members of the committee, which included maps reflecting county groupings for House and Senate districts and proposed maps from Common Cause North Carolina.

Central staff explained the availability of central staff and the use of computer terminals to all members of the General Assembly.

Representative Lewis invited inquiry from members of the committee.

Senator Hise adjourned the hearing at 2:13 PM.

The meeting adjourned.

David R Lewis

Representative David R. Lewis, Chair
Presiding

Neal Inman, Committee Clerk

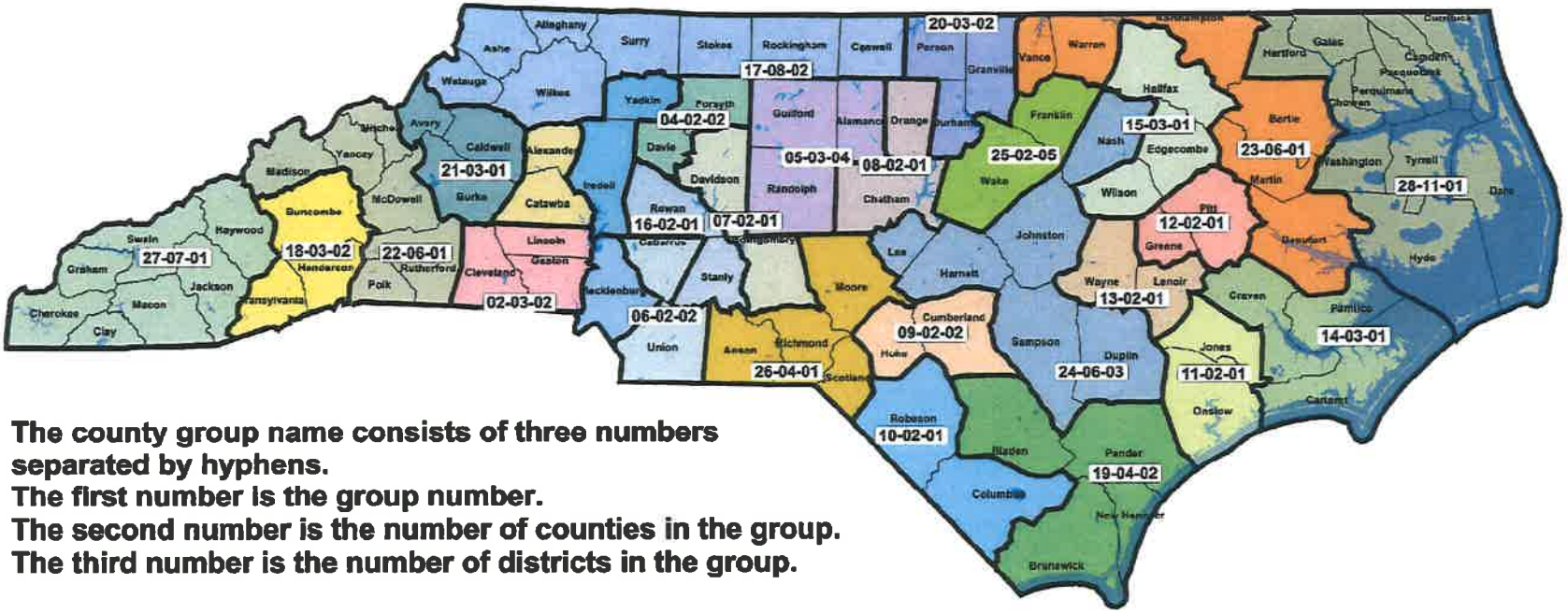
2010 District Population Ranges and County Populations

House Plan				Senate Plan			
Members	5% Variance Under	Ideal Population	5% Variance Over	Members	5% Variance Under	Ideal Population	5% Variance Over	Members
1	75,489	**79,462**	83,435	1	181,174	**190,710**	200,245	1
2	150,978	**158,925**	166,871	2	362,348	**381,419**	400,490	2
3	226,468	**238,387**	250,306	3	543,523	**572,129**	600,735	3
4	301,957	**317,849**	333,742	4	724,697	**762,839**	800,981	4
5	377,446	**397,312**	417,177	5	905,871	**953,548**	1,001,226	5
6	452,935	**476,774**	500,613	6	1,087,045	**1,144,258**	1,201,471	6
7	528,425	**556,237**	584,048	7	1,268,219	**1,334,968**	1,401,716	7
8	603,914	**635,699**	667,484	8	1,449,393	**1,525,677**	1,601,961	8
9	679,403	**715,161**	750,919	9	1,630,568	**1,716,387**	1,802,206	9
10	754,892	**794,624**	834,355	10	1,811,742	**1,907,097**	2,002,451	10
11	830,382	**874,086**	917,790	11	1,992,916	**2,097,806**	2,202,697	11
12	905,871	**953,548**	1,001,226	12	2,174,090	**2,288,516**	2,402,942	12

Alamance	151,131	Cumberland	319,431	Johnston	168,878	Randolph	141,752
Alexander	37,198	Currituck	23,547	Jones	10,153	Richmond	46,639
Alleghany	11,155	Dare	33,920	Lee	57,866	Robeson	134,168
Anson	26,948	Davidson	162,878	Lenoir	59,495	Rockingham	93,643
Ashe	27,281	Davie	41,240	Lincoln	78,265	Rowan	138,428
Avery	17,797	Duplin	58,505	Macon	33,922	Rutherford	67,810
Beaufort	47,759	Durham	267,587	Madison	20,764	Sampson	63,431
Bertie	21,282	Edgecombe	56,552	Martin	24,505	Scotland	36,157
Bladen	35,190	Forsyth	350,670	McDowell	44,996	Stanly	60,585
Brunswick	107,431	Franklin	60,619	Mecklenburg	919,628	Stokes	47,401
Buncombe	238,318	Gaston	206,086	Mitchell	15,579	Surry	73,673
Burke	90,912	Gates	12,197	Montgomery	27,798	Swain	13,981
Cabarrus	178,011	Graham	8,861	Moore	88,247	Transylvania	33,090
Caldwell	83,029	Granville	59,916	Nash	95,840	Tyrrell	4,407
Camden	9,980	Greene	21,362	New Hanover	202,667	Union	201,292
Carteret	66,469	Guilford	488,406	Northampton	22,099	Vance	45,422
Caswell	23,719	Halifax	54,691	Onslow	177,772	Wake	900,993
Catawba	154,358	Harnett	114,678	Orange	133,801	Warren	20,972
Chatham	63,505	Haywood	59,036	Pamlico	13,144	Washington	13,228
Cherokee	27,444	Henderson	106,740	Pasquotank	40,661	Watauga	51,079
Chowan	14,793	Hertford	24,669	Pender	52,217	Wayne	122,623
Clay	10,587	Hoke	46,952	Perquimans	13,453	Wilkes	69,340
Cleveland	98,078	Hyde	5,810	Person	39,464	Wilson	81,234
Columbus	58,098	Iredell	159,437	Pitt	168,148	Yadkin	38,406
Craven	103,505	Jackson	40,271	Polk	20,510	Yancey	17,818

Prepared by Information Systems Division, NCGA

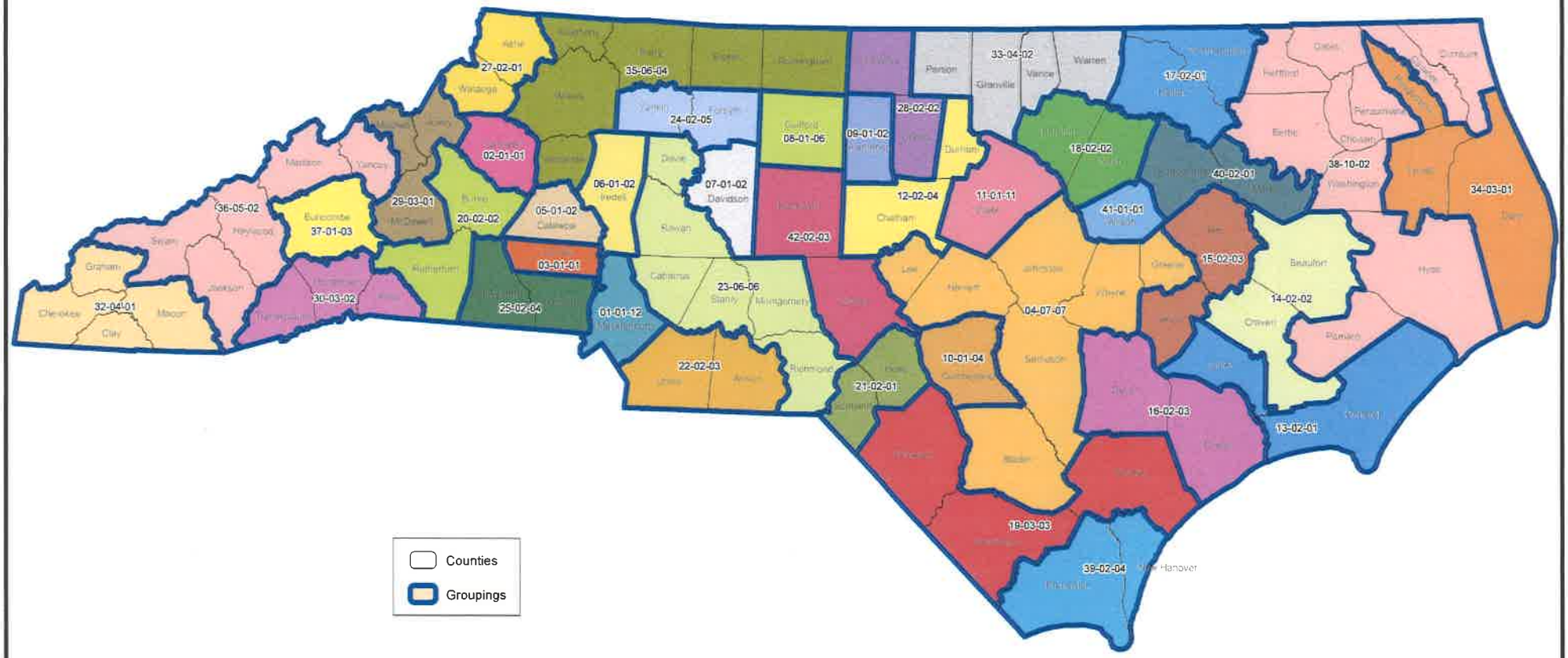
MAP 1
Optimum County Groups For Senate



The county group name consists of three numbers separated by hyphens.
The first number is the group number.
The second number is the number of counties in the group.
The third number is the number of districts in the group.

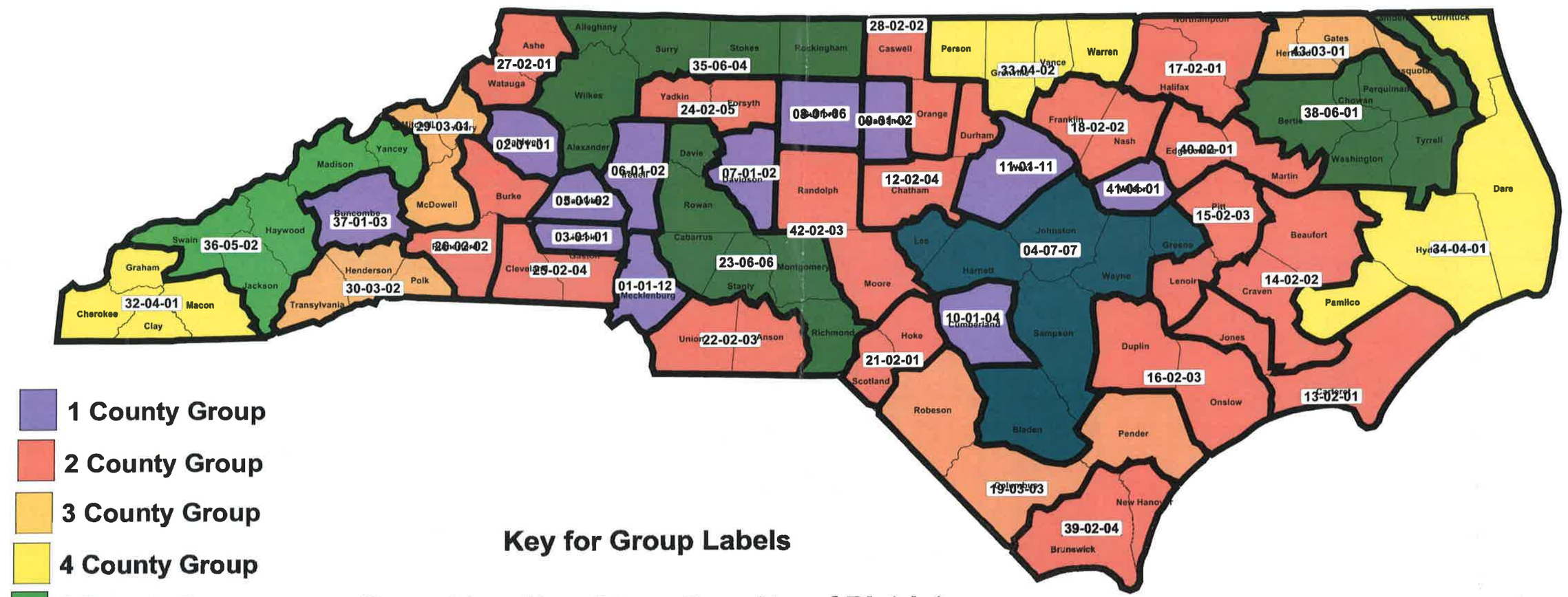
Case 1:15-cv-00399-TDS-JEP Document 136-1 Filed 10/28/16 Page 16 of 34

Common Cause – NC House Groupings



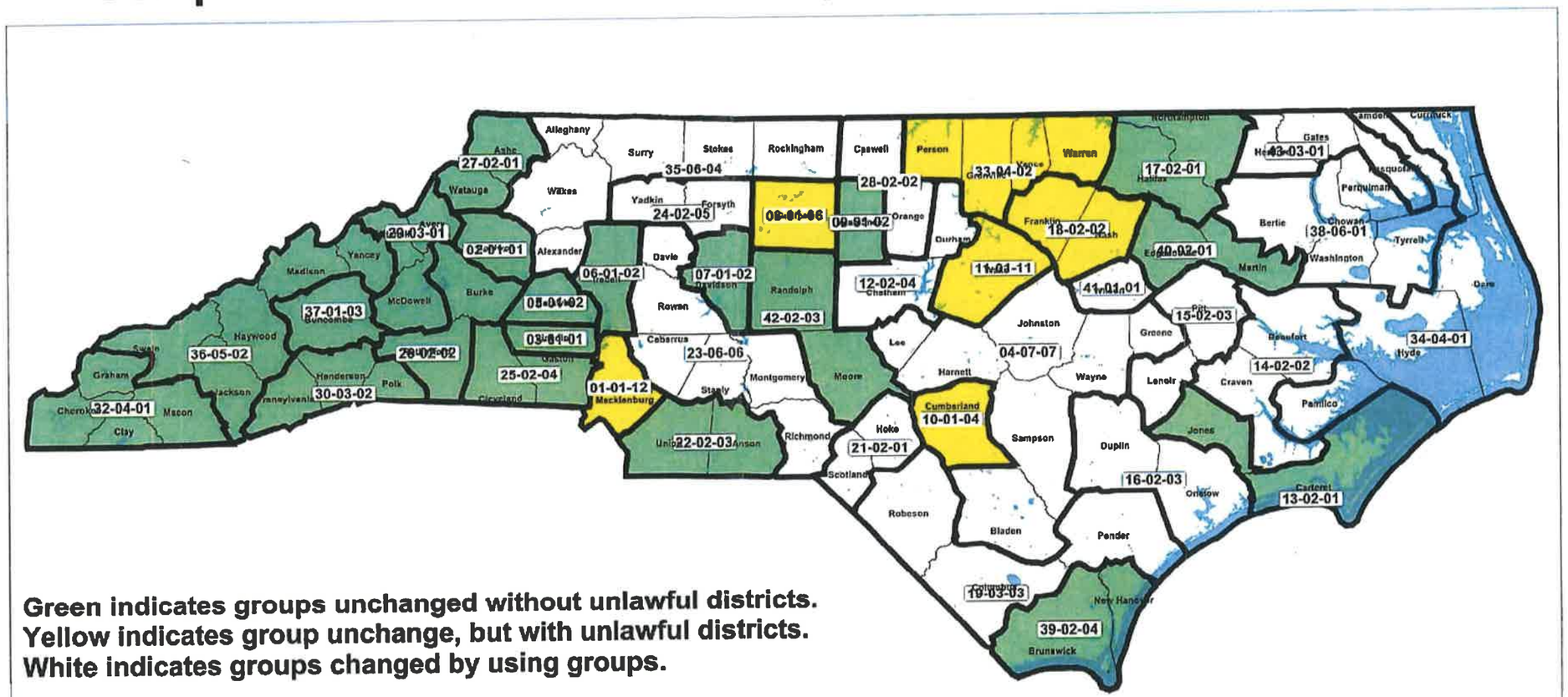
NC General Assembly, July 11, 2017.

County Grouping for 2017 House Plan



MAP 6

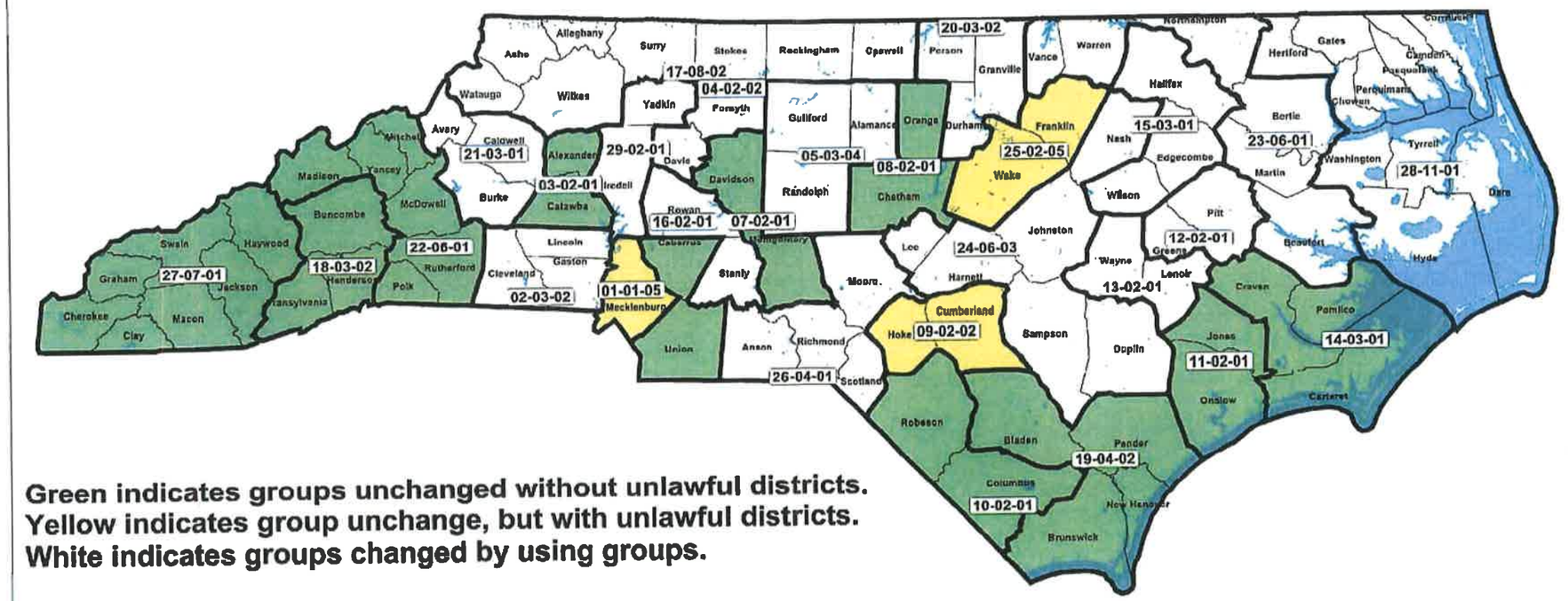
Comparison of 2011 Enacted to Optimum House County Groups



Green indicates groups unchanged without unlawful districts.
Yellow indicates group unchange, but with unlawful districts.
White indicates groups changed by using groups.

MAP 3

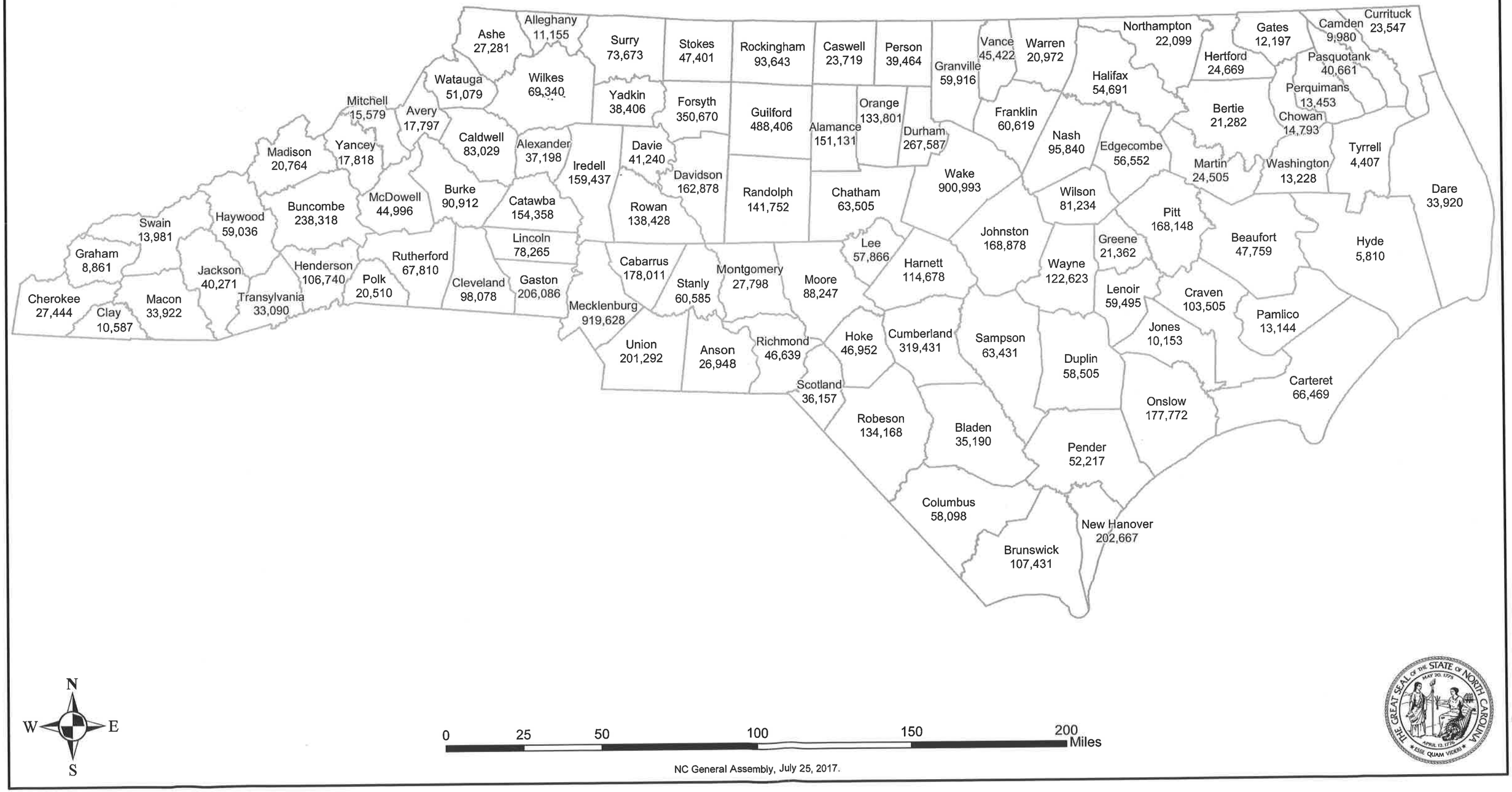
Comparison of 2011 Enacted to Optimum Senate County Groups



Green indicates groups unchanged without unlawful districts.
Yellow indicates group unchange, but with unlawful districts.
White indicates groups changed by using groups.

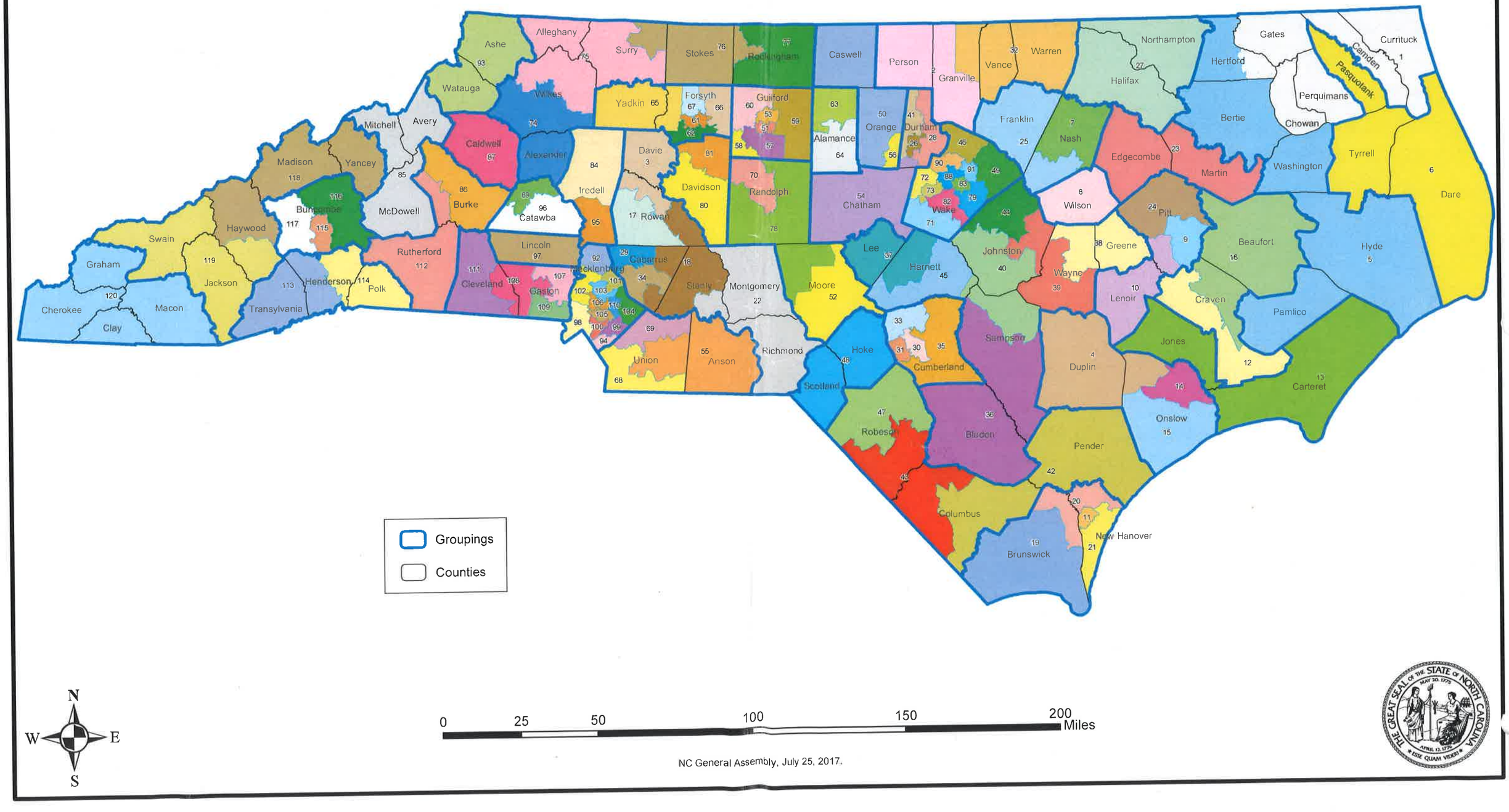
Case 1:15-cv-00399-TDS-JEP Document 137-1 Filed 10/31/16 Page 17 of 33

2010 Census Population by County



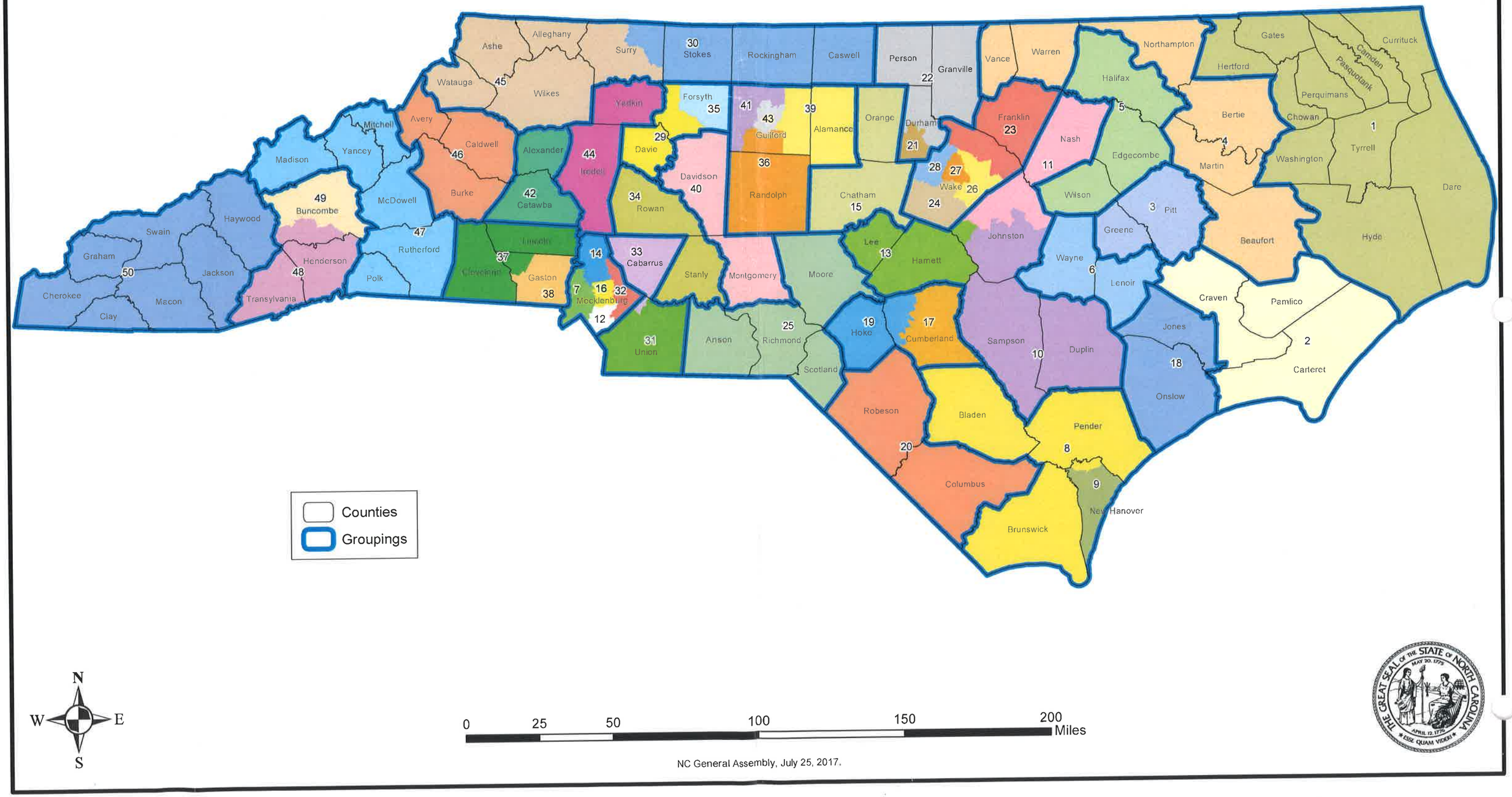
NC General Assembly, July 25, 2017.

Common Cause House Simulation with Group Overlay



NC General Assembly, July 25, 2017.

Common Cause Senate Simulation with Group Overlay



NORTH CAROLINA HOUSE OF REPRESENTATIVES
JOINT COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION

You are hereby notified that the **House Select Committee on Redistricting** will meet **JOINTLY** as follows:

DAY & DATE: Friday, August 4, 2017
TIME: **10:30 AM**
LOCATION: **643 LOB**
COMMENTS: **The committee will meet to discuss and take public comment on redistricting criteria.**

Respectfully,

Representative David R. Lewis, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 6:53 PM on Tuesday, August 01, 2017.

___ Principal Clerk
___ Reading Clerk – House Chamber

Hse Redistrictla (Committee Assistant)

NORTH CAROLINA GENERAL ASSEMBLY
JOINT COMMITTEE ON REDISTRICTING

TRANSCRIPT OF THE PROCEEDINGS

In Raleigh, North Carolina
Friday, August 4, 2017
Reported by Robbie W. Worley

Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070

REP. LEWIS: Good morning. The Joint Select Committee on Redistricting will come to order. The Chair is pleased to welcome the members and guests that are here. The Chair appreciates the assistance of our Sergeants-at-Arms in preparing and maintaining this meeting. From the House, Reggie Sills, Warren Hawkins, Rey Cooke, Dean Marshbourne. From the Senate, Hal Roach, Linda Matthews, John Enloe, and Terry Edmondson. The Chair is also pleased to welcome our court reporter today, Robbie Worley. The Chair thanks the central staff for their effort in preparing for today's meeting.

The purpose of today's meeting will be to discuss criteria to remedy the ruling of the Covington court that was issued to us in an order on July 31st of this year.

Today's meeting will proceed as follows. There's going to be a presentation regarding the county groupings. We are then going to receive input from other members of the committee on criteria that should be considered. And at that point, we're going to move to a time to receive input from the public. The public will be asked to make their remarks in a two-minute time frame. The

Chair would point out that there was an advance sign-up outside. The Chair has directed that that sign-up remain open for the -- at least another 30 minutes in case some people have not yet arrived.

The Chair would point out that we have also opened up committee room 544 in this building. This meeting is only being livestreamed online. It is being broadcast in that room as well. If there are people in room 544, we welcome them, and we will, if they are signed up to speak, will be calling their name so that they do not miss their opportunity to speak.

At this time, the Chair is going to yield the chair to Chairman Dollar.

REP. DOLLAR: Thank you, Chairman Lewis. And we also remind you, maybe a little bit unlike our normal meetings, if you seek recognition for a question or a comment as a member, as a member, you need to identify yourself for the court reporter for the record that's being taken. So the gentleman from Harnett County is recognized for his presentation.

REP. LEWIS: Thank you, Mr. Chairman. I'm David Lewis, the senior chair of the House Redistricting Committee. I'd like to talk with the

members and our guests here today about the various criteria that will be considered. The primary purpose of my presentation is to talk about two of the criteria that we know that we will need to operate under.

The first one we discussed last week is the one person, one vote requirement, and for your records, in the House, of 120 members, the ideal population based on the 2010 Census is 79,462 people. For the Senate, under the 2010 population, the ideal population is 190,710 people. There is a plus or minus five percent variance that can be applied to these figures.

My presentation is going to focus now on county groupings. All of you were distributed last week a map that is labeled "2010 Census Population by County." It looks like this. This shows the 2010 Census population for North Carolina's 100 counties.

I'd like to talk about the Stephenson rule that will be applied in the drawing of these maps. First of all, groupings of counties, which we'll discuss in a moment, but groupings of counties must be filled with whole districts. Districts may not deviate in total population by

more than plus or minus five percent from the ideal population, and districts within groupings must have a -- must have the least possible number of crossings over adjacent county boundaries. Next slide, please.

Groupings drawn under this rule are primarily generated using a mathematical, formulaic process. Next slide, please.

Here is how the grouping process develops using the 2010 Census data for the county populations. Next slide.

Members, the counties that you see here that are highlighted in purple are single-county groups. That means that districts can be drawn within these counties, and districts must be drawn within these counties without including expansion into other counties. The purple indicates one-county groups. Next slide, please.

The red color that you see indicates two-county groups. That means if you -- in order to reach the ideal House population, you have to combine two counties in order to draw the districts. Next slide, please.

The yellow or orange indicates three-county groupings. Next slide, please.

The bright yellow indicates a four-county grouping under the Stephenson criteria. The green indicates a five-county grouping under the Stephenson criteria. The dark green indicates a six-county grouping, and finally, the blue color is a seven-county grouping in the middle of our state.

Mr. Chairman, I'd like to ask that the House and Senate Sergeant-at-Arms distribute the exhibits that are labeled "County Groupings for 2017 House Plan" and "County Groupings for 2017 Senate Plan" to the members of the committee at this time.

REP. DOLLAR: The Sergeant-at-Arms will be directed to distribute the materials.

(Pause.)

REP. LEWIS: Members, the Chair would -- pardon me. I would point out that the illustrations that we've shown are just for the House to show you how the counties are grouped in the House. The maps that are being distributed also show the county groupings for the Senate; we just did not place them in the PowerPoint presentation.

Mr. Chairman, I believe there are extras. We have members that are here that may not be on

the committee; if the Sergeant-at-Arms could give those to them as well.

(Pause.)

Mr. Chairman, with your permission, I'll continue my remarks.

REP. DOLLAR: The gentleman is recognized.

REP. LEWIS: Thank you, Mr. Chairman. Mr. Chairman, I would point out that the county groupings that we have discussed is a mandatory requirement and is based on math. The maps that are presented to you are our best efforts to determine what the ideal county groupings should be. If there are alternative ways to exceed the county groupings that we have provided here, where more one-counties are created, or more two-counties, or more three-counties, et cetera, I would ask that members please submit those so that they can be reviewed before and included in the discussion of our meeting on next Thursday.

I would point out that the county grouping rule is the strongest constitutional requirement anywhere in the country. This guides us in being able to draw fair districts, and again, if members are able to determine a better county

grouping that complies with the requirements, we look forward to reviewing them.

Mr. Chairman, with your permission, I request that the Sergeant-at-Arms distribute what is labeled map 6. It reads, "Comparison of 2011 enacted to optimum House county maps," and also map 3, which reads, "Comparison of 2011 enacted to optimum Senate county groups."

REP. DOLLAR: The Sergeant-at-Arms will distribute the materials requested.

(Pause.)

REP. LEWIS: And, Mr. Chairman, as before, the members that are present that are not on the committee, I would request that they receive these maps as well. And further, Mr. Chairman, if there are extra maps once the members have received theirs, if we could make plans to distribute those to the members of the public who are here at the conclusion of the meeting.

REP. DOLLAR: So ordered.

REP. LEWIS: Mr. Chairman, I believe most members have their maps now. May I continue my presentation?

REP. DOLLAR: The gentleman may proceed.

REP. LEWIS: Thank you, Mr. Chairman.

Members, the map that you have before you that is labeled map 6, "Comparison of 2011 Enacted to Optimum House County Groups," and map 3, which reads, "Comparison of 2011 Enacted to Optimum Senate County Groupings," this comes from a public court filing that was made on October 31st of 2016. I would point out that the county groupings map that you just received, which showed what we believe to be the optimum county groupings, those groupings also appear on this map.

The areas that are in green are county groups that are unaffected by the court ruling and will not require a remedy. In plainer speak, that means that the areas in green will not require a redraw of the districts.

The area in yellow, these are unaffected county groupings, but districts within those groupings will require remedies.

The areas in white are areas in which both the county grouping has changed and will require the districts to be modified within them.

Mr. Chairman, I think at this time, only on my presentation, if there are questions on my presentation, I'd be glad to take them at this time.

REP. DOLLAR: Representative Michaux?

REP. MICHAUX: Yes. Would you explain the numerical identification on these maps?

REP. DOLLAR: And if you will hold for just a moment, Chairman Lewis. Representative Michaux, if you would identify yourself by name and county for the record.

REP. MICHAUX: Representative Michaux, Durham County.

REP. DOLLAR: Thank you, sir.

REP. MICHAUX: Give us the definition of the numerical numbers -- the numbers on these maps.

REP. LEWIS: Representative Michaux, thank you for that question. I should have pointed that out.

Members, if you'll refer, just to make it easier, if you'll refer to the map that reads "County Groupings for 2017 House Plan," what Representative Michaux has asked, the county groupings have a code in them. The code contains three numbers. The first number is simply an identifier of the county group. What's more important and helps us do our jobs, the second number, for instance, let me use an exact example here.

If you'll look in the eastern part of our state, the county grouping that includes Currituck, Dare, Hyde and Pamlico, you'll see that the second number in there is 04. That means there are four counties in that grouping. The third number that is in that, 01, means that those four counties create one seat. So that means four counties, one seat.

To go to the middle of our state, if you'll look at Wake County, which is one of the counties in purple, that's a one-county group, you'll notice that the second number there is 01. That means it's a one-county group. The third number is 11; that means that it creates 11 seats within that one county. The same is true on the Senate map.

REP. DOLLAR: Further members wishing to ask questions of Chairman Lewis at this time? Seeing none.

REP. LEWIS: With that, Mr. Chairman, I will conclude my remarks, and I know that you will recognize members of the committee that wish to offer criteria to be considered.

REP. DOLLAR: Members, are there any members wishing recognition for the purpose of

providing criteria to be considered in the -- in the drawing of the map? I don't see anyone wishing to be recognized at this time. Senator Smith-Ingram?

SEN. SMITH-INGRAM: Yes, Mr. Chair. Senator Smith-Ingram, Senate District 3, eight counties, eastern North Carolina. I wish to submit criteria to be considered.

REP. DOLLAR: So, does the lady have -- you're submitting this written comment. Did you have copies, or did you want to add further explanation to this, or just -- what does the lady desire?

SEN. SMITH-INGRAM: Thank you, Mr. Chair. I'd like for copies to be distributed.

REP. DOLLAR: Does the Sergeant-at-Arms have copies for distribution? (Pause.)

We'll have them made and distributed. Did you -- Madam Senator, did you wish any -- any comment at this time in addition to your --

SEN. SMITH-INGRAM: Not at this time. Thank you.

REP. DOLLAR: Thank you. Other members? Senator Clark.

SEN. CLARK: Thank you, Mr. Chair. I've

already submitted some recommendations in writing, but I do have one additional recommendation I would like to speak to, and I will submit it in writing later if that's appropriate.

REP. DOLLAR: And I didn't catch -- I apologize for not hearing. If you would identify yourself for the record.

SEN. CLARK: Sorry. Senator Clark, Senate District 21.

REP. DOLLAR: The gentleman will proceed with his comments.

SEN. CLARK: Okay. Currently -- and this is essentially a process requirement or a recommendation. Currently, on the North Carolina General Assembly website, we have the ability to go and find out who represents me, what I -- excuse me. What I ask that the committee do is make available to the citizens of North Carolina a capability, once we provide a map for them to review, a capability for them to go onto the website and see who would represent me under the new maps that are being proposed for enactment.

REP. DOLLAR: Noted. Thank you very much for the recommendation. Other -- other members seeking recognition at this time? Representative

Michaux.

REP. MICHAUX: Representative Michaux from Durham again. This goes back to Representative Lewis's presentation, if you don't mind. Could you clear up just one or two other matters on the maps involving the county groupings? Actually, just one matter.

REP. LEWIS: I'll be glad to yield, Mr. Chairman.

REP. MICHAUX: Representative Lewis, let me be clear, and so the committee will be clear, it needs to identify these code numbers in here. And I'm particularly interested in the -- the second two, the second number and the third number. For instance, in Wake County, that's a one-county grouping. You've got 11. That county is -- there are 11 representatives in that one county, coming out of that one county. You have not made any designations as to how those 11 are to be elected, have you, yet?

REP. LEWIS: Thank you for that question, Representative. No, we have made no designations for how those 11 seats would be designed, and will not do so until after this committee adopts criteria next week.

REP. DOLLAR: And for the record, that's Representative Lewis responding. Representative Michaux, you have a follow-up?

REP. MICHAUX: Yes. The other question is, for instance, in a two-county grouping, we're looking at that each representative representing 79,400 and some-odd people. For example, in a two-county grouping, what are the mathematics in that? For instance, you've got Durham and Chatham together. What are the mathematics in that two-county grouping, to get to that 79,000 that the four representatives will represent?

May I follow up? You understand, it's easier to do it for a one-county group, but for a two-county group, how many are coming out of one county, how many are coming out of another county?

REP. LEWIS: Thank you for that question, Representative Michaux. And again, this is David Lewis from Harnett County. The question you asked is regarding the 2017 House Plan map that was passed out, I believe, right? There are 33,000 -- pardon me. There are 3000-and -- there are 331,092 people that comprise the total population of those three counties that are linked there, Durham, Orange and Chatham. If you divide that number by

the number that you've already said, the 79,492, that will yield four seats. But beyond that, I'm not sure I understand your question.

REP. MICHAUX: May I follow up?

REP. DOLLAR: Follow-up.

REP. MICHAUX: Well, now, you've got me confused. Now, you said the three-county grouping. I'm looking at a two-county grouping with Durham and Chatham, right? And not Orange?

REP. LEWIS: Representative Michaux, thank you for correcting me, sir. I'm looking at the same map you are. I simply glanced down and didn't notice the -- for the record, the county groupings are illustrated with a thick black line, and there is indeed a thick black line between Orange and Durham; I just simply didn't see it. Yes, this is a two-county grouping, as you pointed out, sir.

REP. MICHAUX: Follow-up. Representative Michaux again, follow-up.

REP. DOLLAR: Follow-up.

REP. MICHAUX: What I'm asking, for instance, taking that Durham-Chatham group, you've got four representatives. Each representative is supposed to represent 79,430-some-odd people. How

did you mathematically come up with Durham -- in other words, the total population between Durham County and Chatham County, does that exceed more than four times 79,000, or less than four times 79,000?

REP. LEWIS: Thank you for the question. Again, this is David Lewis. The population of Durham in 2010 was 267,587. The population of Chatham in 2010 was 63,505. That totals up to 331,092. So if we divide that by the ideal population of 79,462, it equals 4.16, which would be within the plus or minus five percent range.

REP. DOLLAR: The gentleman continues to be recognized for his questions.

REP. MICHAUX: Thank you, sir. Representative Michaux from Durham. The figure you just gave me, 331,092, is the total population for both counties. Is that correct?

REP. LEWIS: That is correct, sir.

REP. MICHAUX: And if you've got four representatives representing that 331, doesn't that population come out to be somewhere around a little over 80-some thousand people there, which may be outside your five percent deviation?

REP. LEWIS: No, sir, because again, it's

331,092. The ideal -- if there were -- if this was a congressional draw, and we were under absolute zero deviation rules, we would have to have every district the same size. But the Stephenson criteria has provided that there is a plus or minus five percent, and again, I can -- I'll be happy to go through the math on my phone here, like I was trying to do. But I -- what I have represented this map to be is what I believe to be the optimum county groupings for the House and the Senate. What I've asked the members to do is, if they find a more optimum map, to bring that map forward so that it can be reviewed.

REP. DOLLAR: And as further explanation, Representative Michaux, and this is Chairman Dollar, staff has handed me, and you might want to write these numbers down. The ideal population for four members for House seats would be 317,884. The range, however, which is what Chairman Lewis is discussing, the range for four members would be anywhere from 301,956 to 333,740. That would be the range for a four-member grouping. Durham and Chatham together, as it has been mentioned, that's 331,092. So that fits in that range.

REP. LEWIS: Mr. Chairman?

REP. DOLLAR: The gentleman is recognized.

REP. LEWIS: This is David Lewis. I'd like to point out to the members that the last time we met, we passed out a chart that's labeled "2010 District Population Ranges and County Populations." We can certainly re-pass that out to the members, but it shows the plus or minus five percent that the chairman just referenced.

REP. DOLLAR: Senator Clark.

SEN. CLARK: Thank you, Mr. Chairman. Senator Clark, Senate District 21. You indicated on map 3 and map 6 that the clusters shown in green did not require -- there is no requirement to change them, nor is there a requirement to change the districts within them. Is it the position of the leadership of this committee and the leadership of the General Assembly that the districts within those particular clusters shall not be changed as a part of this process?

REP. LEWIS: This is David Lewis, and the answer is yes.

SEN. CLARK: Thank you, Mr. Chairman.

REP. DOLLAR: Further questions from members of the joint committee, or further offers

of criteria from members of the committee at this time? Senator Speciale -- I mean, Representative Speciale.

REP. SPECIALE: Yeah, don't demote me. Could we get a copy -- I know you gave a copy last week of those numbers, but could we get that? Not every one of us have them with us today.

REP. LEWIS: Yes, sir, we can get that -- staff can get that for you. Representative Michaux.

REP. MICHAUX: Yeah, I'm still trying to get my mind clear. Representative Michaux, from Durham, Representative Lewis.

REP. DOLLAR: The gentleman may ask his question.

REP. MICHAUX. In response to Senator Clark's question, am I to understand that these counties on this House county group, the green counties will not be affected by what you-all are proposing to make changes with? Is that what I'm hearing?

REP. LEWIS: Thank you for the question. Again, this is David Lewis. Let me try to explain it a different way. We believe in the maps that were passed out that illustrate the optimum county

groupings, the ones labeled "County Groupings for 2017 House Plan" and then "County Groupings for 2017 Senate Plan, we believe that these are the ideal county groupings. We believe that if the ideal county groupings match the county groupings that were used in 2011, that no change would be required within those counties.

REP. DOLLAR: Further questions at this time, or offers of criteria from the members?

Thank you. Seeing none, the Sergeant at Arms will pass out the sheet entitled "IDS Policies 2017 Restricting Operations." This sheet here. Committee will be at ease for just a moment while the Sergeant at Arms pass these out.

REP. DOLLAR: Chairman Lewis is recognized.

REP. LEWIS: Thank you. Mr. Chairman, this is not pertaining to the criteria but we felt it important to discuss it with the committee. This is the policies developed by the central staff and our information services division that we propose would govern access and empower members of the General Assembly and also the public that wish to directly participate in the drawing of districts that have access to the computers and the staff.

In short explanation, I would offer that this is the same policy that we used in 2016, and I believe the same policy that we used in 2011. If there are detailed questions on this, Mr. Chairman, I respectfully ask that they be directed to staff.

REP. DOLLAR: Any questions on these procedures? And please know, as you look over these, you can always call staff later and contact them with any additional clarification that you might need.

Okay. Seeing no questions on that --

REP. LEWIS: Mr. Chairman.

REP. DOLLAR: The chairman is recognized.

REP. LEWIS: Thank you. This is David Lewis again. Members, for full disclosure, the Chairs are providing this as the direction that we have issued to staff. If there are concerns with it, please bring those to the Chairs. But we didn't want to share this so that you would all have access and that members of the public would have access and would be more enabled to utilize resources if they wish to directly participate in the drawing of districts.

REP. DOLLAR: Senator Smith-Ingram.

SEN. SMITH-INGRAM: Thank you, Mr. Chair.

As relates to public access, when you provide the room for the general public that's here in Raleigh, are we going to be accommodating maybe some of those same opportunities when you go further east, for those in the public who cannot drive to Raleigh?

REP. DOLLAR: The gentleman is recognized.

REP. LEWIS: Thank you, Mr. Chairman. Senator, I appreciate the question. I also want to say that I appreciate your steadfast advocacy for the East. We have not in the past been able to provide actual physical resources offsite and will not be able to provide it this time as well. I would point out that there are several free websites, if you will, that allow people to access and draw maps, and we will certainly -- we did last time and would again receive and review those. So we will not be able to provide the actual physical resources offsite but we will certainly review maps that the public may draw using software that they can access online.

REP. DOLLAR: Senator Clark.

SEN. CLARK: Thank you, Mr. Chair. Senator. Senator Clark, Senate District 21.

My question regards potential staff report for the minority party with regard to providing full-time, if you will, legislative analysis division individual, to support us in possibly the creation of our maps and interpretation thereof and the creation of data. And the reason I ask this is, due to no fault of their own, they are under significant time restraints. Often our attempts to avail ourselves of those services are not successful. So I was wondering if there was a possibility that we could get a dedicated resource for that particular purpose.

REP. DOLLAR: The gentleman is recognized.

REP. LEWIS: Thank you, Mr. Chairman, and thank you for that question, Senator. The Chairs have actually discussed that. As you know, our central staff works very hard. They work very hard to serve all of the members. We want very much to facilitate as much involvement and participation in the -- trying to reach an acceptable remedy for this Court order.

If the minority leaders in the House and the Senate were to request that, I'm sure we could

make that occur. We would ask the Legislative Services officer to deal with that.

I also would point out that the Speaker and the President Pro Tem have also made an offer to the respective caucus leaders in the House and the Senate. If they wish to hire outside map-drawing aid, that has been offered as well.

REP. DOLLAR: Further questions. Seeing none, thank you.

Before we go to taking public comments and input on the criteria, are there any members wishing to make any further comments with regard or offer any criteria for the drawing at this time?

Well, with that, seeing no hands, we will begin the public comment portion of our committee meeting today. As -- just to remind everyone, we will keep decorum. If you have signs, please do not display them in any way in which they would block the view of someone behind you. There will be a two-minute time limit. Sergeant-at-Arms will keep that.

We will call out the first five individuals that there are, and we'll call them out five a time. If you would line up with the mic there in the back, and again, be sure to identify

yourself for the record, as a public record is being kept of this.

I would also remind members, this is not an interactive period of time. Questions will not be taken of members of the public. This is our opportunity to listen to what they have to say in their presentations. Representative Floyd?

REP. FLOYD: How many public speakers do we have signed up so far?

REP. DOLLAR: To the Chair's view, it appears we have about -- roughly -- between 40 and 45 speakers.

REP. FLOYD: Thank you.

REP. DOLLAR: We would also ask, to be certain that any of the groups -- if you are representing a group in particular, please identify that when you begin your comments. So at this time, we will call up to the mic in the back, the first five --

Hold on just a moment. Representative Torbett.

REP. TORBETT: Just to rehash a little bit, there was a document for Senator Smith-Ingram presented. Was it going to be copied and distributed?

SEN. DOLLAR: Yes, sir.

SEN. TORBIN: I'm just making sure that's going to happen.

SEN. DOLLAR: That will happen.

REP. TORBETT: A reminder. Thank you.

REP. DOLLAR: Yes, sir.

When the -- just to be clear with the Sergeant-at-Arms, if that item has been copied now, if you are ready, go ahead and distribute that. We will distribute that before we recognize our first group of folks.

Let me go ahead and call up the first group, and then we'll get this started once this sheet has been distributed to the members.

Ira Botvinick, Phyllis Demko, Steve Hall, Mike Jennings, Dr. Heather Simmon, if y'all will line up there. And I apologize if have mispronounced anyone's name. And if you'll hold for just one moment until the Sergeant-at-Arms has finished distributing their materials.

Also, to remind you in the back, you will need to make sure that the green light is on. Turn it on when you get ready.

Okay. Seeing the materials distributed, the gentleman, if you would identify yourself and

your comments not to exceed two minutes. The gentleman is recognized.

IRA BOTVINICK: Thank you. I am a voter, always have voted. My name is Ira Botvinick. I reside in Wake County.

I am angry about legislative districts that gerrymand [sic]. I am pissed that my tax dollars are being wasted to defect concocted legislative districts. I want my vote to matter. I did not come here to criticize Republicans. The truth is, the majority parties have gerrymanded. Gerrymanding is wrong, and it must stop now.

Redistricting should foster to the great extent possible, competition, so as to provide better government for all North Carolinians. The antitrust laws of Chapter 75 of the General Statutes prohibit entering into noncompetitive agreements, and this should be the guiding principle of your deliberations.

In this state, we care so much about fairness and competition, that General Statutes, Chapter 75, always award triple damages and attorney fees for business that engage in anti-competitive practices. And this state law subjects violators to imprisonment of up to two years. The

business of government should be no different.

If what I'm saying is too difficult for you to legislate in that it is human nature to be self-protective, I request that you vote for House Bill 200 and Senate Bill 209, that establish a nonpartisan process for drawing legislative districts.

In conclusion, when Benjamin Franklin left the Constitutional Convention that established our Federal Constitution, he was asked, "Dr. Franklin, what type of government do we have?" Benjamin Franklin replied, "A republic, if you can keep it." Thank you.

REP. DOLLAR: If members of the audience would refrain from public demonstrations, the next individual is recognized for time not to exceed two minutes. If you would identify yourself.

PHYLLIS DEMKO: Good morning. My name is Phyllis Demko, and I'm from Cary. I realize this is not about congressional districts, but to make my point, I'm offering a quote. This is from the minutes of the Redistricting Committee for Congressional Districts, February 16, 2016. One of the members of the committee said as follows: "I want to make clear that we are going to use

political data in drawing this map. It is to gain partisan advantage. I want that criteria to be clearly stated and understood."

He acknowledged that this would be a political gerrymander and, indeed, the adopted criteria expressly instructed the mapmakers to draw a new district map that would maintain partisan advantage.

The data actually was only related to election results. Other than population, that was the only criterion used. This is blatant partisan gerrymandering. This is putting politics over the welfare of citizens of the state.

We have seen the results of partisan gerrymandering in North Carolina as well as throughout the country. So whether policy gerrymandering is legal per se, and that's an open question before the Supreme Court at this point, we as citizens of this democracy know for sure that it is wrong. I ask you, therefore, to adopt criteria that do not include addresses of candidates or incumbents and that residents' voting histories not be considered. Thank you.

REP. DOLLAR: The next person will proceed. Identify yourself and you're recognized

for time not to exceed two minutes.

STEVE HALL: Good morning. My name is Steve Hall. Thank you all for your service. You obviously have a very complex task before you with many competing voices and allegiances to consider. As someone who led numerous institutions that had such a challenge, I always advise myself in my quiet moments, and other fellow leaders, "What are your core principles? What is the guiding light that motivates you to do the work you do?"

And when I thought about this opportunity to address you this morning, what occurred to me as something if I was sitting in your shoes, might sound something like this. To do my best to ensure that each and every North Carolina citizen has a voice that can be expressed with equal weight and potential impact. I suggest that isn't really a mathematical idea. It's a bit more complex than that. And I would encourage you to embody those additional elements as you deliberate how to draw up your maps. Thank you.

REP. DOLLAR: Thank you. The next individual is recognized to identify yourself and you are recognized for a time not to exceed two minutes.

MIKE JENNINGS: Thank you, Mr. Chairman, members of the committees. My name is Mike Jennings. I have lived in Wake County -- in North Caroling for about years. I want to thank you for the opportunity this morning, and I am speaking just for myself. Others are going to talk in more detail about criteria that are fair, transparent, and actively involve public.

I could talk in more detail about that but I want to go -- and I agree with those criteria. But I want to go further, why those criteria are important to me. Before Congress adopted the Constitution, the Voting Rights Act, there was the Golden Rule. We were given the Golden Rule. Excuse me. I believe the criteria that you will hear about this morning will create an open process and promote fairness in elections. I think that would be consistent with the Golden Rule.

I know in the past others have drawn districts to favor them. I agreed and that was wrong. It's time to turn the corner. Let's do the right thing. Let's do it, let's treat others as you would have them treat you. I encourage you to allow to be touched by the better angels of your

nature, to turn the other cheek to those who have used the redistricting process to their own advantage and rise above partisanship as you draw new maps. It's the right thing to do. My children, my grandchildren are depending upon you to keep this a democracy that works for everybody. Remember, the Golden Rule says, "Do unto others as you would have them do unto you."

Thank you very much.

REP. DOLLAR: Thank you. The next five individuals past Ms. Simon at the moment, is Richard Greene, if you would line up -- Trina Harrison, Pam Schwingl. Jen Jones and Paula Jennings. So if y'all would like up.

And, Ms. Simon, you are recognized for time not to exceed two minutes.

HEATHER SIMON: My name is Heather Simon. I'm from Cary, North Carolina, and I'm here representing myself today. I took time off work today to come comment because nonpartisan redistricting is fundamentally about preserving our democracy. The redistricting process is only happening today because the legislature failed to create legal and constitutional districts in the first place. The fact that you have again hired

the same consultants to draw the -- that drew the current illegal maps is troubling. The legislative redistricting process much be carried out in a nonpartisan manner, ideally by an independent commission and with the opportunity for the public -- the public to comment on the final district maps. To guarantee that the process remains fair and unbiased, the legislature should exclude political information like voter registration data and past election results when drawing maps.

Both Democrats and Republicans won statewide races in the last election, indicating that voters in North Carolina are fairly evenly split. In contrast, whenever elections were based on districts, the scale leaned very heavily towards Republicans as demonstrated by [unintelligible] majorities in both the State House and State Senate. Any process that is designed to favor some voices or opinions over others is fundamentally undemocratic and goes against the spirit of the North Carolina and U.S. constitutions.

As legislators, you took an oath to uphold both. Section 2 of Article 1 of the state constitution states, "All political power is vested

in and derived from the people. All government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole." The current districts do not represent a government originating from the will of the people.

If you believe in democracy, you have an obligation to design truly fair and representative districts when drawing new maps. Attempts at gerrymandering for the purpose of gaining political advantage are short-sighted and undermine the core democratic principles. The issues faced by the state will change and the demographics will change but once lost democracy is very hard to regain.

REP. DOLLAR: The next individual recognized is Mr. Greene?

RICHARD GREENE: Yes.

REP. DOLLAR: For a time not to exceed two minutes.

RICHARD GREENE: Richard Greene, Wake County. Thank you, Mr. Chair; thank you, members of the committee. I'm a small businessman. I've closed my business to be here today. What I've learned in being a small businessman is, innovation and progress is dependent on competition and

listening to what is going on around you. The business world is full of large, very powerful companies that have failed -- Kodak, Xerox -- who failed to follow that lesson. The same is true in government.

So I urge you adopt a districting process that is nonpartisan in nature, that is based on geography and doesn't deal with any demographic information of any measure. I believe this is critical to our legislative process, it is critical to the progress of our communities, and it is critical to our democracy. Thank you for the time today.

REP. DOLLAR: Thank you. Next individual is recognized for a time not to exceed two minutes.

TRINA HARRISON: Thank you. Members of the Committee, members of the General Assembly. My name is Trina Harrison. I'm from Alamance County.

Racially-based districting is partisan districting. For too long, regardless of which party has held power in Raleigh, the politicians have chosen their voters. It's time for we, the voters, to get back to being able to choose our representatives. That's all. Thank you.

REP. DOLLAR: Next lady is recognized for

time not to exceed two minutes.

PAM SCHWINGL: Hi. My name is Pam Schwingl. I'm from Cedar Grove, Orange County, North Carolina. Thirty years ago, I moved to North Carolina based on its reputation for fairness, balance or progress and it support of agriculture and education. I have lived both in southern Orange County, northern Orange County and in Person County, and I've seen that wherever I vote, my vote really doesn't matter.

I could stay home on election day. Incumbents would be voted in and change would be difficult. Democrats would win in Orange and Republicans would win in Person. This has only worsened since the 2011 -- since the last Census and new maps were drawn. The result is that only a few people vote, it's very suppressive of the vote, and because of these gerrymandered districts that we now know why this happens, and it's called an efficiency gap, and it's something that I think should be included in the criteria for choosing these districts.

Because it really is a situation where the individual vote is undermined. The one person, one vote is undermined. So let's make districts

that are competitive. It has been done before, it has been done in other states, and let's get candidates that can appeal to a broad range of people that can really start solving our problems. So I would recommend that we basically use criteria that does not set partisan targets, does not protect incumbents, does not exclude threats to incumbents, and use criteria that excludes data on party registration, on race and ethnicity except where required by the Federal Voting Rights Act.

And then when the maps are drawn, report to us the quantitative efficiency gap to see how far or how close we are to the one person/one gap rule. And please, let us know at each step what you're doing, why you're doing it, and provide to us a log of all your actions. Thanks.

REP. DOLLAR: Thank you. Ms. Jones, recognize for a time not to exceed two minutes.

JEN JONES: Thank you, sir. My name is Jen Jones. I live in the great county of Orange, but I grew up on a tobacco farm in the great county of Warren. And as my mother says, "Our family has been here since Jesus wept." I also, in the interest of full disclosure, work for Democracy North Carolina, which I hear has been fighting

since Jesus wept for both parties not to gerrymander. So I am very unpopular with everyone in front of me.

Despite that, I am here for the former purpose: to speak as a North Carolina about criteria that matter to me and my mama. I want fair maps, and I want them to be devoid of racial and partisan gerrymandering. I'd kind of like for them by the principles of equal protection under the constitution. And since we are a Southern state -- I would argue the most fabulous one -- I would like the principles of the Voting Rights Act to be a part of that, too.

But most important to me, as a communications person, is having public input and transparent and informed public input. But just as leadership is confident in Thomas Hofeller to redraw our maps, the same man who did so in 2011, I am confident that those maps have already been drawn, that the criteria for those maps is already set. And I would really appreciate as a member of the public, to see those maps and be able to provide informed public comment at the hearings you so graciously are providing later this month, based on those maps.

So I would ask, please, as a North Carolina constituent and voter, show us the maps, and I promise you, as a North Carolinian, we will tell you exactly how we feel about them. Thank you so much.

REP. DOLLAR: The next is -- Ms. Jennings if you will just hold for a moment. The next five individuals, if you would line up. Lloyd Chambless, William Smith, Janis Ramquist, Dianna Wyne, and Janet Hoy.

Ms. Jennings, you are recognized for a time not to exceed two minutes.

PAULA JENNINGS: Thank you. Thank you for allowing me to speak. My name is Paula Jennings. I'm here as a North Carolina citizen, a Wake County citizen, and most of all, a patriot. I'm speaking for myself, and I want to use a phrase we've often heard: liberty and justice for all. Liberty and justice for all. This phrase is recited as part of the Pledge of Allegiance with little thought for its deeper meaning.

I come here today also as a granddaughter of a World War I veteran, the daughter of a beloved World War II veteran. These men suffered greatly over their years because of their service. I come

here today as a mother and a grandmother. I come here today for the memory of what all of our ancestors stood for and what they went to war for, and for the legacy I wish to leave my children and grandchildren.

Part of the liberty and justice for which I speak is dependent on transparency, where one vote counts more -- does not count more than another, and when the result of an election is not a foregone conclusion. Transparency in the process of drawing impartial districts is the most important criteria for which I advocate today. Transparency.

Complete transparency such as can be found in live streaming of all hearings and meetings. I advocate on behalf of future generations and for the large table of democracy which I hope they can all come to. Thank you.

REP. DOLLAR: Thank you. Mr. Chambless, you are recognized for a time not to exceed two minutes.

LLOYD CHAMBLISS: I am Lloyd Chambless from Orange County. A recent study has found that the North Carolina redistricting process ranks among the worst in the world. Our democracy in

North Carolina is right there with the worst democracies in the world. Our legislature does not represent us; it represents the maps they drew.

The recent court finding was that our districts were not legal, in other words, did not represent the people of the state because of racial gerrymandering. Hopefully an up and coming Supreme Court decision will find that partisan gerrymandering is unconstitutional. That is yet to be seen.

But here we are. We have an opportunity. We're looking forward to the Census in 2020, where new maps will have to be drawn. Democrats could be in charge then, so it's an opportunity when we don't know who is going to win, to do something about it, to draw some fair maps, to make the process nonpartisan, to not allow looking at past election results or registration, to get it out of the hands of the legislature except for final approval.

So let's take this opportunity to right the process. Let's redraw the maps. Why do you start -- why do you start with the same maps and say, we don't have to redraw most of the districts. Let's start over. It's easy to draw maps. Just

start ignoring all the political requirements that you've put into it to -- so gerrymandering. So let's make this a nonpartisan process, start over, and do it right. Thanks.

REP. DOLLAR: Mr. Smith, you are recognized for time not to exceed two minutes.

WILLIAM SMITH: William Smith, Raleigh, North Carolina. As a veteran and someone who has also sworn an oath to defend this great nation of ours, and a patriot, I am extremely concerned by the state of our democracy today. Our representatives should be able to be held accountable for their actions by the people from which they derive their power.

Therefore, I propose the following criteria for the redistricting process in North Carolina: A prohibition on using partisan data. Maps submitted should be able to pass the efficiency gap test or the best available test for gerrymandering that is currently available. Voting precincts should not be divided.

I would very much prefer that an independent, nonpartisan commission be appointed to draw our district maps but should a commission not be appointed, then the governor should be granted

veto power over any redistricting bill produced by the General Assembly.

All of us are aware of the oath: first, do no harm. Bringing back Dr. Thomas Hofeller, who failed so miserably in protecting democracy when drawing the 2011 maps, only shows that you desire to continue to undermine our democracy. Representative David Lewis, who was also involved in the failed 2011 maps and Dr. Hofeller should not be involved in this important process.

I wish I had more time to go into the damage gerrymandering does to both parties and to our great nation. I respectfully request that this body restore democracy to this great state. Thank you.

REP. DOLLAR: Ms. Ramquist, you are recognized for a period not to exceed two minutes.

JANIS RAMQUIST: My name is Janis Ramquist. I'm a resident of Raleigh. I have known some of you for decades, and this is a very personal statement. I know you as good people who want to serve your state, and it is very sad to me that so many people distrust you and believe the worst in you. I think that you could change the course of this by adopting better criteria,

measurable criteria. There are mathematical equations that can measure whether you are overly partisan in your district, whether they are compact, and whether they meet the Voting Rights Act compliance.

I thank Representative Lewis and Senator Hise for increasing the transparency but it could be improved. Every scrap of information that is used to draw a map should be available to the public. You are doing the public's business.

There is a rumor that red maps have been drawn already. I hope not. But if they have, I hope you will disclose them now.

Redistricting is the foundation of our democracy, and I beseech you to please honor the integrity of the General Assembly. Thank you.

REP. DOLLAR: Thank you. Ms. Wynn, you are recognized for a time not to exceed two minutes.

DIANNA WYNN: My name is Dianna Wynn, and I'm a resident of Wake County. I am part of a large and growing segment of North Carolinians who are unaffiliated voters. However, I believe I speak for many unaffiliated voters, Republican voters, and Democratic voters, who are increasingly

dismayed by the role of partisan politics in drawing our voting maps.

In fact, polling across the nation and specifically in North Carolina, reveals that a majority of voters favor a nonpartisan approach to redistricting. To that end, I respectfully request that this committee adopt the following criteria for fair voting maps. First, adopt politically neutral criteria. No addresses of candidates or incumbents should be used, and residents' voting histories and party affiliations should not be considered when defining our voting districts.

Second, districts should be compact and contiguous. Voters within a district should not be unnecessarily dispersed, and no voting district should be geographically divided or split by another district. In other words, all portions of a district must connect.

Third, avoid dividing counties and municipalities where possible. Fourth, avoid dividing communities of interest, where possible. Communities of interest typically have social, cultural, racial, ethnic or economic interest in common. Finally, and obviously, voting maps should comply with all relevant provisions of the Voting

Rights Act.

Voters are tired of politics as usual. We want our legislators to stop gerrymandering and end the practice of politicians handpicking their voters. We simply want fair and impartial maps. Thank you for your consideration and the opportunity to speak here today.

REP. DOLLAR: Thank you. Let me make a notation. If any of those who have spoken or who will be speaking here shortly, want to submit your comments or share -- you know, if you had something in writing and you want to share that, put that in the hands of the staff, you can hand those either to the Sergeant-at-Arms or to the committee staff up here. I just want to make sure that you knew that opportunity.

Also, let me identify the next five individuals that will be recognized in line. Lee Mortimor. And for the press, if you are looking at your sheet, number 17 who is signed up has withdrawn. So the person after Mortimor would be David Williams, Zack Klien, and Dallas Woodhouse.

So if those individuals would line up. And Ms. Hoy, if you would identify yourself, of course, and for time not to exceed two minutes.

JANET HOY: Yes, thank you very much. My name is Janet Hoy. I live in Orange County but I'm here today as the co-president of the League of Women Voters of North Carolina. The League, as you probably know, is a 100-year-old, nonpartisan, political organization that encourages active and informed participation in government. Since 1966, the League of Women Voters of the US, our national organization, has advocated for impartial electoral maps with both transparent redistricting processes and even more importantly, significant opportunities for public participation.

Today's public comments are about criteria. Our recommendations focus on three primary objectives: transparency, public engagement and fairness. The League recommends this committee commit to the following: disclose all criteria and assumptions used throughout the process; exclude partisan targets; exclude data on voters' party registration and past voting history; exclude data on incumbents' or candidates' addresses, exclude data on race and ethnicity except where necessary to comply with federal law, meaning the Voting Rights Act; analyze each set of maps using generally accepted measures of

compactness and report the results by district and for the set of maps as a whole. Strictly apply the Stephenson process to define the VRA districts and, most importantly, make maps available for review and comment by the public in advance of hearings and again before the maps are finalized.

We urge this committee to ensure that these criteria are reflected in any maps that have been or will be drawn. Furthermore, we ask that the committee's maps and the criteria used to draw them, be promptly publicized, without delay, from the moment they are created, so that citizens of North Carolina will have full opportunity to consider and respond to them.

The League of Women Voters of North Carolina represents thousands of League members across the state as well as many more thousands of supporters, each of whom is one of your constituents. It is critically important to the League and to every North Carolinian that maps are fair, impartial, and that every North Carolinian's vote counts.

REP. DOLLAR: Mr. Mortimor, you are recognized for a time not to exceed two minutes.

LEE MORTIMOR: Thank you. I'm Lee

Mortimor from Durham County. I have been a resident of North Carolina for almost my entire life. I'm a member of North Carolina Common Cause but am speaking on behalf of myself today.

The way redistricting has been done for the past decade makes a complete mockery of elections and voting. It didn't start with Republicans in 2011 but abuse of redistricting has reached a new and unprecedented level in this most recent cycle. We need to bring legitimacy and fairness to elections in voting and to make our representatives accounting through competitive elections. The essential first step toward a meaningful redistricting form, is to create a nonpartisan process that excludes all partisan and political considerations and draws districts that are geographically compact and respect legitimate communities of interest.

Just today, in Venezuela, we are witnessing the turmoil and disruption that can result when a legislature comes to power through an election process that lacks legitimacy. If we do not bring legitimacy to our elections, I fear something similar could happen here. Thank you.

REP. DOLLAR: Next on our list is Mr.

Williams. If you will identify yourself. You are recognized for time not to exceed two minutes.

DAVID WILLIAMS: I will. My name is David Williams. I'm from Transylvania County. I represent Transylvania Indivisible, and I stand as the chair of Indivisible North Carolina's fair voting action group.

But I'm really neither of those things. I'm a husband, I'm a father, I'm a grandfather, I'm a son, I'm a brother, I'm a cousin, I'm a friend, I'm an educator. But in January, I chose to put those things aside and to become a resistor. I chose to fight for a country in which facts are true, whether we like them or not. Where science is accepted as the pathway to truths and where truth is valued.

I chose to fight for a state where the people's business is conducted publicly without attempts to avoid meaningful input, for a state that celebrates the value of human diversity and strips no one of its voice. For a state where every voice has a voice and every vote is a voice for a state government of the people, by representatives of the people, for the welfare of the people. I chose to fight for the future for my

son and my grandson.

I choose to resist those forces that seek to destroy those things that made this country great. A more perfect union, where justice for all under the rule of law is the law, excepting none. A more perfect union with opportunity for all to pursue lives well-lived, lives of meaning, a more perfect union giving all the right to embrace the blessings of liberty, a more perfect union bestowing on all the right to seek happiness and make that which is good even better. To oppose a hostile force that strips its people of the Constitution's guarantee of equality through a voice embodied in a vote, one voice, one vote.

By the deeds of the majority, democracy, civility, negotiation, compromise, transparency, respect for minority voice, views in accountability have been derided and eroded to the point they do not exist in public practice. Those who do not learn from history are doomed to repeat it. By the exercise of its power, this group, and the legislature, have been branded, perhaps unfairly, as racist and as self-seeking. Thank you.

REP. DOLLAR: Mr. Klien, you are recognized for a time not to exceed two minutes.

ZACK KLIEN: Thank you, Mr. Chairman, and members of the committee. I'm Zack Klien, residing in North Carolina. I'm going to be brief in my statement. In regards to redistricting, it is my opinion that counties should be kept as whole as possible. Race should not be a determining factor used in redrawing the maps, and it's clear that the courts cannot make up this matter, and it's best not to use it. Thank you.

REP. DOLLAR: Mr. Woodhouse, before we recognize you, let me call the next five individuals. Beth Gerall, Louise Kinnard, Amy Porter, Bob Phillips and Donald Mial. If y'all will line up.

Mr. Woodhouse, you are recognized for a time not to exceed two minutes.

DALLAS WOODHOUSE: Thank you, Mr. Chairman. I am Dallas Woodhouse. I am the Executive Director of the North Carolina Republican Party, proudly celebrating its 150th anniversary this year. As a party, we certainly support, using traditional criteria in the redistricting process, both keeping counties as whole as possible, and we think the Goldilocks standard of using race, we have to use a little bit of race, but not too much

race ought to go away, and that no racial considerations ought to be made.

We also think the use or discussion of statewide election data is completely irrelevant, even though it is largely favorable to the North Carolina Republican Party, that has won an overwhelming amount of the statewide election races in the past six years.

We do not elect people on a system of Parliament, like they do in Europe. It is not the job of this committee to make a political party that lost 76 North Carolina counties in the presidential election competitive because they are uncompetitive in vast swaths, vast areas of the state. Again, 76 counties were won by the presidential candidate in North Carolina. And it is not the job of the committee to make that party competitive when it cannot do so itself in huge areas of the state. One, the minority party in this body has a geographic problem that it has to correct, and that is not the job of this committee to correct.

One final note with regards to the 53rd North Carolina House District as a proud alumnus of Campbell University, I believe that our university

has been well represented, and we would like to wholly keep Campbell University in the 53rd district. Thank you very much.

REP. DOLLAR: The lady is recognized for a time not to exceed two minutes.

BETH GERALL: Thank you for letting us speak today. We appreciate it. I'm Beth Gerall from Orange County. I'm going to make several points that other folks have made today but I think it's important for you, the committee members, to hear these over and over again. That the districts that appear after this process demonstrate that one person/one vote is the outcome. They should be equal in population size as much as possible. They should be compact and contiguous. They should make sense.

In creating the districts, communities should not be divided, make efforts to respect the county lines, and if a county must be split, have an honest explanation as to why that was done. In creating the districts, addresses of lawmakers, current and past, party affiliation, voting history of the voters, or any other data other than that which is required by law, should not be used to help a party or a politician in any way.

Before districts are approved, they must be evaluated and demonstrate party competitiveness and no racial bias. The maps should ensure that voters choose their elected officials and not that politicians choose their voters. Thank you for the opportunity to speak.

REP. DOLLAR: Ms. Kinnard, you will be recognized for a time not to exceed two minutes.

LOUISE KINNARD: Thank you very much for letting me speak.

I think the districts should -- oh, I'm Louse Kinnard from Lillington, Harnett County. The district -- I think the districts should be drawn as geometrically as possible so we don't have that snaking where they go like this and around -- like using squares or rectangles. And I understand that you can't do that with every district but as much as possible, include -- have that geometrical design.

I realize that in the past the Democrats have done the same things. I mean, maybe not as bad or maybe not as well. But I understand that, that every time there is a switch in parties, they redistrict to their own political advantage. Let -- we can do better than that.

It should be politically and racially nonpartisan, and before the maps are finalized, I think the public would like to see them and -- so they can have some input and maybe conduct town hall meetings so more of the public can be there to hear their representative. Because that's who they go to first. That's all I have. Thank you very much.

REP. DOLLAR: Thank you. Ms. Porter, you are recognized for time not to exceed two minutes.

AMY PORTER: Thank you for opportunity to speak my piece. My name is Amy Porter, and I am a registered unaffiliated voter from Graham, North Carolina. I am a lifelong citizen of North Carolina. I'm also a veteran teacher in North Carolina, the North Carolina School System. My husband a decorated vet -- Vietnam veteran, owns his own business, and we own a small farm in Alamance County.

I speak on behalf of all North Carolina residents: Republican, Democrats and the independent voters like me who have voted for both parties. I want to see the end of political gerrymandering. Districts cannot be drawn intentionally, unduly favoring any political party.

We must change this in the form of legislation: a change to the State Constitutional form -- Constitutional.

We should form an independent commission to draw district lines. There should be no consideration for voters, a party affiliation, or voter history, in the creation of fair districts." I disagree with Dallas Woodhouse in that statement. Remember that you work for us.

REP. DOLLAR: Mr. Phillips, you are recognized for a time not to exceed two minutes.

BOB PHILLIPS: Thank you. Good morning. I'm Bob Phillips with Common Cause North Carolina. As most of you know, the organization I work for has been pushing for redistricting reform for many years. We are nonpartisan. We have worked with Republicans and Democrats alike on this issue, and we believe that gerrymandering in wrong, regardless of which party does it.

At this moment, you have an opportunity, you have an opportunity to end gerrymandering now if you adopt fair criteria. What does that look like? The place to start is taking politics out of the process. Don't draw districts to favor a political party or an incumbent. That means, don't

look at past election results or where incumbents live when drawing the maps.

The other important rule to follow is abide by the Voting Rights Act. Stop using race to gerrymander. Don't compact or divide minority communities to weaken their voting strength. Follow those rules and you'll get maps that are more compact, contiguous in keeping communities of interest together. You'll also get more districts that are competitive, so we the people can hold you, our elected officials, more accountable.

Finally, the mapmaking process needs to be more open and transparent. No more hired partisan guns in back rooms committing gerrymandering. Ideally maps should be drawn by an independent entity, not the lawmakers.

Now, everything is found in House Bill 200, a bipartisan piece of legislation filed this year that has not been considered. The fact is, a majority of you, this committee, has either voted for or sponsored legislation that would provide the criteria I've just outlined. Let me say that again. Most of you in this room have supported nonpartisan redistricting, and you've done it since the shift of power in 2011. There are a lot of

you. I can look out and I know most of you. A lot of you, both sides of the aisle, who remember and know what it was like to be on the wrong side of gerrymandering. You didn't like it, and that's why you supported reform. I just ask you, support reform, support fair criteria. End gerrymandering now.

REP. DOLLAR: Before we call the next individual, let me call the final six individuals. If you would line up, we have on our list: Greg Flynn, James Wood, Nan Fulcher, Siobhan Millen, Laura Holley, Gerrick Brenner.

Mr. Mial, you are recognized for a time not to exceed two minutes.

DONALD MIAL: Good morning, Mr. Chairman and ladies and gentlemen. My name is Donald Mial. I'm a citizen of Wake County. I have come before this honorable body today to voice my concern for fair elected districts. You see, I served this state and the country for a total of 67 years: 32 years in North Carolina Army National Guard, and 35 years as a State employee, deploying to Iraq with the 3rd BCT to win the hearts and minds of the citizens there. Because their government had failed them.

I believe in government to be responsible to its citizens. You have the power to win the hearts and minds of our citizens of North Carolina by voting and approving fair districts, whereby all people of North Carolina represent -- will be represented equally and fairly. Thank you.

REP. DOLLAR: Mr. Flynn, you are recognized for time not to exceed two minutes.

GREG FLYNN: Thank you. I am Greg Flynn, a Wake County voter for the past -- sorry. I'm still Greg Flynn -- a Wake County voter, and for the past six years. For the past six years, I have been under assault from redistricting, which has had to be fought off on the battlefields of federal court. Even my precinct has two congressional districts in it.

In addition to United States and state redistricting struck by the courts, my county commission and school board districts have been successfully challenged in federal court. It was absurd as a plaintiff to have to drive up to Richmond, Virginia, to defend voting rights here in Wake County, North Carolina. These districts were neither fair nor legal. Please don't repeat this debacle.

Please create compact districts that don't resemble crime scene blood splatters. Please create districts that represent and engage all voters, Republican, Democratic, unaffiliated, and even Libertarians. There is more to life than the epic and chaotic struggle between the two main parties.

The growing ranks of unaffiliated voters, which will soon eclipse one of the parties signals dissatisfaction with the current political scheme and the desire to end the chaos. Please let us see the maps you likely have created already, so we can get down to business and not waste another six years. Finally I ask that the Senate Chair recuse himself until the State Board of Elections concludes the investigation of his campaign finances. Thank you.

REP. DOLLAR: Mr. Wood, you are recognized for time not to exceed two minutes.

JAMES WOOD: Thank you. James Wood from Raleigh. So the objective here is to draw fair legislative districts. I feel like I could get down with a pencil and paper and draw pretty decent districts in about five minutes. So what I'm wondering is why an intervention of the United

States Supreme Court is necessary for this General Assembly to draw fair legislative districts.

In any classroom or workplace, if you turn something in late, five days late, you know exactly what is going to happen to you. You get an F or you get fired. But more than five years late? Forget about it. You know, maybe I could understand that it was an honest mistake. If the General Assembly had acknowledged the problem and worked expediently to remedy it, the first time these districts were found unconstitutional in court.

But I have watched you fight justice tooth and nail. Others have, no doubt, have watched you, too. What kind of impression do you think you are making to young people? I can give you a hint that it's not too good. We are done with your pettiness, and in the not-so-distant future, when we are up there, running the show, things are going to be different around here. Thank you.

REP. DOLLAR: Ms. Fulcher, you are recognized for a time not to exceed two minutes.

NAN FULCHER: Hi. My name is Nan Fulcher, and I'm from Hillsborough. In creating

the 2011 legislative districts for the State of North Carolina, Representative Lewis, in his role as House Redistricting Committee Chair, failed to uphold his oath of office to support the Constitution of the State of North Carolina and the Constitution of the United States. However, there is no remedy for this failure.

In the absence of a formal remedy, I respectfully ask Representative Lewis to step down from the current redistricting committee. Your resignation would acknowledge the plight of all of the residents living in the 28 illegal districts who have not been able to participate in democracy since 2011. From our perspective, the perspective of "We the People," an individual right with no remedy is no right at all. Please show your compassion for the citizens of North Carolina by choosing to step down. You will show you value justice, you will give a sense of remedy to those that deserve it, and you will restore your faith in you as a legislator, and your commitment to uphold the Constitution. Thank you.

REP. DOLLAR: Ms. Millen, before I recognize you, we had two additional people that we had called. Laura Holley and Gerrick Brenner. Are

those individuals here? Okay. So you are here. I will make sure to call you, then.

Ms. Millen, you are recognized for time not to exceed two minutes.

SIOBHAN MILLEN: Thank you, Mr. Chairman. My name is Siobhan Millen. Thank you for allowing me to comment this morning. I'm impressed by your statements last week at this committee meeting and your attorney, Mr. Strach's argument at the federal court, that this committee intends to seek plentiful public input into its redistricting efforts. Indeed, the three-judge panel's order last week lauded your commendable goal of obtaining and considering public input and engaging in robust debate and discussion.

My suggestion would be that you add one more criteria to the standard ones that many have already suggested this morning. To be clear, these standard criteria are compactness, contiguity, respect for political subdivisions, disregard of the party registration voters, disregard of the addresses of the incumbent representative, avoidance of petty double-bunking of the minority party, compliance with one man, one vote principle, minimizing excessive efficiency gaps within

legislative district in compliance with the Voting Rights Act.

The addition criteria which I suggest is that you keep in mind that North Carolina currently has 2.6 million registered Democrats, 2 million registered Republicans, and 2 million unaffiliated voters. The districts you create should elect Senators and House members roughly in proportion to those numbers.

The current overwhelming Republican majority in both chambers suggest that something has gone seriously awry in North Carolina. As evidence of this atrophied democracy, in the 2016 election, nearly half of the contests for the North Carolina House and Senate had only one major party candidate on the ballot. Our General Assembly should reflect our electorate, and for this to happen we need competitive districts. But as Judge Eagles and Judge Wynn noted last week in Greensboro, this committee seems not to take seriously its job of drawing more constitutional districts. In an ominous sign made public in this very room last week, Representative Lewis disclosed that the Joint Committee intends to use again the services of Dr. Tom Hofeller and crafting with his

custom surgical precision, new districts for the General Assembly. This is of concern because Tom Hofeller is a paid consultant for the Republican National Committee, who was described by the Atlantic Magazine in 2012, as a gimlet-eyed, semi-clandestine political operative. So with the federal court overseeing this process, this committee should make all meetings with Dr. Hofeller transparent to the public. Thank you.

REP. DOLLAR: Ms. Holley, you are recognized for time not to exceed two minutes.

LAURA HOLLEY: Thank you. My name is Laura. I'm from Apex, so Wake County.

REP. DOLLAR: Could you give us your last name as well, please?

LAURA HOLLEY: Holley.

REP. DOLLAR: Thank you.

LAURA HOLLEY: While I am affiliated with various organizations, including the Democrat Party, and currently as a precinct chair, here as a nonpartisan fan of well-functioning democracy, representing myself and all NC residents, D's, R's, and U's, to truly represent all of us and be responsive to all of the voter constituencies.

Based upon objective, comprehensive

published data from multiple sources, maps that were so extremely gerrymandered, tweaked by advanced software modeling capabilities, every fact-based indication underscores that my beloved adopted state of North Carolina functionally or empirically -- both -- murdered democracy in 2011. Let's work collaboratively to revive it, starting with implementing fair map being mandates that are strictly honored and practiced. Such as nonpartisan process for drawing new maps, written explicit protocols for transparency before, during and after the map-drawing process, to allow for public and media openness.

As a subnote to that, for input before maps are drawn, I would ask that all reference materials are handed out to the larger committee body, that these documents are also provided to the media and public at least 48 hours in advance of meetings, such as today's. I would further like to see mechanisms, if not already existing, put in place for public input before, during and after each map drawing both online and in person. Thank you.

REP. DOLLAR: Is Gerrick Brenner here and wishing to speak? (No response.) Okay. Having

not, that is the last individual on our list, and the public hearing portion of this committee meeting is officially closed.

Before we close our meeting otherwise, let me make a couple of notations. One, as you see on the screen, and for those who are listening in, the comment opportunities, opportunities for public input, there are opportunities to send in written comments as well as submissions online. There is an opportunity for that as well as the General Assembly's websites, so I would take note of that.

Again, if you had any written comments for those of you who make presentations today during the public comment period, if you wanted to hand those -- if you would like to hand those to the -- any of the Sergeant at Arms or the staff up here, please feel free to do that. The criteria for usage of the terminals will be posted on the Committee's website as well. That was the information that was passed out earlier today.

Questions from members of the Committee? Yes, sir. Representative Moore.

REP. MOORE: Thank you, Mr. Chair. A quick question. Will there be a schedule for remote hearings, public hearings, and I would like

to add that if that's the case -- first of all, could I get to that particular question first, and I will have a follow-up question or a statement.

REP. DOLLAR: Chairman Lewis is recognized.

REP. LEWIS: Thank you for the question, Representative Moore. This is David Lewis from Harnett County. The intent is to indeed publish a schedule. It largely depends on when we can get the maps drawn. As you have heard today, one of the things that the public expects is to be able to see the maps in order to comment on them. Our goal is -- our goal is to be able to conduct and receive input on August 22nd or August 23rd. We will have a firmer date after the criteria is adopted by this committee next week and the process of drawing the maps can begin.

REP. MOORE: Follow-up. And let me just say, I didn't say in front of this, I'm Rodney Moore, House District 99, for the record.

And secondly, when we have the schedule for these remote hearings or public hearings, I would request for the record that you would have a member of the majority and the minority party there. I know in the past when we've done them

before, you've had certain members in those particular areas to kind of preside over the meeting. I would ask that you would have at least one member of the minority party there as well to represent that interest, or represent that particular voice.

REP. DOLLAR: The Chairman is recognized.

REP. LEWIS: Representative Moore, I thank you for that suggestion. I would point out that that was indeed our practice in 2011, and the desire of the Speaker and the President Pro Tem for the members to attend is one of the reasons that we have been called back when we have. So as soon as we have an idea that we'll have a map to show and the public will have time to look at it, we will announce a series of remote sites across the state and here in Raleigh, of course. We will encourage members of both parties to either attend them here in Raleigh or go onsite -- on the remote sites.

REP. MOORE: Thank you, sir.

REP. MICHAUX: Representative Michaux from Durham County. A couple of questions.

When do you plan to have the criteria drawn so that we can sit down and start talking maps?

REP. DOLLAR: Chairman Lewis, I will recognize you for that.

REP. LEWIS: Thank you for the question, Representative Michaux. The intent is for this committee to meet next Thursday and adopt the criteria. We have received criteria today from members of the public. There are also members of this committee that have sent forward criteria. We anticipate continuing to receive that through next week, and then when we meet on Thursday, we will allow all the criteria to be disclosed and discussed and adopted. And once this committee -- has adopted it, I will instruct the map drawer to begin using that criteria to draw the map.

REP. DOLLAR: Representative Michaux.

REP. MICHAUX: Follow-up. Representative Michaux again, from Durham. Chairman Lewis, I keep trying to emphasize it, but you have shown us some maps here today, several of them, showing county groupings. Can you assure this body right now that no redistricting maps have yet been drawn?

REP. LEWIS: Thank you for the question. I can assure this body that none has been drawn at my direction, and that I have direct knowledge of. The only map I'm aware of was submitted by an

independent group and presented to this committee last week.

REP. DOLLAR: Follow-up.

REP. MICHAUX: Just to be clear, I'm talking about anything that any chairman or members of the Republican Party or anybody. No map has yet been drawn that should be handed out here? I'm -- people are concerned about the fact -- they think you've already drawn the maps. I want to make sure, coming from you, that you have not yet drawn maps.

REP. LEWIS: Thank you for the question. I have not yet drawn maps nor have I directed that maps be drawn, nor am I aware of any other entity operating in conjunction with the leadership that has drawn maps.

REP. DOLLAR: Further questions? If not, the next -- Representative Jackson.

REP. JACKSON: Thank you, Mr. Chairman. My question was on criteria. Will we be adopting criteria as a joint committee or will the House members first have a chance to adopt criteria for the House and the senators allowed to adopt criteria for the Senate maps?

REP. DOLLAR: Let me allow Senator --

Chairman Hise to address that.

CHAIRMAN HISE: Thank you. It is our intent to have joint criteria. Obviously it will be the committee's choice and recommendation once it is approved for its criteria, but it is our intent to have the same criteria established for each map.

REP. DOLLAR: Further questions of Committee members at this time? If not, our next meeting will be next Thursday, August 10, at 10:00 a.m., here in room 643. With that, the meeting is adjourned. Thank you.

(End of proceedings.)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings held on August 4, 2017, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 7th day of August, 2017.

Robbie Worley

North Carolina General Assembly
Senate Democratic Leader

SENATOR DANIEL T. BLUE, JR.
14TH DISTRICT

OFFICE ADDRESS: 1129 LEGISLATIVE BUILDING
16 W. JONES STREET
RALEIGH, NC 27601-2808
TELEPHONE: (919) 733-5752
(919) 754-3307 FAX
EMAIL: dan.blue@ncleg.net
DISTRICT: WAKE COUNTY

COMMITTEES:

APPROPRIATIONS/BASE BUDGET
APPROPRIATIONS ON DEPARTMENT OF TRANSPORTATION
COMMERCE
FINANCE
INSURANCE
JUDICIARY I
RULES AND OPERATIONS OF THE SENATE
SELECT COMMITTEE ON NOMINATIONS
SELECT COMMITTEE ON UNC BOARD OF GOVERNORS

August 4, 2017

Representative David Lewis

Senator Ralph Hise

I'd like to offer the following additional criteria for the Joint Legislative Redistricting Committee to consider.

"Race must be considered to comply with the Voting Rights Act (VRA), but if race becomes the dominant factor in drawing any district, that district must be narrowly tailored to avoid a violation of the Equal Protection Clause of the U.S. Constitution. Districts drawn based predominantly on race are not narrowly tailored to avoid a violation of Section 2, and thus in violation of the U.S. Constitution, if they are drawn using some fixed racial goal, like 50% BVAP, or if they are drawn for partisan or other reasons, using a BVAP higher than necessary to permit black citizens a reasonable opportunity to elect their candidates of choice. Further, a decision to draw race-based districts must be supported by legislative findings based on substantial evidence.

In addition, the intentional destruction of a functioning crossover or coalition district may violate the Constitution."

Thank you for your consideration.

Dan Blue

North Carolina General Assembly
Senate Democratic Leader

SENATOR DANIEL T. BLUE, JR.
14TH DISTRICT

OFFICE ADDRESS: 1129 LEGISLATIVE BUILDING
16 W JONES STREET
RALEIGH NC 27601-2808
TELEPHONE: (919) 733-5752
(919) 754-3307 FAX
EMAIL: dan.blue@ncleg.net
DISTRICT: WAKE COUNTY

COMMITTEES:

APPROPRIATIONS/BASE BUDGET
APPROPRIATIONS ON DEPARTMENT OF TRANSPORTATION
COMMERCE
FINANCE
INSURANCE
JUDICIARY I
RULES AND OPERATIONS OF THE SENATE
SELECT COMMITTEE ON NOMINATIONS
SELECT COMMITTEE ON UNC BOARD OF GOVERNORS

August 4, 2017

Representative David Lewis

Senator Ralph Hise

Please allow me to recommend the following additional criteria for the Joint Legislative Redistricting Committee:

Under the federal Voting Rights Act of 1965, race must be considered in drawing election districts to ensure that the voting strength of voters of color is not abridged or diluted. This does not mean that districts should be based on race, and it does not mean that majority-minority districts should be drawn everywhere it is possible to do so.

When drawing each district, the legislature should consider what level of black voting age population (called "BVAP") is necessary in that district to provide black voters a reasonable opportunity to elect a candidate of their choice. The legislature should make this finding based on "substantial evidence," which could include an analysis of voting patterns and election history in each proposed district. Based on this analysis, it is necessary to draw a majority-minority district only if voters of color in the community (1) live in an area that is geographically compact enough to form a majority-minority district, (2) vote cohesively as a group, and (3) are usually unable to elect their candidates of choice because of white bloc voting in that area. Similarly, the decision to increase the BVAP level in a district, even if not to above 50% BVAP, should be based on that same "substantial evidence" that such alteration is necessary to ensure that black voters in the district would have a reasonable opportunity to elect their candidates of choice. The intentional destruction of a functioning crossover or coalition district may violate the Constitution.

If these criteria are present in a community, the legislature may draw a district based on race, but the district must be "narrowly tailored" to overcome the precise discrimination it seeks to remedy. The U.S. Supreme Court has said that using one-size-fits-all racial quotas in drawing districts without first analyzing past election results and voting patterns in each district, as the General Assembly did in 2011, does not pass the "narrow tailoring" test.

On incumbency: Incumbency protection is not legally required in redistricting, but it may be considered as a secondary criterion after first ensuring compliance with federal and state law. Where incumbency protection has been recognized as a traditional redistricting criterion, it has been accepted because it was employed uniformly and not used to gain partisan advantage. Incumbency protection for one party's incumbents alone may run afoul of the Constitution. Similarly, significant constitutional issues would arise if incumbency is used in the redrawing of unconstitutional race-based districts to protect a unfair partisan advantage gained by the unlawful packing and cracking of Black voters.

Dan Blue

Redistricting Criteria used by Model Redistricting States
July, 2017

District Criteria and Criteria Measurement should be:

- **Politically neutral** (*not* unduly favoring or disfavoring any political party or individual) as determined by the Efficiency Gap measurement. No individual addresses (such as the addresses of candidates or incumbents) should be used.
- **Compact and Contiguous** as measured by at least two different tests (Polsby-Popper, Reock, or other similar tests).
- Communities of interest should be considered. Avoid dividing precincts, cities and counties to the extent practicable.
- Compliant with the **Voting Rights Act:** Specifically, districts must be designed so that, based on a totality of the circumstances, the election process is equally open to participation by the members of a protected class; and cohesive groups of minority voters usually have the **opportunity to elect the candidate of their choice**, as determined by a multi-year Polarized Voting Analysis or similar quantitative assessment if court schedule allows time for assessment.

Transparent process: Live-stream all meetings to build citizen confidence in the process. Share with the public details about tools and information used by staff legislators, consultants, and contractors, such as computer software, assumptions, formulas, terms and standards.

Chart - highlights seven redistricting reform model states and their redistricting criteria contrasted to NC

Model Reform States	Compact & Contiguous	Retain political boundaries As possible	Nest House within Senate Districts	Communities of interest when possible	**No undue favoritism to party or individual**	**Encourage competition**	Population deviations no less than 1% on average**
Arizona	X	X	X	X		**X**	
California	X	X	X	X	**X**		
Idaho	X	X		X	**X**		
Montana	X	X	X	X	**X**		X
Washington	X	X	X	X	**X**	**X**	
Hawaii	X	X	X	X	**X**		
Iowa	X	X	X		**X**		X
CONTRAST							
NC	X	X		X			

Questions - Janis Ramquist, 919-831-9216

Criteria and Accountability Measures

Compactness Accountability Measurements

There are a wide variety of mathematical tests for compactness. These tests are best used to compare plans or to identify districts within a plan that are less compact than others.

A number of tests focus on the district perimeter. These are essentially tests of boundary contortion. Under these methods, a district with smooth boundaries will be scored as more compact than a district with more jagged or "squiggly" boundaries. A commonly referenced measure of boundary contortion is the "Polsby- Popper" test.

Other methods focus on area dispersion, or how far the district spreads out from a central area. Under these measures, a district with many "fingers" or "tendrils" would be less compact. Commonly referenced measures of dispersion include the "Reock" test.

Finally, some measures focus on population dispersion within a district. These tests focus on the relationship of housing patterns in a district to the district boundaries. Examples include the "Population Circle" and "Convex Hull" tests.

Modern redistricting software should be able to perform several tests of compactness. Any redistricting plan should include a report that gives the results of at least one perimeter measure, at least one area dispersion measure, and at least one population dispersion measure for each district.

The Efficiency Gap

Nicholas Stephanopoulos and Eric McGhee have devised a metric of partisan symmetry called the *efficiency gap*. The *efficiency gap* is the difference between the parties' respective *wasted votes* in an election, divided by the total number of votes cast. Wasted votes are ballots that don't contribute to victory for candidates, and they come in two forms: *lost votes* cast for candidates who are defeated, and *surplus votes* cast for winning candidates but in excess of what they needed to prevail. When a party gerrymanders a state, it tries to maximize the wasted votes for the opposing party while minimizing its own, thus producing a large efficiency gap. In a state with perfect partisan symmetry, both parties would have the same number of wasted votes.

Example: a state has five districts with 100 voters each, and two parties, Party A and Party B. Suppose also that Party A wins four of the seats 53 to 47, and Party B wins one of them 85 to 15. Then in each of the four seats that Party A wins, it has 2 surplus votes (53 minus the 51 needed to win), and Party B has 47 lost votes. And in the lone district that Party A loses, it has 15 lost votes, and Party B has 34 surplus votes (85 minus the 51 needed to win). In sum, Party A wastes 23 votes and Party B wastes 222 votes. Subtracting one figure from the other and dividing by the 500 votes cast produces an efficiency gap of 40 percent in Party A's favor.

The efficiency gap has several properties that make it ideal for measuring the extent of gerrymandering. First, it directly captures the packing and cracking that are at the heart of every biased plan. Surplus votes for winning candidates are the definition of packing, and lost votes for defeated candidates the essence of cracking. The efficiency gap tells us exactly how big the difference between the parties' wasted votes is.

Over

Second, as an arithmetical matter, the efficiency gap represents a party's *undeserved seat share*: the extra fraction of seats a party wins relative to a neutral plan. Above, for instance, if Party A and Party B had each wasted the same number of votes, Party A would have won two seats and Party B three. Instead, Party A won *four* seats, or 40 percent (two out of five) more than it should have. This is precisely what the efficiency gap reveals.

Third, the efficiency gap can be calculated for any election, no matter how uncompetitive. This is not the case for other partisan symmetry metrics (which only work for close races).

Lastly, the gap is computed using actual rather than hypothetical election results. Again, this is not true for other metrics (which ask what would happen in a fictional tied election).

In summary, a gerrymander *is*, in fact, is a plan that results in one party wasting many more votes than its opponent. The efficiency gap tells us exactly how big the difference between the parties' wasted votes is.

Voting Rights Act (VRA) Compliance

Rather than using voting data to draw districts, polarized voting analysis data is used as an **assessment after drawing draft districts**. It measures whether the totality of circumstances provide minority voters with an opportunity to elect representatives of their choice as required by the Voting Rights Act. Polarized voting analysis data studies the election data—particularly local voting patterns by race and ethnicity, gleaned from careful statistical analysis of precinct-by-precinct election results over multiple cycles to assess VRA compliance. Without understanding local voting patterns, it is very difficult to tell whether minority communities' practical ability to elect candidates of choice has been impaired. Without such information, it is equally difficult to tell whether new district lines preserve or restore such opportunity. The census does not provide this information. Critical information, including data from legislative primaries in a state with polarized partisan pockets and data from local elections, is essential to measure compliance.

"Racially polarized voting" means voting in which there is a difference, as defined in case law on enforcement of the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.), in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate. Specific methodologies for estimating group voting behavior have been approved in applicable federal cases to enforce the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.) and should be used to test for racially polarized voting.

Sources:
https://newrepublic.com/article/118534/gerrymandering-efficiency-gap-better-way-measure-gerrymandering\
General Sources: Loyola Laws School; National Conference of State Legislators
Other States: https://legislature.idaho.gov/redistricting/; http://www.redistricting.wa.gov/about.asp;; https://ballotpedia.org/Redistricting_in_Iowa; http://www.leg.mt.gov/content/Committees/Interim/2011-2012/Districting/Other-Documents/1199RWFA-operating-procedures-7-12-2011.pdf

Redistricting Criteria used by Model Redistricting States
July, 2017

District Criteria and Criteria Measurement should be:

- **Politically neutral** (*not* unduly favoring or disfavoring any political party or individual) as determined by the Efficiency Gap measurement. No individual addresses (such as the addresses of candidates or incumbents) should be used.
- **Compact and Contiguous** as measured by at least two different tests (Polsby-Popper, Reock, or other similar tests).
- Communities of interest should be considered. Avoid dividing precincts, cities and counties to the extent practicable.
- Compliant with the **Voting Rights Act:** Specifically, districts must be designed so that, based on a totality of the circumstances, the election process is equally open to participation by the members of a protected class; and cohesive groups of minority voters usually have the **opportunity to elect the candidate of their choice**, as determined by a multi-year Polarized Voting Analysis or similar quantitative assessment if court schedule allows time for assessment.

Transparent process: Live-stream all meetings to build citizen confidence in the process. Share with the public details about tools and information used by staff legislators, consultants, and contractors, such as computer software, assumptions, formulas, terms and standards.

Chart - highlights seven redistricting reform model states and their redistricting criteria contrasted to NC

Model Reform States	Compact & Contiguous	Retain political boundaries As possible	Nest House within Senate Districts	Communities of interest when possible	**No undue favoritism to party or individual**	**Encourage competition**	Population deviations no less than 1% on average**
Arizona	X	X	X	X		**X**	
California	X	X	X	X	**X**		
Idaho	X	X		X	**X**		
Montana	X	X	X	X	**X**		X
Washington	X	X	X	X	**X**	**X**	
Hawaii	X	X	X	X	**X**		
Iowa	X	X	X		**X**		X
CONTRAST							
NC	X	X		X			

Questions - Janis Ramquist, 919-831-9316

DIANNA WYNN 101 MARTINIQUE PLACE, CARY, NC 27511
919-271-4455 DIANNAWYNN@GMAIL.COM

Good morning. My name is Dianna Wynn, and I am a resident of Wake County. I am part of a large and growing segment of North Carolinians who are unaffiliated voters. However, I believe I speak for many unaffiliated voters, Republican voters, and Democratic voters who are increasingly dismayed by the role of partisan politics in drawing our voting maps. In fact, polling across the nation and specifically in North Carolina, reveals that a majority of voters favor a nonpartisan approach to redistricting.

To that end, I respectfully request that this committee adopt the following criteria for fair voting maps:

First, adopt politically neutral criteria. No addresses of candidates or incumbents should be used, and residents' voting histories and party affiliations should not be considered when defining our voting districts.

Second, districts should be compact and contiguous. Voters within a district should not be unnecessarily dispersed, and no voting district should be geographically divided, or split, by another district. In other words, all portions of a district must connect.

Third, avoid dividing counties and municipalities where possible.

Fourth, avoid dividing communities of interest where possible. Communities of interest typically have social, cultural, racial, ethnic, or economic interests in common.

Finally, and obviously, voting maps should comply with all relevant provisions of the Voting Rights Act.

Voters are tired of politics as usual. We want our legislators to stop gerrymandering and end the practice of politicians hand-picking their voters. We simply want fair and impartial maps. Thank you for your consideration and the opportunity to speak before you here today.

Statement before the Joint Redistricting Committee, August 4, 2017

919 831 9312

Thank you for the opportunity to speak today. My name is Janis Ramquist, speaking as a North Carolinian. I've known some of you for 4 decades. The General Assembly and literally thousands of legislators that I've known are special to me. I am saddened that the lack of trust of elected officials has grown over 4 redistricting processes. I know legislators are well-meaning people that are often unfairly judged. I propose that this committee in the next month can change the course of that distrust.

I applaud you for the intention to increase transparency of the process. My hope is that transparency means public access to all scraps of related redistricting information prior to the draft districts are considered for a vote. Related information means that all records, computer programs, assumptions, terms and standards, and any data or formulas submitted to or considered or by any member of the Joint Redistricting Committee should be made broadly available, in multiple formats to the public. Also, related information includes information developed by organizations, contractors, or consultants whether paid by the General Assembly or not. All redistricting committee member communications should be continuously available to the public with written materials via the website and time should allowed for public review of all related information prior to adoption of the map districts. The public's business should be conducted in the light of day. The rumor is that there are Redmaps already drawn and that this meeting is just a show. ~~If true it breaks my heart.~~ Please release anything that you are considering. I so, want the public to regain their trust.

Measurable criteria:

- Assuring politically neutral (*not* unduly favor or disfavor any political party or individual) as determined by measuring the Efficiency Gap.

- Prohibiting individual addresses (such as the addresses of candidates or incumbents) should be used;

Committee Sergeants at Arms

NAME OF COMMITTEE JOINT SELECT COMM ON REDISTRICTING

DATE: 8-4-17 Room: 643

House Sgt-At Arms:

1. Name: REGGIE SILLS
2. Name: WARREN HAWKINS
3. Name: REY COOKE
4. Name: DEAN MARSHBOURNE
5. Name:

Senate Sgt-At Arms:

1. Name: HAL ROACH
2. Name: LINDA MATTHEWS
3. Name: JOHN ENLOE
4. Name: TERRY EDMONDSON
5. Name:

Robbie Watson

NAME OF MEETING : Joint Redistricting

DATE: Aug. 4, 2017

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
MIKE JENNINGS	SELF
Paula Jennings	Self
Eric Morrow	Self
William Smith	Citizen of NC
Dr. Laurel Voelker	self
Trina Harrison	self
Ida G Ballard	self
Jennifer Bremer	LWV
Janet Hoy	LWVNC
Marlene Wilson	LWV Wake
Jason Ramguist	public
DIANNA WYNN	LEAGUE OF WOMEN VOTERS WAKE CO.
Mary Jane Slipsky	League of Women Voters of Wake Co
Elaine Otal	League of Women Voters of Wake Co
Susan Mullins	Rep. White LA
Betsy Hitt	Self
Alex Hitt	self
Elaine Berry	Alamance NAACP

NAME OF MEETING : _____

_____

DATE: _____

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Cindy Wyatt	Self
Heidi Lewis	self
Debbie Beroth	self
Heather Simon	Self
Monroe Miles	self
Dana D Courtney	Self
Madison Beveridge	self
Barbara Clawson	self
Louise Shulack	self
Elizabeth Lehman	self
Brittany Bryan	League of Women Voters
Laura Gunter	NCBIO
Amee Stewart	SELF
Pam Robbins	Self
Alan Longman	ORPDHCCD2
Ethan Holland	Self
Richard GREENE	Self

NAME OF MEETING : _____

_____

DATE: _____

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Dilah Bat-hace	Office of Sen. Angela Bryant
CATHERINE HIPPS	SCSJ
Emily Sewell	SCSJ
Laura Williamson	SCSJ
Dustin Quinnel-Bryant	SCSJ
Zachary Klein	NC GOP
Dallas WOODHOUSE	NC GOP
Demi Bunce	MUC
Ralph Belk	Rep. Mary Belk
Rhea Desai	Student fellow of Rep. Mary Belk
Mary Pryor	Student Fellow - Rep. Mary Belk
Langley Smith	Student Fellow- Rep Mary Belk
Monica DeAngelis	Constituent
Bob PHILLIPS	CCNC

NAME OF MEETING : _____

_____

DATE: _____

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Eugene V. Camp	Citizen
Lee Mortimer	NC Common Cause
[illegible]	[illegible]
Edwin Spruill	Pogue Spruill
MICHAEL EISENBERG	CONCERNED CITIZEN
Marian Lewin	League of Women Voters of Wake Co.
Karen Genua	Citizen
Nadja Butler	CONSTITUENT HARNETT COUNTY 28334
Louise KINNARD	CONSTITUENT-HARNETT COUNTY 27546
Phyllis Demko	626 Angelica Cr. Cary 27518
[illegible]	[illegible]
Sally Spetz	Wake resident
LEILANI CARTER	Wake resident
Rebecca Terkin	citizen
Julian Taylor	Citizen
Austen E High	Wake County Democratic Party
Siobhan Millen	citizen, LWV
Lex Jones	DNCR

NAME OF MEETING : Joint Redistricting

DATE: Aug 4, 2017

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Peter Bolac	NC St. Bar
James Wood	Citizen

NAME OF MEETING : Joint Redistricting

DATE: Aug 4, 2017

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Steve Hall	—
Susan Green	citizen
WARREN FUSON	CITIZEN
Pam Sefund	citizen
Pamela Weaver Best	attorney
Iru Joyner	NC NAACP
Braxton Malan	citizen
Amy Porter	citizen - Alamance Co.
Allison Fenderson	Citizen - Harnett Co.
CARLA SKUCE	citizen - Wake Co.
INGRID TUCKER	" " "
Marianna Chambless	citizen - Orange Co
Lloyd Chambless	citizen - Orange Cty
Jimmy Batterson	citizen, Wake County
Lewis Carson	citizen
Tara Tuns	citizen
Timothy Mueller	citizen
Joan Mueller	citizen

NAME OF MEETING : _____

_____

DATE: _____

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
David Williams	Indivisibles NC
Gina Cruz	Progressive Turnout Project
Bill Given	Hillsborough Progressives
Tim Partner	Hillsborough Progressives
Nan Fulcher	Hillsborough Progressives
Karen Papp	Hillsborough Progressives
James Nys	Fetzer Strategic Partners
J. L. Humphrey	Staff
MR. David Johnson	Personal
Patricia Martin	Personal
Sara Parker	Personal
David Hodge	Personal
Therese Schlichter	Personal
[illegible]	DOA
Thomas W Bradshaw Jr	Tom Bradshaw & Associates
Melissa Rhu Kramm	NC Voters for Clean Elections
Jen Jones	Democracy North Carolina
Dan Botvinick	Citizen

(1)

SPEAKER REGISTRATION SHEET

Joint Committee on Redistricting — Name of Committee

8-4-17 — Date

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY AND ADDRESS
1. ✓	IRA BOTVINICK	7815 HAYMARKET LN RALEIGH NC 27615
2. ✓	Phyllis Demko	626 Angelica Cr. Cary NC 27518
3.	Steve Hall	124 Hotelling Ct. Chapel Hill NC 27514
4.	MIKE JENNINGS	213 LAKEWATER DR CARY, NC 27511
5.	Heather Simon, PhD	1406 Brunson Ct Cary NC 27511
6.	Richard Greene	Clarus Advisors 508 Dunwoody Dr Raleigh
7.	Tom Hamson	5127 Mt Olive Church Rd Pittsboro NC 27312
8.	PAM SCHWINGL	1200 HORACE MILLS RD CEDAR GROVE NC 27231
9.	JEN JONES	5705 LINROSE LN HILLSBOROUGH, NC
10.	Paula Jennings	213 Lakewater Dr. Cary, NC 27511
11.	Lloyd Chambless	44 N. Circle Dr Chapel Hill, NC 27516
12.	William Smith	724 Regent Ct Raleigh NC 27609
13.	JANIS RAMQUIST	2208 Oxford Hollow Raleigh NC 27608

(2)

SPEAKER REGISTRATION SHEET

Redistricting — Name of Committee

8-14-17 — Date

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY AND ADDRESS
14.	DIANNA WYNN	101 MARTINIQUE PLACE CARY, NC 27511
15.	Janet Hay	League of Women Voters of NC
16.	Lee Mortimor	Common Cause
17.	Alan Longman	ORPD HCCD2
18.	David Williams	Individuals NC Raleigh NC
19.	Zack Klien	
20.	Dallas Woodhouse	North Carolina Republican Party
21.	Beth Gerall	Hillsborough, NC
22.	Louise Kinard	Lillington, NC
23.	Amy Porter	Graham, NC
24.	Bob Phillips	Ral. NC
25.	Donald Min	Ral NC
26.	GREG FLYNN	Wake County

SPEAKER REGISTRATION SHEET

Redistricting — Name of Committee

8-4-17 — Date

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY AND ADDRESS
27.	James Wood	Raleigh, NC
28.	Nan Fulcher	Hillsborough
29.	Siobhan Millen	Raleigh, NC
30.	Laura Holley	Apex NC
31.	GERRICK BRENNER	RALEIGH, NC
32.		
33.		Ended 11:10 Aug 4
34.		L+M
35.		
36.		
37.		
38.		
39.		

NORTH CAROLINA HOUSE OF REPRESENTATIVES
JOINT COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2017-2018 SESSION

You are hereby notified that the **House Select Committee on Redistricting** will meet **JOINTLY** as follows:

DAY & DATE: Thursday, August 10, 2017
TIME: **10:00 AM**
LOCATION: **643 LOB**
COMMENTS: **The committee will meet to adopt redistricting criteria.**

Respectfully,

Representative David R. Lewis, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 4:25 PM on Wednesday, August 02, 2017.

___ Principal Clerk
___ Reading Clerk – House Chamber

Hse Redistrictla (Committee Assistant)

2017 HOUSE AND SENATE PLANS CRITERIA

Equal Population. The Committees shall use the 2010 federal decennial census data as the sole basis of population for drawing legislative districts in the 2017 House and Senate plans. The number of persons in each legislative district shall comply with the +/- 5 percent population deviation standard established by *Stephenson v. Bartlett*, 355 N.C. 354, 562 S.E. 2d 377 (2002).

Contiguity. Legislative districts shall be comprised of contiguous territory. Contiguity by water is sufficient.

County Groupings and Traversals. The Committees shall draw legislative districts within county groupings as required by *Stephenson v. Bartlett*, 355 N.C. 354, 562 S.E. 2d 377 (2002) (*Stephenson I*), *Stephenson v. Bartlett*, 357 N.C. 301, 582 S.E.2d 247 (2003) (*Stephenson II*), *Dickson v. Rucho*, 367 N.C. 542, 766 S.E.2d 238 (2014) (*Dickson I*) and *Dickson v. Rucho*, 368 N.C. 481, 781 S.E.2d 460 (2015) (*Dickson II*). Within county groupings, county lines shall not be traversed except as authorized by *Stephenson I*, *Stephenson II*, *Dickson I*, and *Dickson II*.

Compactness. The Committees shall make reasonable efforts to draw legislative districts in the 2017 House and Senate plans that improve the compactness of the current districts. In doing so, the Committees may use as a guide the minimum Reock ("dispersion") and Polsby-Popper ("perimeter") scores identified by Richard H. Pildes and Richard G. Neimi in *Expressive Harms, "Bizarre Districts," and Voting Rights: Evaluating Election-District Appearances After Shaw v. Reno*, 92 Mich. L. Rev. 483 (1993).

Fewer Split Precincts. The Committees shall make reasonable efforts to draw legislative districts in the 2017 House and Senate plans that split fewer precincts than the current legislative redistricting plans.

Municipal Boundaries. The Committees may consider municipal boundaries when drawing legislative districts in the 2017 House and Senate plans.

Incumbency Protection. Reasonable efforts and political considerations may be used to avoid pairing incumbent members of the House or Senate with another incumbent in legislative districts drawn in the 2017 House and Senate plans. The Committees may make reasonable efforts to ensure voters have a reasonable opportunity to elect non-paired incumbents of either party to a district in the 2017 House and Senate plans.

Election Data. Political considerations and election results data may be used in the drawing of legislative districts in the 2017 House and Senate plans.

No Consideration of Racial Data. Data identifying the race of individuals or voters shall not be used in the drawing of legislative districts in the 2017 House and Senate plans.

North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh, NC 27601-2808

SENATOR BEN CLARK
21ST DISTRICT

OFFICE: (919) 733-9349
BEN.CLARK@NCLEG.NET

August 10, 2017
Recommended Criteria for Construction of NC Legislative Districts

1. **Equal Population:** The 2010 federal decennial census data shall be used as the basis of population for the establishment of districts in the plan. Within the limits of the law, efforts shall be made to account for population growth.

2. **Contiguity:** Legislative districts shall be comprised of contiguous territory which may consist of both landmass and bodies of water. To the extent practicable, areas within a legislative district shall be easily accessible for commerce, from other areas of the same district, without requiring members to transit through an adjacent legislative district to gain such access.

3. **Total Black Voting Age Population:** None of the nine Senate districts and 19 House districts deemed as unconstitutional by the US Supreme Court in the Covington case shall have a total black voting age population higher than that which existed in those enacted NC legislative districts that were in effect in 2010.

4. **Voting Districts:** Voting districts ("VTDs") should be split only when necessary to comply with the zero deviation population requirements set forth above in order to ensure the integrity of political data.

5. **Partisan Symmetry:** Partisan symmetry posits that a district plan should treat the major parties symmetrically in terms of the conversion of votes to seats. The Committee shall make reasonable efforts to achieve this ideal by constructing plans that provide for the equally efficient conversion of partisan proxy votes from selected statewide elections, in such a way, as to prospectively achieve a distribution of seats commensurate with the partisan makeup of the state.

North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh, NC 27601-2808

SENATOR BEN CLARK
21ST DISTRICT

OFFICE: (919) 733-9349
BEN.CLARK@NCLEG.NET

6. **Efficiency Gap:** The efficiency gap of plans considered for enactment shall not exceed five percent. The efficiency gap shall be determined by using the simplified efficiency gap calculation. Such calculations shall use the 2016 US President and US Senate election results as proxy votes for assessing prospectively, the likely partisan performance of districts as constructed within the maps being considered for enactment.

7. **Compactness:** The Committee shall make reasonable efforts to construct districts in the Senate and House district plan that improve the compactness of the current districts and keep more counties and VTDs whole as compared with the current enacted plan.

8. **Whole-County Provision:** Pursuant to complying with the whole-county provision as mandated by the North Carolina Constitution, to the greatest extent practical, the Committee shall not divide counties in creating legislative districts except wherein compliance with the whole-county provision has been preempted or otherwise superseded by federal law or court rulings. When division of counties is required, reasonable efforts shall be made not to divide a county into more than two districts.

9. **Partisan Advantage:** Maintaining or establishing a partisan advantage for any party shall NOT be a criterion for the construction or approval of House and Senate district plans.

10. **Voter Preference Assignment:** Voters may be assigned to redistricts based on the policy preferences expressed by the votes they have cast in past elections in order to produce partisan symmetry in the House and Senate, but voters may not be assigned to redistricts to produce a partisan political advantage unrelated to the statewide electoral strength of the political parties.

North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh, NC 27601-2808

SENATOR BEN CLARK
21ST DISTRICT

OFFICE: (919) 733-9349
BEN.CLARK@NCLEG.NET

11. **Incumbency:** Incumbency may not be considered in redrawing districts for the purpose of maintaining, in whole or in part, the partisan advantage gained by the illegal 2011 House and Senate plans.

12. **Race:** Race shall not be the predominant factor used to re draw the boundary of any House or Senate district unless that decision is supported by legislative findings based on substantial evidence that the district's boundaries are necessary to avoid a violation of the Voting Rights Act, properly interpreted.

13. **Interactive District Maps**: Currently citizens can access the "Who Represents Me" tool on NCGA website and easily determine the legislative district they reside in and who represents them. A similar tool shall be made available that will allow citizens to easily determine which legislative district they would reside in under a proposed legislative map.

14. **Plan Completion Date:** The North Carolina General Assembly shall complete and submit new House and Senate district plans to the United States District Court for the Middle District of North Carolina no later than August 21, 2017.

Respectfully,

Senator Robert B. Clark, III

#1 Equal Population

ROLL CALL VOTE

38 YES 0 NO = 38 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
✓		Lewis
✓		Jackson
✓		Dollar
✓		Szoka
✓		Stevens
		Bell
✓		Brawley
✓		Brockman
✓		Burr
		Davis
✓		Dixon
✓		Dobson
✓		Dulin
✓		Farmer-Butterfield
		Floyd
✓		Garrison
✓		Gill
✓		Grange
✓		Hall
✓		Hanes
✓		Hardister
✓		Harrison
✓		Hastings
✓		Howard
✓		Hunter
✓		Johnson
		Jones
✓		Jordan
✓		Malone
✓		Michaux
✓		Moore
✓		Pierce
✓		Reives
✓		Willingham
✓		Speciale
✓		Rogers
✓		Saine
✓		Wray
✓		Yarborough
✓		Torbett
✓		Hurley
		~~Speciale~~

A-2 Contiguity: Amendment

24 14

ROLL CALL VOTE

24 YES 14 NO = 38 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
	✓	Lewis
✓		Jackson
	✓	Dollar
	✓	Szoka
	✓	Stevens
	✓	Bell
		Brawley
✓		Brockman
	✓	Burr
		Davis
	✓	Dixon
	✓	Dobson
	✓	Dulin
✓		Farmer-Butterfield
		Floyd
✓		Garrison
✓		Gill
	✓	Grange
	✓	Hall
✓		Hanes
	✓	Hardister
✓		Harrison
	✓	Hastings
	✓	Howard

YES	NO	MEMBER (last name)
✓		Hunter
	✓	Johnson
		Jones
	✓	Jordan
	✓	Malone
✓		Michaux
✓		Moore
✓		Pierce
✓		Reives
✓		Willingham
	✓	Speciale
	✓	Rogers
	✓	Saine
✓		Wray
	✓	Yarborough
	✓	Torbett
	✓	Hurley
		~~Speciale~~

N Y
24-14

2 contiguity

ROLL CALL VOTE

24 YES 14 NO = 38 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
✓		Lewis
	✓	Jackson
✓		Dollar
✓		Szoka
✓		Stevens
✓		Bell
✓		Brawley
	✓	Brockman
✓		Burr
		Davis
✓		Dixon
✓		Dobson
✓		Dulin
	✓	Farmer-Butterfield
		Floyd
	✓	Garrison
	✓	Gill
✓		Grange
✓		Hall
	✓	Hanes
✓		Hardister
	✓	Harrison
✓		Hastings
✓		Howard

YES	NO	MEMBER (last name)
	✓	Hunter
✓		Johnson
		Jones
✓		Jordan
✓		Malone
	✓	Michaux
	✓	Moore
	✓	Pierce
	✓	Reives
	✓	Willingham
✓		Speciale
✓		Rogers
✓		Saine
	✓	Wray
✓		Yarborough
✓		Torbett
✓		Hurley
		~~Speciale~~

24 - 14

#3 County Groupings and Traversals

ROLL CALL VOTE

38 YES 0 NO = 0 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
✓		Lewis
✓		Jackson
✓		Dollar
✓		Szoka
✓		Stevens
✓		Bell
✓		Brawley
✓		Brockman
✓		Burr
		Davis
✓		Dixon
✓		Dobson
✓		Dulin
✓		Farmer-Butterfield
		Floyd
✓		Garrison
✓		Gill
✓		Grange
✓		Hall
✓		Hanes
✓		Hardister
✓		Harrison
✓		Hastings
✓		Howard
✓		Hunter
✓		Johnson
		Jones
✓		Jordan
✓		Malone
✓		Michaux
✓		Moore
✓		Pierce
✓		Reives
✓		Willingham
✓		Speciale
✓		Rogers
✓		Saine
✓		Wray
✓		Yarborough
✓		Torbett
✓		Hurley
		~~Speciale~~

#8 Compactness

ROLL CALL VOTE

24 YES 14 NO = 38 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
✓		Lewis
	✓	Jackson
✓		Dollar
✓		Szoka
✓		Stevens
✓		Bell
✓		Brawley
	✓	Brockman
✓		Burr
		Davis
✓		Dixon
✓		Dobson
✓		Dulin
	✓	Farmer-Butterfield
		Floyd
	✓	Garrison
	✓	Gill
✓		Grange
✓		Hall
	✓	Hanes
✓		Hardister
	✓	Harrison
✓		Hastings
✓		Howard

YES	NO	MEMBER (last name)
	✓	Hunter
✓		Johnson
		Jones
✓		Jordan
✓		Malone
	✓	Michaux
	✓	Moore
	✓	Pierce
	✓	Reives
	✓	Willingham
✓		Speciale
✓		Rogers
✓		Saine
	✓	Wray
✓		Yarborough
✓		Torbett
✓		Hurley
		Speciale

#5 fewer split precincts amendments 1 - Jackson

14

ROLL CALL VOTE

14 YES / 24 NO = 38 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
	✓	Lewis
✓		Jackson
	✓	Dollar
	✓	Szoka
	✓	Stevens
	✓	Bell
	✓	Brawley
		Brockman
	✓	Burr
		Davis
	✓	Dixon
	✓	Dobson
	✓	Dulin
✓		Farmer-Butterfield
		Floyd
✓		Garrison
✓		Gill
	✓	Grange
	✓	Hall
✓		Hanes
	✓	Hardister
✓		Harrison
	✓	Hastings
	✓	Howard

YES	NO	MEMBER (last name)
✓		Hunter
	✓	Johnson
		Jones
	✓	Jordan
	✓	Malone
✓		Michaux
✓		Moore
✓		Pierce
✓		Reives
✓		Willingham
	✓	Speciale
	✓	Rogers
	✓	Saine
✓		Wray
	✓	Yarborough
	✓	Torbett
	✓	Hurley
		~~Speciale~~

13 Y 14 Y
24 N 24 N

#5 fewer split precints.

ROLL CALL VOTE

24 YES 14 NO = 38 (TOTAL)

HB# _____
SB# _____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
	✓	Lewis
✓		Jackson
✓		Dollar
✓		Szoka
✓		Stevens
✓		Bell
✓		Brawley
	✓	Brockman
✓		Burr
	✓	Davis
✓		Dixon
✓		Dobson
✓		Dulin
	✓	Farmer-Butterfield
	✓	Floyd
	✓	Garrison
	✓	Gill
✓		Grange
✓		Hall
	✓	Hanes
✓		Hardister
	✓	Harrison
✓		Hastings
✓		Howard

YES	NO	MEMBER (last name)
	✓	Hunter
✓		Johnson
		Jones
✓		Jordan
✓		Malone
	✓	Michaux
	✓	Moore
	✓	Pierce
	✓	Reives
		Willingham
✓		Speciale
✓		Rogers
✓		Saine
	✓	Wray
✓		Yarborough
✓		Torbett
✓		Hurley
		Speciale

24 - Y
14 - N

#6 Municipal boundaries amendment

ROLL CALL VOTE

14 YES 24 NO = _____(TOTAL)

HB# _____
SB# _____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
✓		Lewis
	✓	Jackson
	✓	Dollar
	✓	Szoka
	✓	Stevens
	✓	Bell
✓		Brawley
	✓	Brockman
	✓	Burr
	✓	Davis
	✓	Dixon
	✓	Dobson
✓		Dulin
		Farmer-Butterfield
✓		Floyd
✓		Garrison
	✓	Gill
	✓	Grange
✓		Hall
	✓	Hanes
✓		Hardister
	✓	Harrison
	✓	Hastings
		Howard

YES	NO	MEMBER (last name)
	✓	Hunter
		Johnson
	✓	Jones
	✓	Jordan
✓		Malone
✓		Michaux
✓		Moore
✓		Pierce
✓		Reives
	✓	Willingham
	✓	Speciale
	✓	Rogers
✓		Saine
	✓	Wray
	✓	Yarborough
	✓	Torbett
	✓	Hurley
		Speciale

#6 municipal: [redacted]

ROLL CALL VOTE

24 YES 14 NO = 38 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
✓		Lewis
	✓	Jackson
✓		Dollar
✓		Szoka
✓		Stevens
✓		Bell
✓		Brawley
	✓	Brockman
✓		Burr
	✓	Davis
✓		Dixon
✓		Dobson
✓		Dulin
	✓	Farmer-Butterfield
		Floyd
	✓	Garrison
	✓	Gill
✓		Grange
✓		Hall
	✓	Hanes
✓		Hardister
	✓	Harrison
✓		Hastings
✓		Howard

YES	NO	MEMBER (last name)
	✓	Hunter
✓		Johnson
		Jones
✓		Jordan
✓		Malone
	✓	Michaux
	✓	Moore
	✓	Pierce
	✓	Reives
	✓	Willingham
✓		Speciale
✓		Rogers
✓		Saine
	✓	Wray
✓		Yarborough
✓		Torbett
✓		Hurley
		Speciale

24-14

#7 incumbency protection

ROLL CALL VOTE

24 YES 14 NO = 38 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
✓		Lewis
	✓	Jackson
		Dollar
✓		Szoka
✓		Stevens
✓		Bell
✓		Brawley
	✓	Brockman
✓		Burr
		Davis
✓		Dixon
✓		Dobson
✓		Dulin
	✓	Farmer-Butterfield
		Floyd
	✓	Garrison
	✓	Gill
✓		Grange
✓		Hall
	✓	Hanes
✓		Hardister
	✓	Harrison
✓		Hastings
✓		Howard

YES	NO	MEMBER (last name)
	✓	Hunter
✓		Johnson
		Jones
✓		Jordan
✓		Malone
	✓	Michaux
	✓	Moore
	✓	Pierce
	✓	Reives
	✓	Willingham
✓		Speciale
✓		Rogers
✓		Saine
	✓	Wray
✓		Yarborough
✓		Torbett
✓		Hurley
		Speciale

#8 election data

ROLL CALL VOTE

24 YES 13 NO = 37 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
✓		Lewis
	✓	Jackson
✓		Dollar
✓		Szoka
✓		Stevens
✓		Bell
✓		Brawley
	✓	Brockman
✓		Burr
		Davis
✓		Dixon
✓		Dobson
✓		Dulin
	✓	Farmer-Butterfield
		Floyd
	✓	Garrison
	✓	Gill
✓		Grange
✓		Hall
	✓	Hanes
✓		Hardister
	✓	Harrison
✓		Hastings
✓		Howard

YES	NO	MEMBER (last name)
	✓	Hunter
✓		Johnson
		Jones
✓		Jordan
✓		Malone
	✓	Michaux
		Moore
	✓	Pierce
	✓	Reives
	✓	Willingham
✓		Speciale
✓		Rogers
✓		Saine
	✓	Wray
✓		Yarborough
✓		Torbett
✓		Hurley
		Speciale

9 No consideration of racial data

ROLL CALL VOTE

24 YES 13 NO = _____(TOTAL)

HB# _____
SB# _____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
✓		Lewis
	✓	Jackson
✓		Dollar
✓		Szoka
✓		Stevens
✓		Bell
✓		Brawley
	✓	Brockman
✓		Burr
		Davis
✓		Dixon
✓		Dobson
✓		Dulin
	✓	Farmer-Butterfield
		Floyd
	✓	Garrison
	✓	Gill
✓		Grange
✓		Hall
	✓	Hanes
✓		Hardister
	✓	Harrison
✓		Hastings
✓		Howard

YES	NO	MEMBER (last name)
	✓	Hunter
✓		Johnson
		Jones
✓		Jordan
✓		Malone
	✓	Michaux
		Moore
	✓	Pierce
	✓	Reives
	✓	Willingham
✓		Speciale
✓		Rogers
✓		Saine
	✓	Wray
✓		Yarborough
✓		Torbett
✓		Hurley
		Speciale

24 – 13

Clark ~~amendment~~ criteria #10

ROLL CALL VOTE

13 YES 24 NO = 37 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
___	✓	Lewis
✓	___	Jackson
___	✓	Dollar
___	✓	Szoka
___	✓	Stevens
___	✓	Bell
___	✓	Brawley
✓	___	Brockman
___	✓	Burr
___	___	Davis
___	✓	Dixon
___	✓	Dobson
___	✓	Dulin
✓	___	Farmer-Butterfield
___	___	Floyd
✓	___	Garrison
✓	___	Gill
___	✓	Grange
___	✓	Hall
✓	___	Hanes
___	✓	Hardister
✓	___	Harrison
___	✓	Hastings
___	✓	Howard

YES	NO	MEMBER (last name)
✓	___	Hunter
___	✓	Johnson
___	___	Jones
___	✓	Jordan
___	✓	Malone
✓	___	Michaux
___	✓	Moore
✓	___	Pierce
✓	___	Reives
✓	___	Willingham
___	✓	Speciale
___	✓	Rogers
___	✓	Saine
✓	___	Wray
___	✓	Yarborough
___	✓	Torbett
___	✓	Hurley
___	___	Speciale
___	___	
___	___	

13 - 24

Sen. Smith-Ingraham criteria #10a

ROLL CALL VOTE

13 YES 24 NO = 37 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
	✓	Lewis
		Jackson
		Dollar
	✓	Szoka
	✓	Stevens
	✓	Bell
	✓	Brawley
✓		Brockman
	✓	Burr
		Davis
	✓	Dixon
	✓	Dobson
	✓	Dulin
✓		Farmer-Butterfield
		Floyd
✓		Garrison
✓		Gill
	✓	Grange
	✓	Hall
✓		Hanes
	✓	Hardister
✓		Harrison
	✓	Hastings
	✓	Howard

YES	NO	MEMBER (last name)
	✓	Hunter
	✓	Johnson
	✓	Jones
	✓	Jordan
	✓	Malone
✓		Michaux
	✓	Moore
✓		Pierce
✓		Reives
✓		Willingham
	✓	Speciale
	✓	Rogers
	✓	Saine
✓		Wray
	✓	Yarborough
	✓	Torbett
	✓	Hurley
		Speciale

13 - 24

Rep. Jackson Group of Criteria (Exh. C106)?

ROLL CALL VOTE

13 YES 24 NO = 37 (TOTAL)

HB# ____
SB# ____

HOUSE SELECT COMMITTEE ON REDISTRICTING

YES	NO	MEMBER (last name)
	✓	Lewis
	✓	Jackson
	✓	Dollar
	✓	Szoka
	✓	Stevens
	✓	Bell
	✓	Brawley
	✓	Brockman
	✓	Burr
	✓	Davis
	✓	Dixon
	✓	Dobson
	✓	Dulin
✓		Farmer-Butterfield
	✓	Floyd
✓		Garrison
✓		Gill
	✓	Grange
	✓	Hall
✓		Hanes
	✓	Hardister
✓		Harrison
	✓	Hastings
	✓	Howard

YES	NO	MEMBER (last name)
✓		Hunter
	✓	Johnson
	✓	Jones
	✓	Jordan
	✓	Malone
✓		Michaux
	✓	Moore
✓		Pierce
✓		Reives
✓		Willingham
	✓	Speciale
	✓	Rogers
	✓	Saine
✓		Wray
	✓	Yarborough
	✓	Torbett
	✓	Hurley
		Speciale

13-24

Gerrymandering Incumbency: Does Non-Partisan Redistricting Increase Electoral Competition?*

John A. Henderson†
Assistant Professor
Dept. of Political Science
Yale University

Brian T. Hamel‡
Ph.D. Student
Dept. of Political Science
UCLA

Aaron M. Goldzimer§
Postdoctoral Associate
Yale Law School

May 1, 2017

Abstract

Many political advocacy groups, journalists, and scholars view decennial redistricting as a major force in weakening the representational link between voters and officeholders by helping insulate legislative incumbents from electoral defeat. Motivated by this concern, reformers in a number of states have proposed giving control over redistricting to 'politically-neutral' independent commissions. Freed from partisan and electoral pressures, independent redistrictors would be expected to draw districts without giving favor to parties or their incumbents. In this study, we analyze two novel datasets of alternative redistricting plans, to evaluate whether maps drawn by independent commissions are more electorally competitive than those produced by party-controlled legislatures, compared to the proposals that *could have been adopted.* We find that the redistricting process on the margin, helps sustain the electoral security of incumbents. Yet, counter to reformers' expectations, we find that independent redistrictors produce virtually the same degree of insulation as plans devised in legislatures or by politician commissions. Overall, our results suggest caution in overhauling state redistricting institutions to increase electoral competition: independent commissions may not be as politically-neutral as theorized.

---

*We thank Jowei Chen, Michael Crespin, Eitan Hersh, Michael McDonald, Ryan Moore, Jasjeet Sekhon, Rocío Titiunik, and Antoine Yoshinaka for valuable comments. We thank Jowei Chen, Jonathan Rodden and David Cottrell for sharing data, and Michael Weaver for research assistance. Brian Hamel acknowledges the National Science Foundation Graduate Research Fellowship Program for support. All errors are our responsibility.

†<john.henderson@yale.edu>, http://jahenderson.com/, Institution for Social and Policy Studies, Yale University, 77 Prospect Street, New Haven, CT 06520-8209

‡<bhamel@ucla.edu>, http://brianhamel.net/, Department of Political Science, University of California, Los Angeles, 4289 Bunche Hall, Los Angeles, CA 90095-1472

§<aaron.goldzimer@yale.edu>, Heyman Public Service Fellow, Yale Law School, P.O. Box 208215, New Haven, CT 06520-8215

Legislative incumbents in the U.S. rarely lose reelection, and the rate at which they win has grown over time. In 1964, the reelection rate among U.S. House members was 87%. By 2016, 97% of legislators were reelected, with similar patterns found in state legislative elections (Carey et al. 2000). What can explain this electoral security? Popular accounts often point to the insulating effects of redistricting, with legislators drawing the boundaries of their own jurisdictions in order to ensure their reelection (Hulse 2016; McCammon 2017). Characteristic of this concern, a recent column in *The New York Times* argues

> "the underlying problem is that strict political control of the map-drawing process ... aided by sophisticated computer programs that can micro-target political affiliation ... has stuffed Congress and state legislatures with increasingly safe seats, making lawmakers difficult to dislodge no matter what they do" (Hulse 2016).

This view is not uncommon, with many political advocacy groups, journalists, politicians, and scholars (e.g., Carson et al. 2014; Edwards et al. 2017) also viewing redistricting "as a means to further political goals by drawing boundaries to protect incumbents and reduce competition, rather than to ensure equal voting power and fair representation" (FairVote 2017). Such insulation may be especially worrisome in the contemporary context, as it might allow polarized legislators to enact policies out of step with public opinion, or to obstruct policymaking altogether, with little to no electoral penalty (e.g., Carson and Crespin 2004; McCarty et al. 2009).

Given this concern, reformers are increasingly pushing to wrest control of redistricting away from partisan legislatures, and to empower non-partisan agencies with authority over the process. Reformers see such independent commissions as one way – perhaps the primary way – to increase electoral competition. When redistricting is controlled by state legislatures, political considerations can loom large. Legislatures with unified party control may implement a gerrymander to maximize the likely numbers of seats the majority will win in the next election, which may (or may not) help insulate incumbents of their own party from defeat. Divided legislatures or politician commissions may

logroll to draw maps that protect incumbents of *both* parties. In contrast, independent commissioners need not win elections, and thus are expected to adhere to constitutionality constraints (i.e., equal population, contiguity and compactness, and minority vote non-dilution) without the political pressure to draw districts favorable to either party or incumbents more generally (Carson et al. 2014; Edwards et al. 2017; Lindgren and Southwell 2013). Establishing independent redistricting commissions across the country is one of the primary goals of many reform organizations, and these efforts have gained traction in recent years.[1]

While independent commissions promise a redistricting process more insulated from partisanship and political pressure, relatively little is known about the kinds of maps these commissions would produce if states adopted them. Indeed, the empirical evidence to date is decidedly mixed. Some studies find that districts drawn by legislatures are less competitive than districts drawn by 'politically-neutral' commissions (Carson and Crespin 2004; Carson et al. 2014; Grainger 2010; Lindgren and Southwell 2013; McDonald 2006; Kogan and McGhee 2012). Yet, other work indicates that redistricting institutions have little effect on electoral competition, either through decreasing incumbent win margins or increasing challenger entry (Abramowitz et al. 2006; Forgette et al. 2009; Masket et al. 2012). Some scholars uncover countervailing trends – incumbents in the U.S. House appear *less likely* to run unopposed following non-legislative redistricting, but this neither reduces incumbent vote margins, nor increases chances of incumbent defeat (Cottrill 2012). Going full circle, Ansolabehere and Snyder, Jr (2012) and Gelman and King (1994) find that partisan redistricting, simply by moving voters into new districts, can actually reduce incumbent vote share and increase legislative responsiveness.

[1] Joining California, voters in Ohio and South Dakota recently considered ballot initiatives to create independent commissions, with Ohio passing its measure. Petitioners in Illinois collected nearly half a million signatures to initiate a ballot question, and citizens in Colorado filed a similar proposal before both were rejected by state courts (Petry 2016).

We offer fresh evidence on the link between redistricting and competition. Expanding on the innovations made in Chen and Rodden (2013) and Altman and McDonald (2014, 2015), we compare the degree of district competitiveness exhibited in redistricting plans actually implemented to that from a set of counterfactual maps that *could have been, but were not* enacted during the 2010 redistricting cycle. Specifically, we observe whether independent commissions adopt maps that are as competitive as the plausible set of alternatives *for the same state.* We make the same comparison in states where legislatures conducted redistricting. We use these within-state differences to draw inferences about the extent to which legislative redistricting is distorted by the shadow of reelection, relative to other factors like geography and demography.

Following Chen and Rodden (2013) and Chen and Cottrell (2016), we first analyze counterfactual maps built from randomly automated, redistricting simulations that only incorporate equal population and contiguity requirements. These hypothetical plans allow us to assess the extent to which variation in competition emerges due to political considerations. In a vein similar to Altman and McDonald (2014, 2015), we examine a second source of data: an original collection of all alternative maps officially considered by the redistricting institution. These novel new data provide insights into the decisions redistrictors made by comparing final adopted plans to the range of alternatives that incorporate the fuller set of legal, political, and geographical constraints that mapmakers face in practice. Together, these data provide the strongest evidence about whether the method of drawing maps is a lever to improve electoral competitiveness.

We find that the redistricting process does indeed *sustain* the electoral security of incumbents. Maps that are eventually implemented show consistently larger incumbent vote margins than would be expected given geographic, demographic, and legal-political constraints. Most notably, we find that the incumbency bias persists regardless of whether legislators, politicians, or citizens are in charge of redistricting. Independent redistrictors produce virtually the same relative degree of insulation as partisan or bipartisan plans

devised in legislatures or by politician commissions. Overall, our findings suggest that replacing partisan politicians with independent redistrictors is unlikely to increase competition in congressional or state elections, and thus offers little remedy to contemporary concerns about representation or dysfunction in a polarized era.

1 Data and Empirical Strategy

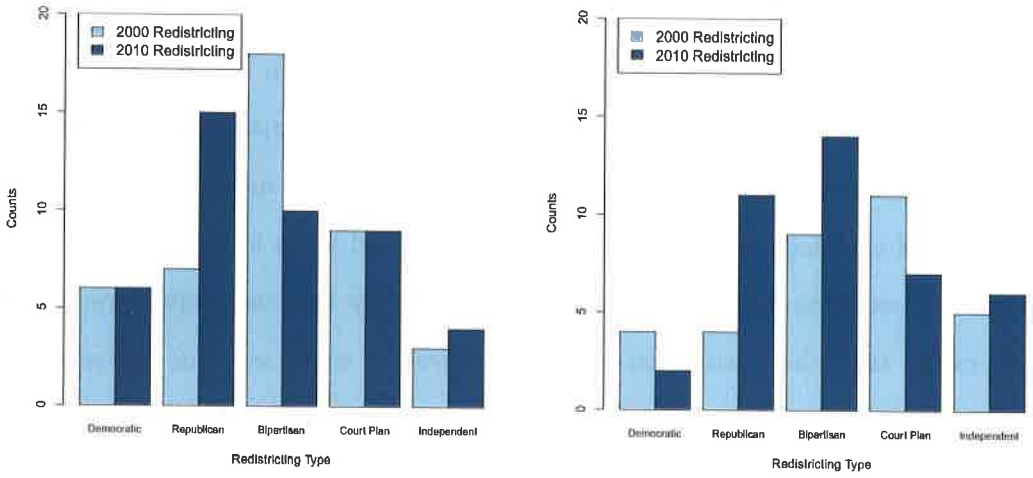
Our aim in this study is to assess the effect of redistricting on electoral competition with particular attention to variation across different redistricting authorities in the 2010 cycle. To this end, we draw on data collected by Levitt (2010), and our own analysis of each state's redistricting process.[2] The formal rules of redistricting in a given state do not always match the particular redistricting processes that unfolded. For example, following legal challenge, federal or state courts produced maps for a number of states in 2010.[3] When these differ, we categorize each state by how the maps were actually drawn, rather than the institutions formally empowered to do so. Our analyses focus on five categories: DEMOCRATIC PLANS (legislature with unified Democratic control), REPUBLICAN PLANS (legislature with unified Republican control), BIPARTISAN PLANS (legislative under divided government or a political commission), COURT PLANS, and INDEPENDENT COMMISSION PLANS.

Though simplifying, this categorization captures the range of institutional devices of most interest to political actors, reformers, and scholars of redistricting (e.g., Altman et al. 2015; Carson et al. 2014; Chen and Cottrell 2016; Cox and Katz 2002; Edwards et al. 2017; Gelman and King 1994; Hulse 2016; King and Schneer 2014; Levitt 2010; Masket et al.

[2]Justin Levitt updates changes to how states conduct redistricting, provides data and analysis on mid-decade redistricting efforts, and details the status of legal challenges to 2010 (and later) maps at `http://redistricting.lls.edu/`.

[3]Table A1 in the Appendix presents a more granular breakdown of how each state conducted redistricting in 2010.

2012; McCammon 2017). Figure 1 shows the frequency of each redistricting institution for the U.S. House and the state legislatures in 2010 (and 2000 for comparison). As seen by 2010, maps were most likely to be drawn by Republican-controlled state legislatures. In contrast, at the state-level, while most maps were drawn by bipartisan legislatures or politician commissions, maps were also much more likely to be drawn by a Republican-controlled legislature than a Democratic one. In both contexts, independent commissions redistricted only a handful of states.



(a) U.S. House

(b) State Legislatures

Figure 1: **Summary of Institutions Empowered to Draw Legislative Districts in 2000 and 2010**

One way to assess the effects of independent redistricting on competitiveness is to compare the final maps produced by states with independent commissions to those designed by politicians or partisan legislatures (Carson and Crespin 2004; Carson et al. 2014; Edwards et al. 2017; Forgette et al. 2009). Such comparisons are likely to be misleading, however, since states that adopted non-partisan redistricting look very different from those that did not on factors likely associated with district competitiveness (Altman

and McDonald 2014, 2015; Chen and Rodden 2013; Grainger 2010).[4] Alternatively, we could compare states before and after they implemented new redistricting institutions. However, between 2000 and 2010, only California changed the way it conducts redistricting (e.g., Grainger 2010). While there is variation over time in whether the courts intervened in particular states, judicial scrutiny is much more likely in states with substantial minority populations and a history of minority vote disenfranchisement (Cox and Katz 2002; Henderson et al. 2016).

Instead, we adopt an approach similar to Chen and Rodden (2013), Chen and Cottrell (2016) and Altman and McDonald (2014, 2015) in their analyses of partisan gerrymandering. These authors make comparisons between the final maps adopted by redistricting agents, and some counterfactual set of alternative maps that *could have been adopted within the same state.* Using 2000 cycle data, Chen and Rodden (2013) simulate randomly-generated redistricting plans that use only equal apportionment and geographic contiguity as criteria. The simulations randomly pick D census blocks to be starting locations for each district, and then randomly accumulates neighboring blocks into each district subject to an equal population constraint, subsequently discarding non-compact maps. Political considerations, like partisanship or incumbency, are never considered. In being randomly drawn, these maps should capture whatever baseline partisan imbalance or electoral security we would expect absent any 'politics' in redistricting.

For each simulated plan, Chen and Rodden (2013) analyze precinct-level vote data to determine which hypothetical U.S. House, State Assembly, and State Senate districts would have received more Bush or Gore votes in the 2000 election. This allows the authors to calculate what share of that simulations' legislative districts is likely to be Republican, and then compare that baseline to the number of Republican-leaning districts in the final enacted plans. Chen and Cottrell (2016) extend this analysis for U.S. House districts in

[4]Only Western states (AK, AZ, CA, ID, MT and WA) used non-partisan commissions in 2010, and these tend to have relatively large one-party majorities in the state legislatures.

the 2010 cycle utilizing 2008 Presidential vote. Any surplus of party seats is interpreted as evidence of partisan gerrymandering.

In this study, we conduct a similar analysis focusing on electoral competition. Initially, we analyze the simulated U.S. House maps produced by Chen and Cottrell (2016) for redistricting in 2010. Our main measure of competitiveness, MARGIN OF VICTORY, is the absolute value of the *party* win margin in a district, or roughly, the surplus of votes a winning incumbent might expect on average for a given plan. This measure incorporates the logic that incumbents with larger win margins would survive bigger electoral downturns year-to-year, and deter strong challengers from contesting their seats.[5] Following prior work, we use the 2008 two-party presidential vote, which approximates an incumbents' likely vote share (Chen and Cottrell 2016; Chen and Rodden 2013). Using these data, we assess whether non-partisan redistricting differs substantially from legislative-driven processes in producing maps that are 'closer' to those that could have emerged if redistricting was conducted without regard to the electoral or partisan considerations of incumbents.

Despite the usefulness of this simulation approach, we also recognize its limitations. Simulations are designed to produce districts that adhere to minimalist constitutional requirements, approximated algorithmically. However, these exclude real legal and political constraints mapmakers face, including the need for majority-minority districting under the Voting Rights Act. A possible consequence is that the maps simulated by Chen and Cottrell (2016) may overly concentrate Democrats in urban districts, thus overstating the baseline effect of geography on partisan bias or incumbent security (e.g., Altman and McDonald 2014; Altman et al. 2015).[6] More generally, scholars disagree over whether simulations in fact produce sensible and constitutional maps that could be reasonably

[5]Since averages can be sensitive to outliers, we also examine median win margins, counts of competitive seats at various competition thresholds (e.g., 5%, 10%), and seat flip probabilities, finding virtually identical results across the different measures.

[6]This implies that simulations produce overly non-competitive districts by concentrating

implemented by redistrictors (Altman et al. 2015).

Given these concerns, we introduce and examine a novel new data source – the set of all alternative maps redistrictors *publicly* considered during the apportionment process. In many states, regardless of the redistricting procedure in place, redistrictors solicit map proposals from the public, including researchers, citizens, and interest groups. In Arizona, for example, the independent commission website encourages citizens to

> "... let your voice be heard as we draw the maps. Your input is wanted as we shape Arizona for the next ten years."

In North Carolina, a partisan redistricting state, the legislative committees responsible for redistricting held community meetings across the state to collect public input. The committees also allow citizens to submit their input and proposed plans online. In some states, these maps are made publicly available, alongside all the proposals introduced as legislation or considered during the meetings of the redistricting commissioners. We follow a similar approach innovated by Altman and McDonald (2014, 2015) in their study of party gerrymandering in Florida, Ohio and Virginia. In doing so, we collected 1,473 maps that meet equal population and contiguity constraints for 13 states from the full set of data made publicly available by state legislatures or redistricting commissions. Importantly, the states in our sample vary in the way redistricting is conducted.[7]

---

a surplus of Democratic voters in urban districts, leaving fewer Democrats to populate neighboring suburban or rural districts. Such an effect would *understate* the degree to which redistrictors adopt plans that insulate incumbents above what would emerge as a product of population or geography.

[7]We were able to collect maps from Alaska, Arizona, California, Colorado, Florida, North Carolina, New Mexico, Nevada, Ohio, South Carolina, Texas, Virginia, and Washington. For all but two states, we managed to collect virtually every map considered by redistrictors. We could only find maps that emerged later in the districting process in Ohio and South Carolina. Of course, redistrictors might have used alternative maps not

To construct measures of 2008 district win-margins for each alternative map, we use both block-to-precinct data made available by McDonald and Altman (2011) and voting district shapefile data collected by Ansolabehere et al. (2015). Due to a lack of presidential vote data to link to Florida and Nevada plans, we instead use 2008 party registration for these states. In contrast to simulations, these maps incorporate the fuller set of legal and political considerations, like minority vote protections, that redistrictors must balance.[8] These counterfactuals allow us to assess the real tradeoffs redistrictors made when selecting the final maps from among the set of reasonable alternatives, and especially how these choices differ depending on who is in charge.

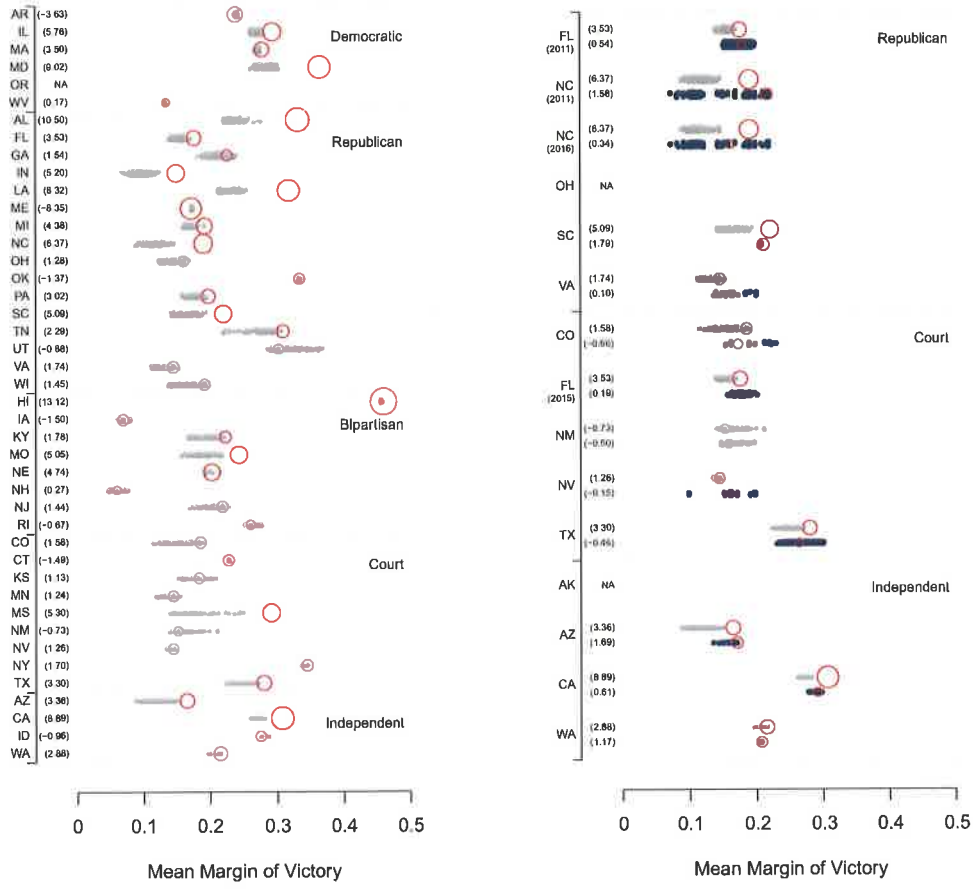
2 Results from 2010 U.S. House Redistricting

Due to its implications for national policymaking, redistricting battles over U.S. House seats often draw the most high profile attention from journalists, politicians, and scholars (e.g., Abramowitz et al. 2006; Hulse 2016; Lindgren and Southwell 2013). As such, we begin with an analysis of the 2010 congressional redistricting cycle. As described above, our aim is to compare the levels of electoral competition recovered under the U.S. House district plans actually implemented, with the range of competitiveness that would have emerged under any of the alternative plans redistrictors could plausibly have enacted.

In this vein, Figure 2 presents plots of the distribution of (a) simulated U.S. House plans for the 42 states analyzed by Chen and Cottrell (2016), and (b) both simulated and alternative proposals for 11 states which made their U.S. House plans publicly available. In both Figure 2(a) and 2(b), each grey dot represents the average district MARGIN OF

made available to the public, and these would be excluded from our sample.

[8]Certainly, some of these alternative maps – not unlike plans eventually adopted – would trigger legal scrutiny or be deemed unconstitutional, and may not be optimizing among the various tradeoffs that exist. Nevertheless, we think these offer the best way to assess redistricting, particularly as a point of comparison for the simulated plans



(a) Simulations

(b) Simulations and Alternative Plans

Figure 2: **Comparing the Competitiveness of U.S. House Districts Between Adopted and Counterfactual Plans in 2010**

VICTORY for all House seats in a state under one simulated plan. In Figure 2(b), each blue dot indicates the average seat MARGIN OF VICTORY for one alternative plan considered by redistrictors. Each red circle indicates the mean margin of victory under the final adopted map, with the size of the circle proportional to the standardized distance from the center of the relevant comparison distribution.

As seen in Figure 2(a), we find that redistrictors typically adopted U.S. House maps

in 2010 that were consistently less competitive than the set of simulated plans.[9] Across the states, adopted plans yield vote margins that are 0.024 points safer than the average simulated map. Further, 43% of the states have final maps that are less competitive than every single simulated map, with the median state plan being less competitive than 99% of its simulated alternatives. Turning to Figure 2(b), we see again that redistrictors enact plans that are among the less competitive of those actually proposed or considered during the mapmaking process. Of the non-court plans (i.e., produced by legislatures or redistricting commissions), average vote margins under the final maps were 0.007 points less competitive than the alternative proposals, with 20% of these state plans being safer than *all the maps proposed* to redistrictors. Perhaps most striking, the median final House plan is more insulated than 74% of the remaining, unimplemented proposals. While this additional security is relatively minor, amounting to roughly 4,975 to 17,058 additional votes for each incumbent, this finding substantiates some of the general concern that the redistricting process may dampen electoral competitiveness in Congress.

In examining both simulated and proposed maps, however, we find that uncompetitiveness persists regardless of whether redistricting is conducted by incumbent politicians or independent commissioners. For instance, highly contested, Republican-drawn plans in Florida, North Carolina and South Carolina produced districts with average margins of victory that were 0.021, 0.075, and 0.063 points greater, respectively, than the average district under each state's simulated alternatives. A similar distortion is also found (0.004, 0.070, and 0.022) when comparing enacted plans to those considered by the legislatures. Yet, in Arizona, California, and Washington – states with independent redistricting commissions designed to be insulated from political considerations – we see relatively little improvement. Incumbent vote margins under the final plans enacted in Arizona, California and Washington were 0.047, 0.035, and 0.007 points less competitive, respectively,

[9]This result is similar to that uncovered by Altman and McDonald (2015) in their district-level analysis of legal alternative maps considered in Florida, Ohio and Virginia.

than those recovered in the average simulated districts, and even 0.010, 0.003, and 0.002 points safer than the alternative plans considered by commissioners.

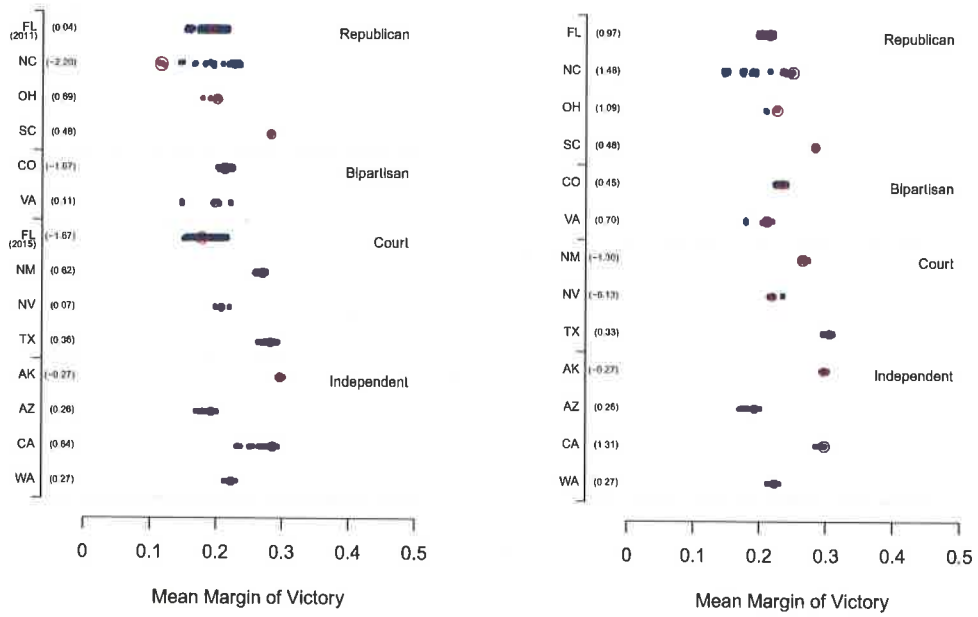
Next, we systematically compare differences in the level of competitiveness found between each state's adopted and counterfactual plans, across the different redistricting institutions. Here, we aggregate differences in vote margins and compute the the proportion of alternative *plans* that are less competitive than the adopted map, averaging over each plan's MARGIN OF VICTORY scores. We consider whether states with independent commissions adopt maps with relatively competitive districts compared to states where politicians conduct redistricting. For this inference, we use standard t-tests to assess differences-in-means between states with and without independent redistricting (excluding court plans). Turning to the simulations, we find that (Republican, Democratic or Bipartisan) legislatures produce quite uncompetitive maps that are safer than 77.1% of the simulated alternative plans overall. Yet, this degree of safeness is very similar to that uncovered for states with independent commissions, with 74.9% of simulations ($p = 0.935$) being more competitive than adopted plans as a whole.

An analysis of the alternative proposals indicates again that independent commissions adopt plans that are similarly uncompetitive as do partisans legislatures. We find legislative plans are less competitive than 71.1% of the alternative map submissions overall, compared to 76.1% ($p = 0.796$) for non-politician maps. In sum, independent commissions do not draw House maps that encourage greater electoral competition any more than partisan legislatures do, given the alternative plans that could have been enacted, derived by simulating minimal constitutional constraints or collecting the real proposals on offer to redistrictors.

3 Results from 2010 State Assembly and Senate Redistricting

Redistricting naturally occurs across multiple jurisdictions with overlapping geographic and population constraints. Thus, redistrictors may need to make different tradeoffs at

the state level that lead to different degrees of competitiveness, relative to the U.S. House (e.g., Henderson et al. 2016). These tradeoffs may differ if legislatures rather than independent commissioners are charged with drawing boundaries. On the one hand, state legislative contests attract much less attention from voters, donors and challengers, perhaps reducing the political pressure to explicitly protect incumbent reelection (Carey et al. 2000; Forgette et al. 2009). Alternatively, the considerable electoral security of statehouse incumbents may itself be an (un)intentional product of the redistricting process.



(a) State Senate

(b) State Assembly

Figure 3: **Comparing the Competitiveness of State Assembly and Senate Districts Between Adopted and Alternative Plans in 2010**

To assess these tradeoffs, we now turn to an analysis of the set of alternative proposals considered, but not enacted, during state legislative redistricting in 2010. These data are collected and analyzed similar to the above for U.S. House redistricting, and again reflect the menu of maps available to redistrictors. Figure 3 compares the amount of elec-

toral competition under the final plans to the level of competition that would have been produced under the distribution of the alternative maps for both the (a) State Senate and (b) State Assembly. Our results mirror the findings for congressional redistricting – with few exceptions, we find less electoral competition in adopted plans than would have been produced under the plausible alternatives considered during the process. Moreover, we find no systematic improvement in competition under independent redistricting. Assessing differences-in-means similar to the above, we find citizen commissions produce State Senate plans that are considerably *less competitive* relative to alternatives (0.564), than those drawn by state legislatures (0.367) with $p = 0.189$. We do find somewhat the reverse for State Assembly maps (0.605 - 0.832; $p = 0.179$).

Our results again provide strong evidence that independent commission do not increase electoral competition. Despite the expectation of being insulated from political factors, independent commissions produce districts that are just as uncompetitive as partisan legislatures (given the plausible alternatives). All mapmakers – independent or not – appear to be selecting among the least competitive proposals when choosing final maps.

4 Discussion and Conclusion

Redistricting reform is an oft-cited cure to the ills of American political dysfunction. Political reformers posit that most incumbent politicians are given free rein in office because they face minimal electoral competition, thereby reducing the incentives to respond to constituent demands. These same reformers view redistricting, and the propensity for partisan mapmakers to devise maps that protect incumbents of one or both parties, as one of the major drivers of polarization and poor representation in Congress and in the states (e.g., Carson and Crespin 2004; Grainger 2010).

Our research shows that simply changing the process by which legislative districts are drawn, even if the new process is one ostensibly divorced of political maneuvering, is unlikely to encourage competitive elections, at either the federal or state level. We show

that redistricting marginally dampens electoral competitiveness as a whole and that these effects are similar regardless of whether maps are drawn by (bi)partisan legislatures or independent commissions. By implication, any differences in district competitiveness with and without independent redistricting may simply be an artifact of natural factors that vary across states, and not any difference in the process itself. Alternatively, partisan and political forces may play a much larger role in citizen redistricting than previously expected by scholars and reformers (Pierce and Larson 2011).

Future research is needed to uncover precisely why independent and legislative redistricting differs so little in producing uncompetitive maps (at least for the 2010 cycle), especially as reform efforts gain momentum. Indeed, greater understanding of the politics of independent redistricting can help improve the match between institutional design and the intended effects of political reform. Nevertheless, our findings caution against replacing state legislatures with non-politician commissions wholesale, solely on the basis of increasing electoral competition through redistricting.

References

Abramowitz, Alan I., Brad Alexander and Matthew Gunning. 2006. "Incumbency, Redistricting, and the Decline of Competition in U.S. House Elections." *Journal of Politics* 68(1):75–88.

Altman, Micah, Brian Amos, Michael P. McDonald and Daniel A. Smith. 2015. "Revealing Preferences: Why Gerrymanders are Hard to Prove, and What to Do about It." Massachusetts Institute of Technology and University of Florida.

Altman, Micah and Michael P. McDonald. 2014. Paradoxes of Political Reform: Congressional Redistricting In Florida. In *Jigsaw Puzzle Politics in the Sunshine State*, ed. Seth McKee. Gainesville, FL: University Press of Florida pp. 163–184.

Altman, Micah and Michael P. McDonald. 2015. Redistricting and Polarization. In *American Gridlock: The Sources, Character, and Impact of Political Polarization*, ed. James A. Thurber and Antoine Yoshinaka. Cambridge: Cambridge University Press pp. 45–67.

Ansolabehere, Stephen and James M. Snyder, Jr. 2012. "The Effects of Redistricting on Incumbents." *Election Law Journal* 11(4):490–502.

Ansolabehere, Stephen, Maxwell Palmer and Amanda Lee. 2015. "Precinct-Level Election Data, 2002-2012." *Harvard Dataverse*, Available at: `https://dataverse.harvard.edu/dataset.xhtml?persistentId=hdl:1902.1/21919`.

Carey, John M., Richard G. Niemi and Lynda W. Powell. 2000. "Incumbency and the Probability of Reelection in State Legislative Elections." *Journal of Politics* 62(3):671–700.

Carson, Jamie L. and Michael H. Crespin. 2004. "The Effect of State Redistricting Methods on Electoral Competition in United States House of Representative Races." *State Politics & Policy Quarterly* 4(4):455–469.

Carson, Jamie L., Michael H. Crespin and Ryan D. Williamson. 2014. "Reevaluating the Effects of Redistricting on Electoral Competition, 1972-2012." *State Politics & Policy Quarterly* 14(2):165–177.

Chen, Jowei and David Cottrell. 2016. "Evaluating Partisan Gains from Congressional Gerrymandering: Using Computer Simulations to Estimate the Effect of Gerrymandering in the U.S. House." *Electoral Studies* 44(2):329–340.

Chen, Jowei and Jonathan Rodden. 2013. "Unintentional Gerrymandering: Political Geography and Electoral Bias in Legislatures." *Quarterly Journal of Political Science* 8(3):239–269.

Cottrill, James B. 2012. "The Effects of Non-Legislative Approaches to Redistricting on Competition in Congressional Elections." *Polity* 44(1):32–50.

Cox, Gary W. and Jonathan Katz. 2002. *Elbridge Gerry's Salamander: Electoral Consequences of the Reapportionment Revolution.* Cambridge: Cambridge University Press.

Edwards, Barry, Michael Crespin, Ryan D. Williamson and Maxwell Palmer. 2017. "Institutional Control of Redistricting and the Geography of Representation." *Journal of Politics* 79(2):1–5.

FairVote. 2017. "Redistricting." Available at: `http://www.fairvote.org`.

Forgette, Richard, Andrew Garner and John Winkle. 2009. "Do Redistricting Principles and Practices Affect U.S. State Legislative Electoral Competition?" *State Politics & Policy Quarterly* 9(2):151–175.

Gelman, Andrew and Gary King. 1994. "Enhancing Democracy Through Legislative Redistricting." *American Political Science Review* 88(3):541–559.

Grainger, Corbett A. 2010. "Redistricting and Polarization: Who Draws the Lines in California?" *Journal of Law & Economics* 54:545–567.

Henderson, John A., Jasjeet S. Sekhon and Rocío Titiunik. 2016. "Cause or Effect? Turnout in Hispanic Majority-Minority Districts." *Political Analysis* 24(3):404–412.

Hulse, Carl. 2016. "Seeking to End Gerrymanderings Enduring Legacy." *New York Times*, Available at: `https://www.nytimes.com/2016/01/26/us/politics/seeking-to-end-gerrymanderings-enduring-legacy.html`.

King, Gary and Benjamin Schneer. 2014. "Analysis of the Arizona Independent Redistricting Commission Congressional and Legislative District Maps." *Harvard Dataverse*, Available at: `https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/27453`.

Kogan, Vladimir and Eric McGhee. 2012. "Redistricting California: An Evaluation of the Citizens Commission Final Plans." *California Journal of Politics & Policy* 4(1):1–32.

Levitt, Justin. 2010. *A Citizen's Guide to Redistricting.* New York: Brennan Center.

Lindgren, Eric and Priscilla Southwell. 2013. "The Effect of Redistricting Commissions on Electoral Competitiveness in U.S. House Elections, 2002-2010." *Journal of Politics and Law* 6:13–18.

Masket, Seth E., Jonathan Winburn and Gerald C. Wright. 2012. "The Gerrymanders Are Coming! Legislative Redistricting Won't Affect Competition or Polarization Much, No Matter Who Does It." *PS: Political Science and Politics* 45(1):39–43.

McCammon, Sarah. 2017. "Redistricting Reform Advocates Say The Real 'Rigged System' Is Gerrymandering." *NPR*, Available at: `http://www.npr.org/2017/03/18/520551499/redistricting-reform-advocates-say-the-real-rigged-system-is-gerrymandering`.

McCarty, Nolan, Keith T. Poole and Howard Rosenthal. 2009. "Does Gerrymandering Cause Polarization?" *American Journal of Political Science* 53(3):660–668.

McDonald, Michael P. 2006. "Drawing the Line on District Competition." *PS: Political Science and Politics* 39(1):91–94.

McDonald, Michael P. and Micah Altman. 2011. "Public Mapping Project." Available at: `http://www.publicmapping.org/resources/data`.

Petry, Eric. 2016. "Redistricting Reform Gains Momentum in 2016." *Brennan Center*, Available at: `https://www.brennancenter.org/blog/redistricting-reform-gains-momentum-2016`.

Pierce, Olga and Jeff Larson. 2011. "How Democrats Fooled Californias Redistricting Commission." *ProPublica*, Available at: `https://www.propublica.org/article/how-democrats-fooled-californias-redistricting-commission`.

A Appendix

A.1 Detailed Breakdown of State Redistricting Institutions

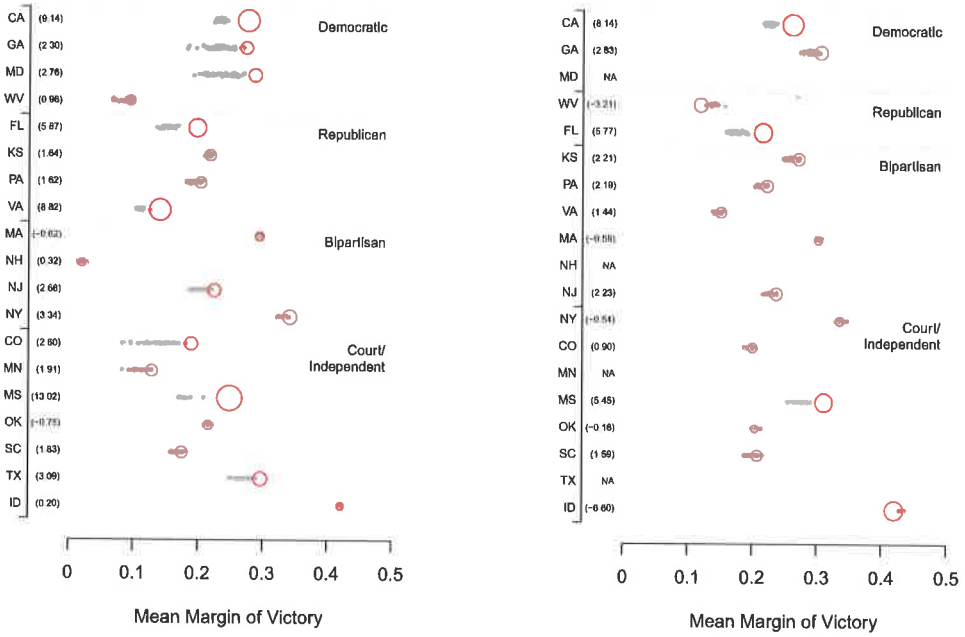
Table A1: State-by-State Breakdown of Institutions Empowered to Draw Legislative Districts in 2000 and 2010

Category	Congressional	Statehouse
2000 Redistricting		
Democratic	AL, CA, GA, MD, NC, WV	AL, CA, NC, WV
Republican	FL, KS, MI, OH, PA, UT, VA	KS, MI, UT, VA
Bipartisan	AR, CT, HI, IL, IN, IA, KY, LA, MA, MO, NE, NV, NH, NJ, NY, RI, TN, WI	AR, CO, CT, HI, MS, MO, NJ, OH, PA
Court	CO, ME, MN, MS, NM, OK, OR, SC, TX	FL, GA, ME, MD, MN, NH, NM, SC, SD, TX, WI
Independent	AZ, ID, WA	AK, AZ, ID, MT, WA
2010 Redistricting		
Democratic	AR, IL, MD, MA, OR, WV	MA, WV
Republican	AL, FL, GA, LA, ME, MI, NC, OH, OK, PA, SC, TN, UT, VA, WI	AL, FL, GA, IN, LA, ME, MI, NC, SC, TN, UT
Bipartisan	CT, HI, IN, IA, KY, MO, NE, NH, NJ, RI	AR, CO, CT, HI, IL, MD, MS, MO, NJ, OH, OK, OR, PA, TX
Court	CO, CT, KS, MN, MS, NV, NM, NY, TX	KS, MN, NV, NM, NY, TX, WI
Independent	AZ, CA, ID, WA	AK, AZ, CA, ID, MT, WA

A.2 Results from 2000 State Assembly and Senate Redistricting

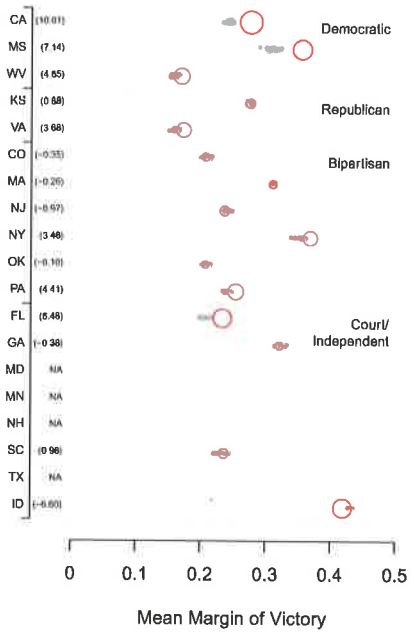
We focus on the 2010 redistricting cycle above because we have simulated maps and alternative maps available to compare to the actual redistricting plans in a large number of states. Chen and Rodden (2013), however, also have made available simulated data for the 2000 redistricting cycle at both the federal and state level in a sample of states. These results are presented in Figure A1. Our results are consistent with the simulated

and alternative results from 2010 for the U.S. House and mirror our findings using the alternative maps for state-level redistricting in 2010. Specifically, the actual maps are far less competitive than the simulated plans designed to only take into account constitutional requirements for districting.



(a) U.S. House

(b) State Senate



(c) State Assembly

Figure A1: **Comparing the Competitiveness of U.S. House, State Assembly, and State Senate Districts Between Adopted and Simulated Plans in 2000**

92 Mich. L. Rev. 483

Michigan Law Review
December, 1993

Symposium: The Future of Voting Rights After Shaw v. Reno
Richard H. Pildes [a1] Richard G. Niemi [aa1]

Copyright (c) 1993 by Richard H. Pildes and Richard G. Niemi

EXPRESSIVE HARMS, "BIZARRE DISTRICTS," AND VOTING RIGHTS: EVALUATING ELECTION-DISTRICT APPEARANCES AFTER SHAW v. RENO [d1]

With technical assistance provided by Kimball Brace and Doug Chapin

Voting-rights controversies today arise from two alternative conceptions of representative government colliding like tectonic plates. On one side is the long-standing Anglo-American commitment to organizing political representation around geography. As embodied in election districts, physical territory is the basis on which we ascribe linked identities to citizens and on which we forge ties between representatives and constituents. On the other side is the increasing power of the Voting Rights Act of 1965 (VRA), [1] which organizes political representation around the concept of interest. The Act prohibits the dilution of minority voting power and thereby necessarily ascribes linked identities to citizens on the basis of group political interests. Whenever these two plates of territory and interest collide, surface disturbances in voting-rights policy erupt.

Shaw v. Reno [2] is the most recent manifestation of these opposing forces. In Shaw, a deeply fractured Supreme Court addressed the conflict between territory and interest by concluding that, for purposes of ***484** the Fourteenth Amendment, the geography of election districts "is one area in which appearances do matter." [3] Against the pressure of interest-oriented alternatives that the Voting Rights Act exerts, the decision reaffirms the continuing centrality of physical territory to legitimate political representation. In line with this reaffirmation, the Court endorsed a new kind of equal protection challenge to legislative redistricting. This new, geography-based challenge might be called a district appearance claim.

As the Court defined this claim, "a reapportionment scheme [may be] so irrational on its face that it can be understood only as an effort to segregate voters . . . because of their race . . . ." [4] In this passage, "on its face" is to be read literally: only election-district configurations that convey a dramatic visual impression of this sort implicate the principles of Shaw. The specific holding of Shaw is that the Constitution permits such an election district only when sufficiently justified under the exacting standards of strict scrutiny. [5]

No other decision from any court has held that, in some circumstances, a district might violate the U.S. Constitution when its shape becomes too "bizarre." [6] When physical geography is stretched too thin, when it is twisted, turned, and tortured — all in the apparent pursuit of fair and effective minority representation — at some point, too much becomes too much. That appears to be the judicial impulse that accounts for Shaw: in the conflict of territory and interest, the Constitution requires policymakers somehow to hold the line and accommodate both.

But judicial impulses are one thing, legal doctrine another. That most people, judges included, recoil instinctively from willfully misshapen districts is understandable enough. Yet defining the values and purposes that might translate this impulse into an articulate, justifiable set of legal principles is no easy task. Leading academic experts in redistricting have long argued that this impulse reflects untutored intuition, an instinctive response that careful analysis reveals to be unwarranted.[7] Shaw translates this impulse into constitutional doctrine ***485** but does little to explain or justify the principles that might lie behind it. Moreover, the judicial impulse that too much is too much will degenerate into either a manipulable tool or a meaningless gesture unless transformed into legal principles that courts and redistricting bodies can apply with at least some consistency and certainty. Yet, beyond casting doubt on "highly irregular" districts, Shaw provides no criteria to guide reapportionment bodies or courts in judging when this line has been crossed. As Justice White, writing for four dissenters, said: " H ow the Court intends to manage this standard, I do not know."[8]

Working out the theory and implications of Shaw is particularly urgent because the decision is significant for voting-rights law in not one, but two, ways. Shaw directly addresses only constitutional constraints that will now function at the outer boundaries of the districting process. At the core of that process, however, the conflict between territory and interest must be resolved in nearly every context in which the Voting Rights Act applies. The Act imposes a duty to avoid minority-vote dilution, but the scope of that duty depends, in part, upon how much the claims of interest can take precedence over those of territory. Thus, Shaw will not only constrain the districting process constitutionally but, through its radiating effects on statutory interpretation, may reshape the districting process at its core.

This article attempts to define the constitutional principles that characterize Shaw and to suggest how those principles might be applied in a consistent, meaningful way. Part I, in which we argue that Shaw must be understood to rest on a distinctive conception of the kinds of harms against which the Constitution protects, is the theoretical heart of the article. We call these expressive harms, as opposed to more familiar, material harms. In Part II, we briefly survey the history of previous, largely unsuccessful, efforts in other legal contexts to give principled content to these kinds of harms in redistricting. Parts III and IV then provide an alternative for evaluating district "appearance" by developing a quantitative approach for measuring district shapes that is most consistent with the theory of Shaw. These Parts are the empirical and social-scientific heart of the article. We apply our quantitative approach to congressional districts throughout the country, enabling meaningful comparisons between the congressional district at issue in Shaw and other districts. We also compare the shapes of congressional districts historically to test whether the district in Shaw is a distinctly recent phenomenon. In doing so, we identify ***486** the kind of districts most constitutionally vulnerable after Shaw. In Part V, we describe the further questions that lower courts must answer in deciding whether particular vulnerable districts ultimately fail the constitutional standard outlined in Shaw.

Shaw will undoubtedly be a controversial and confusing decision. We write not to praise Shaw, nor to bury it, but to seek to understand it on its own terms. What follows is an effort to tease out the principles underlying Shaw and to suggest one approach to implementing its seemingly intractable mandate.

I. Deciphering the Holding of Shaw

Shaw is challenging intellectually precisely because it is so puzzling legally. Untangling its reasoning requires considerable effort. We begin with the Voting Rights Act, which provides the backdrop against which the facts in Shaw arise.

A. Background of the Voting Rights Act

The VRA not only permits, but requires policymakers, in certain specific circumstances, to be race conscious when they draw electoral district lines.[9] In 1982, Congress amended section 2 of the Act to clarify that discriminatory intent was not a necessary element of a minority-vote dilution claim; proof of discriminatory result is now sufficient.[10] Four

years later, in Thornburg v. Gingles, [11] the Court focused the standard for proving such results around three factors that conjoin social conditions and voting structures. First, the minority community [12] must be "sufficiently large and geographically compact" to constitute a minority-dominated election district. [13] Second, the minority ***487** community must be "politically cohesive" [14] — that is, it must demonstrate common voting preferences for candidates. [15] Finally, the majority must be engaged in racially polarized voting behavior that over time "usually" defeats the preferred candidates of the minority community. [16] When these conditions are met, the combination of the existing voting structure and the political dynamics of race can be said to cause minority-vote dilution. [17] The remedy for such a violation requires the governmental unit to create an alternative voting structure that will enable fair and effective minority representation.

The Court, however, specifically designed the three Gingles criteria to define vote dilution only in the context of one particular type of electoral structure: multimember or at-large electoral districts. As in Gingles, most VRA litigation at the time challenged such districts. [18] These electoral structures, then common throughout the country, [19] dated from turn-of-the-century Progressive era reforms. In these reforms, northern Progressives and southern Redeemers sought to undermine community-based politics — portrayed as the province of corrupt local bosses — and instead to concentrate power in more centralized, "expertly" administered political bodies. [20] In many places, the specific aim of these reforms was to diminish the political influence of freed blacks. [21] In these Gingles-era challenges to multimember ***488** election units, plaintiffs typically sought a remedy that would divide the unit into several single-member ones, including an appropriate number of minority-dominated districts.

Since Gingles, however, a second type of challenge has emerged and become central. This never challenge was the catalyst for the North Carolina districting scheme at issue in Shaw. As states in many parts of the country dismantled multimember districts, the focus of litigation began to shift toward the precise design of single-member districts. These cases are winding through the courts; as yet only a few reported decisions address VRA challenges to single-member district plans. [22] Indeed, not until this Term did the Supreme Court definitively hold that the Gingles criteria also control VRA challenges to single-member district plans. [23] Though Gingles now clearly applies, the precise way in which courts must adapt its criteria for single-member districts raises a battery of complex questions. As challenges to single-member districts come to dominate VRA litigation in the 1990s, the need for judicial resolution of these questions has become increasingly urgent. [24]

In applying Gingles to single-member districts, the most conceptually difficult issues for courts arise from the requirement that a minority group be "sufficiently large and geographically compact." [25] At ***489** this point the tension between territory and interest becomes most acute. In the multimember context, the conflict is more diminished because the existing district boundary lines define the limited geographic territory within which to locate replacement single-member districts. One must still define compactness, but within a relatively small, predefined physical territory. In contrast, in challenges to existing single-member districting plans for congressional or state legislative seats, the only fixed boundary lines are those of the state itself. Within those boundaries, an unlimited number of districting plans and individual district shapes are possible. Defining "geographically compact" in this context is more necessary and more difficult.

Such was the legal context in which North Carolina undertook the redrawing of its congressional districts in the wake of the 1990 Census. As a result of this census, the state was entitled to one additional U.S. congressional seat, bringing its delegation up to twelve. The effort to carve the state into twelve districts generated a mix of partisan and racial considerations increasingly common to redistricting. In North Carolina, the General Assembly controls redistricting, with the Governor having no veto power [26] or other entitlement to participate. During the redistricting of the 1990s, Democrats controlled both houses of the General Assembly, while the Governor was Republican, [27] and partisan

interests had unusually free rein. In addition, in part as a direct result of Gingles itself, the power of the black legislative coalition in the General Assembly had grown. [28]

North Carolina's voting-age population is presently seventy-eight percent white and twenty percent black. [29] But the state's black population is relatively dispersed, with black residents a majority in only five of the state's one hundred counties. Because numerous counties in North Carolina have a history of discrimination with respect to voting, the VRA requires that the state submit any change in its voting practices or structures to the Attorney General for federal preclearance. This process is the section 5 preclearance review. [30]

***490** The state's initial redistricting plan included one "convoluted" [31] district with a black majority; the unusual shape was necessary to protect the political base of white Democrat incumbents in adjoining districts. [32] When the state submitted this plan to the Justice Department, the Attorney General entered a formal objection and refused clearance. He offered several reasons for doing so, including the state's failure to create a second majority-black district "in the south central to southeastern part of the state," where creating such a district appeared feasible. [33] The Attorney General also commented that several alternative districting plans had been submitted to the Justice Department — at least one of which had been presented to the North Carolina General Assembly — that included a second majority-minority district in the southern part of the state. Noting that the state had been aware of the minority community's "significant interest" in creating a second majority-minority district, the Attorney General concluded that the state's failure to do so in its initial redistricting plan rested on what appeared to be "'pretextual reasons.'" [34]

Rather than challenge this finding judicially, the North Carolina General Assembly adopted a new redistricting plan. This plan included a second majority-black district, with a total population of 56.63% black and a voting-age population of 53.34% black. [35] The new district, however, was not in the south-central to southeastern part of the state. Instead, the state created a 160-mile long district, ***491** winding through ten counties, often in a corridor no wider than Interstate Highway 85, which links the urban areas of Durham, Greensboro, Winston-Salem, and Charlotte. [36] This area became Congressional District 12 (District 12 or CD12), the focus of Shaw. The record suggests that the General Assembly drew the district this way to minimize the risk to incumbent congressmen from the creation of a second majority-black district. [37] On resubmission, the Attorney General precleared the new redistricting plan. [38] Figure 1, on the next page, provides a map of District 12.

Two significant consequences followed once the plan went into effect. First, in the 1992 congressional elections, North Carolina elected its first black representatives since Reconstruction. They were elected from the two majority-black districts in the plan, including District 12. Second, editorial writers feasted on District 12. In a label that was frequently repeated, the Wall Street Journal tagged it "political pornography." [39] The Raleigh News and Observer complained that it "plays hell with common sense and community." [40] In another editorial it argued: "The maps . . . don't make any sense to people who ***492** have any sense." [41] Even some leading defenders of the VRA, clearly taken aback by the shape of District 12, suggested that it might violate the Constitution. [42]

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

B. The Holding in Shaw: Vote-Dilution and District-Appearance Claims

In Shaw, the Court concluded that District 12 did indeed raise serous enough constitutional concerns as to require justification under the exacting standards of strict scrutiny. To do so, the Court endorsed a distinction between two radically different kinds of voting-rights claims, each of which the Equal Protection Clause now recognizes. [43]

The first is a traditional "vote-dilution" claim. To establish such a claim under the Fourteenth Amendment, plaintiffs must prove the familiarrequirements ***493** of discriminatory purpose and effect. Most important for our purposes, the relevant discriminatory effects must involve actual, material harm to the voting strength of an identifiable (and constitutionally protected) group. In the context of race, the Equal Protection Clause is violated only when an election structure "affects the political strength" [44] of a racial group by unduly diminishing its influence on the political process. This material injury — diminution of relative group political power — is the sine qua non of a vote-dilution claim.

Before Shaw, this claim might have been thought to exhaust the constitutional guarantees securing the voting rights of protected groups. Vote dilution was not merely one "type" of claim; it defined the very meaning of constitutionally protected voting rights and the nature of voting-related harms under the Constitution. Shaw now recognizes a distinct type of claim. This new claim entails a distinct conception of constitutional harms as well as a distinct, implicit theory of political representation.

We call this claim a district appearance claim. As we will explain, [45] the kind of injury it validates involves what we call expressive, rather than material, harms. The theory of voting rights it endorses centers on the perceived legitimacy of structures of political representation, rather than on the distribution of actual political power between racial or political groups. Vote-dilution and district-appearance claims share no common conceptual elements. They recognize distinct kinds of injuries, implicate different constitutional values, and reflect differing conceptions of the relationship between law and politics. These two claims cannot be assimilated into a single, unitary approach to the Fourteenth Amendment. [46]

***494 1. Explaining District-Appearance Claims**

To begin to understand Shaw, one must first note that vote dilution is not involved in the case. The plaintiffs could not prove — and the Court acknowledged that they did not allege — vote dilution. [47] This conclusion is understandable, for no racial group in North Carolina could plausibly claim any material deprivation of its relative voting strength. Certainly white residents, who constitute seventy-six percent of the population in North Carolina [48] and approximately seventy-eight percent of its voting-age population, [49] could not claim impermissible dilution of their voting power. Under the statewide redistricting plan, white voters still constituted a majority in ten, or eighty-three percent, of the twelve congressional districts. [50] With effective control of more than a proportionate share of seats, white voters in North Carolina could not prove, and did not try to prove, that the redistricting plan diluted their relative voting power in intent or effect.

Second, Shaw does not express constitutional concern with the shape of election districts per se. The Court is clear that, no matter how bizarre or contorted, district appearances standing alone do not implicate the U.S. Constitution. [51] Colorful references to the shape of District 12 do permeate the opinion: "highly irregular," [52] "tortured and dramatically irregular," [53] "bizarre," [54] and "irrational on its face." [55] Nevertheless, it is the conjunction of these features with race-conscious ***495** districting that the Court condemned, not oddly shaped districts per se. Any other result would revolutionize the districting process because it would suddenly subordinate discretionary state policy choices to a general constitutional imperative concerning district shapes. Far from suggesting a principle of such broad sweep, the decision explicitly reaffirms that the Constitution does not impose on state reapportionment bodies any general requirement of compactness or contiguity. [56]

Third, Shaw also does not appear to condemn race-conscious districting per se. [57] This point is more ambiguous, both because much more hinges on this holding and because the opinion refrains from endorsing it explicitly. Moreover,

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

when this question is confronted directly, the majority in Shaw might well divide over this question. Justice Kennedy, for example, has gone out of his way to reserve judgment on the constitutionality of section 2 of the Act. [58] Nonetheless, we believe Shaw is best read as an exceptional doctrine for aberrational contexts rather than as a preclude to a sweeping constitutional condemnation of race-conscious redistricting. In their contribution to this symposium, Professors Alex Aleinikoff and Samuel Issacharoff address this question in detail and reach the same conclusion. [59] We, however, can only briefly justify this view here.

First, if race-conscious districting per se were the constitutional problem, it is difficult to rationalize the architecture of the decision. The keystone in Shaw is the "highly irregular" shape of District 12. The negative pregnant, then, is that "regular" districts designed for race-conscious reasons do not raise similar constitutional concerns. Second, the Court's analysis builds on major precedents establishing that intentional race-conscious districting is not inherently unconstitutional. The Court finds constraints that apply in Shaw within these precedents or concludes that these cases address a distinct kind of claim and hence do not apply; it does not, however, call these decisions ***496** into question. [60] Third, at several points, the Court suggests that race-conscious redistricting is neither problematic nor a trigger for strict judicial scrutiny. [61] In addition, compliance with the VRA and Gingles necessarily requires race-conscious districting; Shaw does not suggest, at least directly, that the Court was questioning the restructuring of the political process that has resulted from reliance on the VRA and Gingles. At least to the extent race consciousness arises in connection with VRA compliance, Shaw appears to accept it.

The Court's decision in Voinovich v. Quilter, [62] also decided last Term, further supports the conclusion that Shaw is not a broad attack on race-conscious districting per se. [63] In Quilter, the Republican-dominated Ohio apportionment board had redistricted the Ohio legislature and, in the process, intentionally created several minority-dominated election districts. Plaintiffs claimed that these districts illegally ***497** "packed" minority voters into a handful of districts, thereby diluting their potential power in other districts. The three-judge federal trial court agreed; it held that the VRA permits the intentional creation of minority-dominated districts only when such districts are necessary to remedy what would otherwise be a violation of the VRA. [64]

Quilter thus presented an inversion of the routine voting-rights case. Rather than claiming that Ohio had been insufficiently attentive to race, the plaintiffs argued that the state had been too attentive. The state had created too many minority districts that were too "safe" — presumably to pursue an underlying partisan agenda of enhancing Republican influence in other districts. Thus, the plaintiffs argued that race-conscious districting over and above what the VRA requires violates the Act and the Constitution.

The Supreme Court unanimously rejected this argument. In doing so, the Court directly contradicted the three-judge court's view that the VRA establishes both a floor and a ceiling on race-conscious districting. [65] As the Court held, "federal courts may not order the creation of majority-minority districts unless necessary to remedy a violation of federal law. But that does not mean that the State's powers are similarly limited. Quite the opposite is true . . . ." [66] The VRA therefore does not limit state redistricters only to remedial uses of race. As long as no illegal vote dilution occurs, states do not violate the Act, no matter how race conscious they might be in designing election districts. [67] Under the VRA, states need not first confess or prove past discrimination in election practices to justify their race-conscious creation of districts — indeed, they need not justify these districts to federal courts at all.

If this were all there were to Quilter, the meaning of Shaw would be clear: in the absence of vote dilution, race-conscious districting, in and of itself, would pose no legal problems. Only when carried to particular kinds of extremes, as in Shaw, would distinctive constitutional issues arise. But Quilter is not quite this transparent. The Court expressly reserved the question of whether race-conscious redistricting per se might violate the Fourteenth or Fifteenth Amendments. [68]

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

Conceivably, then, the Court could hold that, while Ohio's ***498** redistricting efforts do not violate the VRA, they do violate the Constitution.

Yet, while legally possible, this result seems unlikely. The sitting Ohio legislature is now composed through the electoral scheme Quilter upholds. If the Court believed there were serious constitutional questions with the fundamental structure of this scheme, the Court had numerous means to avoid permitting an unconstitutionally composed legislature to assume power. Indeed, the parties expressly asked the Court to decide the broad Fifteenth Amendment issue, but the Court found extremely narrow grounds on which to resolve that claim.[69] The Court could have asked the parties to address or reargue the Fourteenth Amendment issue. We view the Court's reservation of the constitutional issues as expressing the caution and tentativeness that characterizes the current Court's approach to race, as well as the divisions within the Court itself. But we take the tenor of Quilter as further evidence that a majority of the Court is not prepared to find a general ban on race-conscious districting in the Constitution.

Thus, Shaw does not appear to erect a general constitutional barrier to intentionally race-conscious districting that has no dilutive effect. To be sure, many more subtle questions remain regarding the precise circumstances under which redistricting bodies and courts may take race into account — remedially or affirmatively — when designing districts. We address these more nuanced questions in Part V. But, at this stage, the important point is that Shaw does not appear to rest on any general principle condemning race-conscious districting. Although many initial reactions have neglected this side of Shaw,[70] it is one of the decision's most significant aspects. Given that several members of the current Court are resistant to state departures from the color-blindness ideal in other contexts[71] and that Justices Marshall and Brennan have retired, one might have thought the Court would ***499** revisit the constitutionality of the race-conscious districting process that forms the core of the VRA. After Shaw, however, five Justices do not appear to be prepared to do so.

Instead, only those irregular districts that convey one particular impression — or that are chosen on the grounds of one particular set of reasons or motivations — implicate Shaw. The districting plan must be "so extremely irregular on its face that it rationally can be viewed only as an effort to segregate the races for purposes of voting";[72] it must be "so bizarre on its face that it is 'unexplainable on grounds other than race.'"[73] Rather than standing for any simple prohibition of "racial gerrymandering," Shaw distinguishes two types of "racial gerrymanders." Some districts — highly irregular ones — trigger the extreme demands of strict scrutiny; others raise no special constitutional problem. In dissent, Justice White perfectly captured, we believe, the decision's internal logic: Shaw holds that "race-conscious redistricting that 'segregates' by drawing oddly shaped lines is qualitatively different from race-conscious redistricting that affects groups in some other way."[74]

Justice White means this description to be an ironic commentary on Shaw's analysis, the exposure of a "logic" the mere expression of which immediately indicts itself as incoherent. Those who must work with Shaw, however, will have to find the principles the Court intended to drive this logic. What precisely about these particular kinds of election districts poses unique constitutional problems? What distinct injury do such districts cause?

2. Justifying District-Appearance Claims: The Relevance of Value Pluralism

Policymaking processes can be constitutionally flawed in at least three different ways. They might reflect an unconstitutional purpose or, equivalently, take a constitutionally impermissible factor into account. This danger is addressed through constitutional doctrines focused on the search for legislative motivation and purpose. Second, policymaking might take only legitimate factors into account but give too little weight to constitutional rights or too much weight to insubstantial governmental justifications for regulation. Balancing tests reflect ***500** concern for the effects of these kinds of policy; such tests typically evaluate whether the governmental justifications for regulation are sufficiently appropriate and significant to justify the degree to which a policy restrains a right. Because the first set of doctrines

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

focuses on purposes, while the second focuses on effects, these might be thought to exhaust the basic modes through which constitutional law can appraise governmental action. Yet there is a third, less familiar type of constitutional problem that policies might raise; in some ways this problem shares concern for both purposes and effects, but it arguably has a distinct logic of its own.

One might call this the problem of value reductionism in public policy. The concern is not that policymakers have taken illegitimate factors into account, nor is it precisely that a policy's effects on rights are too restrictive or not sufficiently justified. Instead, the constitutional problem is better described as the apparent corruption of a decisionmaking process. More broadly, it is the apparent corruption of the public institutions that make their decisions in such a way. When decisions reflect value reductionism, policymakers have transformed a decision process that ought to involve multiple values — as a matter of constitutional law — and reduced it to a one-dimensional problem. They have permitted one value to subordinate all other relevant values. As a result, the decisionmaking process appears tainted because it has become compromised through unconstitutional oversimplification. Interestingly, the concern for public perceptions ultimately seems central to constitutional doctrines that resist value-reductionist public policy. The focus of these doctrines is not impermissible purposes, for they need not be present, nor whether the effect of policy is too great an intrusion on individual rights, but rather whether the process of decisionmaking itself is constitutionally legitimate.

Shaw is best understood, we believe, as an opinion condemning value reductionism. In the Court's view, the process of designing election districts violates the Constitution not when race-conscious lines are drawn, but when race consciousness dominates the process too extensively. Traditionally, redistricting seeks to realize a plurality of values: to ensure effective representation for communities of interest, to reflect the political boundaries of existing jurisdictions, and to provide a district whose geography facilitates efficient campaigning and tolerably close connections between officeholders and citizens.[75] The intentional ***501** use of race in this process, in conjunction with continuing respect for these other values, does not pose a constitutional problem. Under Shaw, race is not an impermissible factor that corrupts the districting process — as long as it is one among many factors that policy-makers use.

When race becomes the single dominant value to which the process subordinates all others, however, it triggers Shaw. For the Court, what distinguishes "bizarre" race-conscious districts is the signal they send out that, to government officials, race has become paramount and dwarfed all other, traditionally relevant criteria. This view is the foundation of the qualitative distinction central to Shaw: at a certain point, the use of race can amount to value reductionism that creates the social impression that one legitimate value has come to dominate all others.

In resisting the use of race in this specific way, Shaw requires that redistricting continue to be understood — and, perhaps more importantly, perceived[76] — as implicating multiple values. Public officials must maintain this commitment to value pluralism, even when they legitimately and intentionally take race into account.

What precisely are the relevant public understandings concerning democratic institutions that "bizarre" race-conscious districts might violate? Critically, we might say Shaw elevates trivial concerns for "pretty" districts over substantive values of effective minority representation. There are no "naturally shaped" districts, so why should there suddenly be constitutional obstacles at the extremes of the districting process?

One answer might be that the values extreme districts inappropriately compromise are those of political community and political accountability. A principal aim of territorial districting is to facilitate the representation and interests of political communities. Compact districting is at best a proxy for this goal, but to abandon compactness completely might be thought to denigrate the importance of political community as a public value. In addition, because compact districting is thought, at least traditionally, to enhance political ties between representatives and constituents, abandoning compactness might be thought to undermine the value of representation.[77]

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

***502** But this answer seems strained in the context of Shaw. If the question is whether the oddly shaped District 12 undermines a sense of political connectedness, unduly burdens those running for office, or weakens representative-constituent ties, we might think state political institutions are best positioned to answer it. Framed in these terms, the Court's concern might seem paternalistic. Moreover, given that District 12 resulted in the election of one of two of North Carolina's first black congressional representatives since Reconstruction, concerns for political community and identifiable representation might seem misplaced.

Perhaps a better answer would start with the view that, in the Court's eyes, oddly shaped race-conscious districts compromise the values of political integrity and legitimacy. While there may be no "natural district shapes," baseline expectations emerge from developed customs and practices. Social understandings, including those concerning the legitimacy of political institutions, are formed with reference to these developed practices. Except in revolutionary moments, political legitimacy is, in part, a matter of compliance with the internal standards of these developed practices. When political bodies devise extremely contorted districting schemes, the violation of these standards suggests politicians are engaged in manipulation of public institutions for their own ends.

When race is added, the mix becomes more combustible and, in the Court's view, the Constitution enters the picture. The concern seems to be that extreme distortions in the (socially constructed) nature of territorial districting, which result from race dominating all other districting values, pose the kind of threat to political legitimacy that the Constitution recognizes. Democratic theory might accommodate either proportional representation or territorial districting. But, as Professors Daniel Polsby and Robert Popper's contribution to this symposium suggests, trying to force the kinds of concerns a proportional-representation system addresses into a territorial system eventually stretches the latter to the breaking point.[78] Short of opting for an interest-based system of representation, public understandings about ***503** political legitimacy will reflect the nature of territorial districting, as that form is understood. On this view, the failure to respect value pluralism in territorial redistricting compromises the integrity and legitimacy of the resulting institutions.

This account of Shaw's principles will no doubt leave the decision controversial. In today's culture, we often cannot talk about "the" political legitimacy of institutions, for legitimacy is frequently differential — institutions legitimate from some groups' perspectives might not be from others'. If the "highly irregular" District 12 was actually necessary to ensure a second representative of the black community in North Carolina, that community might well view the districting plan that included District 12 as more legitimate than alternatives. Political legitimacy is also a nebulous concept, into which it is all too easy to read one's own views. Nonetheless, the legitimacy of representative institutions at least seems the kind of question that is properly the concern of the Court — this concern is, after all, at the foundation of the reapportionment revolution itself.[79] Shaw requires respect for value pluralism as a means, it seems, of ensuring that constitutional concerns for political legitimacy are not ignored or undermined in the process of enhancing minority representation.

Understood in this way, Justice O'Connor's opinion in Shaw resonates with Justice Powell's opinion in Regents of the University of California v. Bakke.[80] The preference-quota distinction similarly permits noninvidious uses of race, as long as policymakers do not allow race to become — or appear to be — paramount to all other relevant values. When Bakke was decided, some praised this approach as "an act of judicial statesmanship" and "a very civilized ruling."[81] Others asserted that the preference-quota distinction was at best symbolic and at worst hypocritical -- a distinction that reflected no principled theoretical line and that had no functional significance for the way in which academic institutions actually would make admissions decisions.[82] ***504** Whatever the merits of these views, the distinction has had enough enduring power so that, fifteen years later, it remains an important element in public discourse about race. Virtually no public official endorses racial quotas, even when advocating the preferential use of race. Perhaps Bakke is the sole cause of this way of structuring public discourse; but, if the legal distinction had indeed failed to capture something powerful among public perceptions, at least in some quarters, perhaps it would not have had such a long life.[83]

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

Methodologically, one can view both Shaw and Bakke as rejecting a categorical, rule-oriented form of legal decision for a more contextualized, standard-based approach. [84] Neither decision establishes a categorical rule prohibiting intentional race consciousness. The relevant questions are ones of degree: race can be used, but how much weight it is given in relation to other values remains subject to searching judicial inquiry. This contextual approach to constitutional adjudication that links Shaw and Bakke — this commitment to viewing the Fourteenth Amendment as standing against value reductionism — can be understood as an effort to seize and defend a legal middle ground between logically coherent alternatives. At one pole is the principle of color blindness. At the other is the principle of the preferential use of race to enhance the political or economic position of previously disadvantaged minorities. Each alternative rests on its own moral, sociological, and ideological convictions, and many people believe law and policy must come to one clear choice between those alternatives. Yet Shaw, like Bakke, opts for neither option; rather, it sustains the tension between the two. The principle of Shaw is that districters may intentionally take race into account, but only up to the point at which they subordinate all other relevant values to it. Geography and interest are both permissible grounds for constructing election districts, as ***505** long as the districting process is not reduced to a single-dimensional process in which interest appears to dominate overwhelmingly.

In considering whether the Court is right to be concerned about value reductionism in public policy, [85] in Shaw or elsewhere, it might be helpful to recall the analysis of complex value choices that Professors Guido Calabresi and Philip Bobbitt offer in Tragic Choices. [86] In their analysis, societies that endorse a plurality of values, all of them fundamental, must necessarily confront situations of profound value conflict. Faced with such a conflict, society may simply choose to adopt policies that endorse one value over the others at stake. This approach, however, entails rejecting decisively some values that are, and ought to be, considered fundamental. As an alternative, therefore, societies might seek institutions and methods of reaching decisions that preserve the social and political understandings through which they recognize all the values in conflict as fundamental and enduring. One possibility is that public decisions can cycle between preferences for the different values at stake. Alternatively, policymakers might accommodate certain values up to a point, but stop short of following them to their logical conclusion, as a way of signaling respect for countervailing values. [87]

From a certain perspective, these decisions will look inconsistent, or unprincipled, or like compromises having little logical foundation. Indeed, more formal or analytic evaluations of policymaking often generate just such criticisms. [88] But this kind of fuzzy logic in the public sphere may be a healthy means through which societies embracing ***506** pluralistic values of fundamental significance address tragic choices — they sustain the tension between conflicting values, rather than allowing circumstances to force them finally to endorse one fundamental value over another. By avoiding value-reductionist approaches when such values clash, public decisions can help, in the words of Calabresi and Bobbitt, "preserve the moral foundations of social collaboration." [89]

If Shaw is to be justified, we believe the justification must proceed along these lines. On any other terms, Shaw's effort to distinguish race-conscious districting that produces bizarrely shaped districts from that which produces more familiar districts is difficult to comprehend. As the dissenters persuasively argue, one does not involve a more invidious use of race than the other, nor does one differ meaningfully from the other in its effect on individuals' voting rights. Carrying legal analysis to its logical extreme, however, may not be the most important task of the Supreme Court — at least as judges such as Justices O'Connor and Powell understand the functions of the Court and, perhaps, of law itself. Shaw rests on the view that, in certain areas, the Court's role in construing the Constitution should be to require policymakers to accommodate and sustain the tension between conflicting values, rather than to permit one important value to subordinate all others.

3. Expressive Harms as Constitutional Injuries

To appreciate this interpretation of Shaw, however, is not yet to grasp the precise harm that the Shaw Court believes this value reductionism causes. Allan Bakke could allege the harm of being denied the right to compete on equal terms

for medical school admission — an alleged harm that is concrete, individualized, and material. But, because no North Carolina voters had their voting power diluted, one cannot say a similar injury occurred. Even a districting process that involves the kind of value reductionism we have described does not result in tangible, individualized harm, the kind of harm traditionally considered necessary to create standing.[90] To understand and apply Shaw, then, we must link the Court's evident concern with value reductionism to a different conception of harm.

One can only understand Shaw, we believe, in terms of a view that what we call expressive harms are constitutionally cognizable. An expressive harm is one that results from the ideas or attitudes expressed ***507** through a governmental action, rather than from the more tangible or material consequences the action brings about. On this view, the meaning of a governmental action is just as important as what that action does. Public policies can violate the Constitution not only because they bring about concrete costs, but because the very meaning they convey demonstrates inappropriate respect for relevant public values. On this unusual conception of constitutional harm, when a governmental action expresses disrespect for such values, it can violate the Constitution.

Concern for expressive harms focuses on the interpretive dimension of public action. This is the dimension along which such injuries lie, for expressive harms are violations of public understandings and norms. In the language of Robert Cover, "[w]e inhabit a nomos — a normative universe."[91] Judicial validation of expressive harms reflects concern for the way in which public action can cause injury precisely by distorting or undermining this nomos. The harm is not concrete to particular individuals, singled out for distinct burdens. The harm instead lies in the disruption to constitutionally underwritten public understandings about the appropriate structure of values in some arena of public action.

Expressive harms are therefore, in general, social rather than individual. Their primary effect is not as much the tangible burdens they impose on particular individuals, but the way in which they undermine collective understandings. Governmental action might be thought to implicate these understandings in two ways. When government acts, it must interpret relevant collective understandings insofar as they constrain or guide policymakers. But public action and collective understandings exert a mutually reciprocal influence. Government action does not merely reflect such understandings; it also shapes and reconstitutes them. Governmental actions can express — and therefore perhaps sustain — a reaffirmation or a rejection of these norms. A concern for expressive harms under the Constitution is a concern for precisely these less material, less individualized effects of state action.

If courts grant expressive harms constitutional recognition, they must then engage in exquisitely difficult acts of interpretation. For the material to be interpreted is not a legal text, but the expressive significance or social meaning that a particular governmental action has in the specific historical, political, and social context in which it takes ***508** place. The quest is not for the intent or purpose behind legislation, at least as those concepts have traditionally been understood; the issue is not what policymakers might subjectively have had in mind or desired. What matters is the social message their action conveys or, less positivistically, the message courts perceive the action to convey. This approach requires courts to attribute a likely social meaning to the action, rather than to discover the subjective intent behind it.[92] Such exercises of judicial judgment are fraught with complexity and unlikely to yield determinate, single right answers. But courts have not found these potential problems to be reason enough to abandon all judicial concern for expressive harms.

This analysis might sound unfamiliar and obscure. Shaw, however, becomes intelligible only if one recognizes that it rests on just this concern for expressive harms. Shaw validates such harms as constitutionally cognizable, along with more familiar, concrete, material injuries. Indeed, close attention to the language of Justice O'Connor's opinion reveals a constant struggle to articulate exactly these sorts of expressive harms. Thus, the opinion is laden with references to the social perceptions, the messages, and the governmental reinforcement of values that the Court believes North Carolina's districting scheme conveys.[93] There is simply no way to make sense of these references, which give the opinion its character and are central to its holding, ***509** without recognizing that the decision is grounded in concern for expressive harms. This conception of constitutionally cognizable harms explains why the Court is adamant that "reapportionment

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

is one area in which appearances do matter." [94] If they do, it must be because, even apart from any concrete harm to individual voters, such appearances themselves express a value structure that offends constitutional principles.

Shaw therefore rests on the principle that, when government appears to use race in the redistricting context in a way that subordinates all other relevant values, the state has impermissibly endorsed too dominant a role for race. [95] The constitutional harm must lie in this endorsement itself: the very expression of this kind of value reductionism becomes the constitutional violation. The justification for this result might rest on the intrinsic ground that the endorsement is wrong, in and of itself; alternatively, the justification might rest on the instrumental ground that this state endorsement threatens to reshape social perceptions along similar lines.

In either case, Shaw depends crucially on judicial recognition of expressive harms under the Fourteenth Amendment. [96] This conception ***510** of constitutional harm is intriguing and undoubtedly controversial. To describe and evaluate it in detail would require considerable space. For present purposes, we merely note three brief features of this conception.

a. Legal recognition of expressive harms. Though this conception of harm might at first appear unfamiliar and vague, it is implicitly recognized in many areas of law and public policy. The general distinction between intentional and accidental harms is the most routine example. In torts and criminal law, an intentional and a negligent battery might cause the same quantum of physical injury. Yet common and criminal law understandably treat the former as far more serious. Even if they cause the same objective level of physical injury, the law considers these to be two distinct actions; the distinction rests in the different attitude that an intentional harm expresses toward social norms of individual integrity. Conceivably, the more serious sanctions for intentional harms might be justified as necessary to create optimal deterrence of such actions. But, even apart from incentive-altering calculations, the attitudes expressed through conduct intentionally designed to injure pose a greater challenge to the normative structure underlying social order. The greater challenge such conduct expresses requires a commensurately greater response in the legal sanctions applied — independent of deterrence rationales for greater sanctions. Intentional harms are morally more offensive than accidental ones, and the law reflects this difference in moral evaluation.

For a more interesting and complex example of the difference between expressive and consequential conceptions of harm, consider sentence enhancements for bias-motivated crimes, at issue last Term in Wisconsin v. Mitchell. [97] From a consequentialist perspective, we ***511** might argue that greater penalties are required to provide greater deterrence. Perhaps these crimes are more common, or perhaps they are more likely to incite retaliatory responses. But, on an expressivist logic, we might argue greater penalties are required because a different, and more threatening, social meaning attaches to the assault. From this perspective, beating up a black man because he is black is a different action, with a different social meaning, than an ordinary assault. The difference between these two forms of justification — consequential and expressive — reflects and shapes collective understandings of why we adopt such measures. In addition, some might believe the constitutionality of such measures, under the First Amendment, depends on whether they are justified on one or the other type of logic. The most important point, though, is that much conduct, like hate crimes, has both an expressive and a consequential dimension; action reveals certain attitudes as well as causing more tangible injuries.

This point can be generalized. Actions of all sorts — public and private, collective and individual — express certain values as well as bring about certain consequences. [98] Actions both "do" something and "mean" something; at the same time that they bring about certain consequences, they also express some set of values and normative attitudes. Although we do not ordinarily articulate legal harms in these ways, law and policy often, if implicitly, respond to this meaning-making or expressive dimension of actions.

In trying to find the right language to capture this legal concern for expressive harms, we might say that intentional and accidental batteries, or hate crimes and ordinary assaults, are two different actions. Or we might say they are the same

action in their material dimension, but distinct in their expressive dimension. Nothing of substance, however, ought to turn on the formal way in which we classify the relationship between an action and its meaning. For action, meaning, and aim are mutually defining, both in social fact and, often, in law and policy.

b. Expressive harms in other areas of constitutional doctrine. Second, the Court has recognized constitutionally cognizable expressive harms in other doctrinal areas, though without using these specific terms. The most striking example is the emergence in recent years of ***512** the "endorsement test" under the Establishment Clause.[99] The idea that the First Amendment bans state "endorsement" of religion rests, like Shaw, on a concern for social perceptions; on the perceived meaning of government policies; and on the view that the Constitution reaches not just material harms, but expressive ones. The explicit language with which courts have framed the "endorsement test" is grounded on the same concerns as those central to Shaw. Thus, Justice O'Connor has argued that the problem with a state endorsement of religion, for example, is that it "sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders . . . ."[100] In her analysis, the "endorsement test" invalidates government practices that create a perception that the government is endorsing or disapproving of religion.[101] These concerns for social perceptions, messages, and governmental endorsements of values are central whenever expressive harms are at issue.

That Justice O'Connor is both the author of Shaw and the originator of the "endorsement test" lends credence to the view that one cannot understand Shaw except in terms of concern for expressive values in the area of race and redistricting. To be sure, some commentators have embraced the Establishment Clause "endorsement test" with enthusiasm,[102] while others have found it vague, empty, or unadministrable.[103] Any effort to recognize expressive harms through constitutional doctrine must address these kinds of concerns. Despite ***513** these problems, however, judicial concern for expressive harms is demonstrably a pervasive and long-enduring feature of constitutional doctrine and disagreements.[104]

c. Standing and expressive harms. In much of constitutional law, both substantive and procedural doctrines require that harms be individuated before they become judicially actionable.[105] Indeed, the current Court has reinvigorated these requirements in recent years, requiring that plaintiffs distinguish their claims from "a generally available grievance about government — claiming only harm to their and every citizen's interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits them than it does the public at large."[106] As a result, the Court has rejected claims that "abstract stigmatic injuries" can be judicially cognizable.[107]

Yet, when courts recognize expressive harms, this traditional requirement of individualized harm comes under considerable pressure. Expressive harms focus on social perceptions, public understandings, and messages; they involve the government's symbolic endorsement of certain values in ways not obviously tied to any discrete, individualized harm. A significant tension, therefore, exists between recognition ***514** of expressive harms and traditional requirements of individualized wrongs.[108]

In Shaw, the Court avoided confronting the tension between these traditional requirements and its conception of expressive harm. Given the "special harms"[109] Shaw recognizes, perhaps any voter in North Carolina — not just those in District 12 and not just those who are white — can legitimately claim to suffer these harms and hence to have standing. In other contexts involving race-conscious policy, blacks do not have legal standing to challenge policies that purportedly benefit them as a group; the fact that some blacks might view an affirmative action policy, for example, as stigmatizing or as essentializing black identity is not the kind of harm that grounds legal standing. Only those disadvantaged in more material and particularized ways suffer the kind of injury necessary for judicial assessment of their claims. Hence, the plaintiffs in affirmative action cases are white individuals or white-owned businesses. Yet the very theory on which Shaw was litigated and decided appears to embrace a much broader conception of legal injury. The complaint, for example,

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

refused to state the race of the plaintiffs and refused to allege the concrete and particularized injury of vote dilution. Instead, the plaintiffs pleaded a right to participate in a color-blind electoral process. [110] If this is the right at stake, all North Carolina voters might be thought to be injured in the same way and to the same extent.

To bring this claim closer to traditionally recognized ones of individualized harm, the district court rewrote the complaint by taking ***515** judicial notice that the plaintiffs were white voters. [111] The Supreme Court then reinterpreted the plaintiffs' legal theory before endorsing it: the claim became a challenge to "legislation so extremely irregular on its face that it can rationally only be viewed as an effort to segregate the races for purposes of voting, without regard for traditional districting principles and without sufficiently compelling justification." [112] Even so, if the way the legislation is "viewed" is the harm, any North Carolina voter might be similarly positioned and hence equally entitled to standing.

Justice Souter indirectly pressed this issue by arguing that, absent vote dilution, race-conscious districting involves no constitutional harm. [113] The Court's response revealed just how nonindividualized is the expressive harm central to Shaw:

> As we have explained, however, reapportionment legislation that cannot be understood as anything other than an effort to classify and separate voters by race injures voters in other ways. It reinforces racial stereotypes and threatens to undermine our system of representative democracy by signaling to elected officials that they represent a particular racial group rather than their constituency as a whole. Justice Souter does not adequately explain why these harms are not cognizable under the Fourteenth Amendment. [114]

The Court, however, does not adequately explain why these harms are not generalized ones, the kinds of harms for which generalized standing to sue would be appropriate. Indeed, although the conceptions of cognizable harm and standing are directly linked — and standing is both a jurisdictional question and, in part, a constitutional one — the Court leaves issues of standing unaddressed. [115] The point ***516** here is that tension exists between the underlying but implicit theory of Shaw and established legal principles, such as those reflected in standing doctrine. There may be principled ways of resolving this tension, but the Court does not confront the conflict or acknowledge it.

4. Social Perceptions Versus the "Actual Facts"

Thus far, we have assumed that the North Carolina General Assembly's purpose in designing District 12 was to create a second majority-black district in the state. On this view, the aim of creating a minority district was "the" cause of the "bizarre" district shape. [116] The social perception of this "fact" seems, at bottom, to be the foundation on which the decision rests. [117]

The central concern of Shaw is this social perception. Seen in this way, Shaw offers a story about the corruption of politics by race consciousness, at least when the latter is carried to extremes. On this view, politicians use civil rights policy, through the pressure the VRA puts on the redistricting process, to manipulate and distort political institutions — or, more precisely, the VRA is being used in ways that create the social perception that this manipulation is taking place.

When the facts are examined from another vantage point, however, Shaw might expose a quite different story. As in many redistricting battles, with their boiling cauldrons of partisan, personal, interest-group, fair representation, and other motivations, reconstructing the reasons behind North Carolina's actions at each stage is no easy task. The record suggests both a "stronger" and a "weaker" view of the actual facts, and, on either account, Shaw is yet more complex.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

a. The strong view of the facts. Recall that the Attorney General objected to North Carolina's initial redistricting plan on the ground that the VRA required creation of a second minority district, which he suggested could be in the southeastern part of the state. The "strong" interpretation of the facts takes this assessment as correct and assumes that such a district, reasonably compact, could indeed have been created. The Court appeared to assume this view, although it did not address the question directly, and the lower court made no formal finding to this effect.[118] Yet, if this is the assumption on which Shaw is ***517** decided, what Shaw would reveal is not the manipulation of politics by race, but the manipulation of race by politics.

On this strong reading of the facts, North Carolina could have complied by drawing a reasonably compact minority-dominated district, but it made a deliberate choice not to do so. Yet, on this view, the reasons behind the design of District 12 would have nothing to do with race — and everything to do with protecting incumbent congressmen and seeking partisan political advantage. Faced with a range of choices for creating a second minority district, including a reasonably compact one, the General Assembly made the choice it did for its own reasons. As several Justices appear to have assumed, those reasons were incumbent protection and partisan advantage.[119] On this assumption, however, political reasons, not concerns involving race, would be the cause or purpose behind the design of District 12.

At this point, notice that the case would then actually present a conflict between social perceptions and political realities. To restate, the actual reason District 12 appears "bizarre" is that it was designed to protect incumbents and enhance Democratic control of the state's congressional delegation.[120] Once the Justice Department's objection was lodged, North Carolina was obliged to create a second majority-minority district; but the final shape and location of that district traces to political, not racial, factors. Analytically, we might say two governmental decisions are involved. The first, from the Justice Department, was that North Carolina had to create a second majority-minority district (Decision A); the second, from the North Carolina General Assembly, was where to locate this district (Decision B). Race was a motivating or dominant factor for Decision A, but not Decision B. ***518** From the set of possible majority-minority districts, North Carolina selected District 12 on political, not racial, grounds.

If this "strong" version of the facts is true, two important points follow. First, the North Carolina districting story would reveal the way in which politicians have come to use civil rights and the VRA as a screen; while going to Machiavellian lengths to protect their seats and pursue their partisan agendas, politicians claim "the Voting Rights Act made me do it." This is self-interest masquerading as race consciousness. Political actors thus encourage social perceptions that government has been captured by extremism in the name of race. The backlash, which should be directed at self-interested politicians, instead focuses on the Voting Rights Act, the Justice Department, and race-conscious policymaking. Whether intended this way or not, Shaw might thus be seen as a blow against the cynical manipulation of the VRA.

The second point is related. If the design of District 12 reflects political purposes, any potential equal protection violation would therefore have to reside in the earlier decision — that of the Justice Department to require a second majority-minority district. In legal terms, however, finding such a violation at the first stage of this process would be difficult, at least if the routine application of the VRA remains constitutional, as the opinion suggests it does. For the use of race in Decision A is routine, rather than extreme. Indeed, the decision appears to be a typical application of the VRA; the Attorney General found a violation in the failure to create a second majority-minority district where — applying the Justice Department's traditional criteria, which take geographic compactness into account — such a district could be created. Yet nothing in that decision violates the Fourteenth Amendment under the reasoning of Shaw; it is not a decision to ignore all traditionally relevant districting criteria in the name of race.

To see this more clearly, suppose North Carolina had created a relatively compact second district. By definition, this would not trigger the special "district appearance" claim recognized in Shaw. This means that, on Shaw's own reasoning, Decision A, which does employ race, does not violate the Constitution. But if Decision B reflects partisan and incumbency purposes, it too does not involve the use of race at all. Thus, Decision B cannot violate the Constitution either.

What does all this establish? That if constitutional principles must assess state action on the basis of "the actual facts," and if we accept the "strong" version of those facts — as the Court appears to do — Shaw is difficult to explain or rationalize coherently. From that, we ***519** might conclude that Shaw is simply wrong. Alternatively, we might conclude that the seemingly noncontroversial first premise is wrong: perhaps the mistake is in assuming that constitutional principles must be applied to "the actual facts." Yet what could the alternative possibly be? The best answer would have to be that constitutional principles can properly apply to the social perceptions the facts generate, rather than be confined to the actual facts themselves.

This extraordinary conception of constitutional adjudication would have to underlie Shaw if the Court is assuming the "strong" version of the facts. Shaw would then rest on social perceptions in a much deeper way than our initial description suggests. That is, when the Court says, "we believe that reapportionment is one area in which appearances do matter," [121] that belief would have to be operating at two levels. For it is the appearance — not the fact — that a district's appearance reflects value reductionism in the name of race that lies behind Shaw.

If District 12 were indeed drawn for incumbency and partisan reasons, Shaw would ultimately involve a conflict between social perceptions and the actual facts of politically self-interested districting. Once the Court assumed this kind of conflict, which it appears to have done, the Court had three options. First, it might have rejected the equal protection claim in an opinion that exposed the politically self-interested manipulation of race. For those who believe the Court can play a significant educative role, this might have been the preferred course: let the citizens of North Carolina know that their politicians, not the VRA, are to blame.

Second, the Court might have focused only on the actual facts, rather than attempt to assess the social perceptions they created. If no constitutional principle prohibits bizarrely shaped districts when designed for the purpose of protecting incumbents, then no constitutional violation would exist. [122] Many will believe this to have been the better course. After all, legal principles that turn on social perceptions, rather than "the actual facts," will not make judicial decision making any more consistent or predictable.

The third option would be to apply constitutional principles in a way that gives social perceptions priority over the actual facts. To the extent the Court's opinion assumes the "strong" version of the facts, ***520** this rather remarkable option is the one the Court chose in remanding the case for strict scrutiny assessment. Before dismissing this choice as confused or unworkable, we ought to consider whether social perceptions should be excluded from the proper concerns of constitutional law. For many purposes social perceptions are no less "real" than actual facts; these perceptions play a critical role in defining and shaping the prevailing political culture. Perhaps constitutional law is properly concerned with the character of this public culture. Indeed a surprising number of constitutional doctrines or Supreme Court decisions are difficult to rationalize in functional terms; for example, some decisions preclude legislatures from using certain means to achieve a particular end but permit other means to achieve exactly the same end. [123] The best justification for these doctrines and decisions is that they are geared toward cultivating certain collective understandings in the political culture, rather than toward prohibiting certain end states from being achieved. That is, these doctrines require public officials to understand the relationship between certain values in a particular way. Shaw rests precisely on this kind of concern for appropriate public understandings regarding the relationship of race to redistricting. Thus, on the strong view of the facts, Shaw must stand for the view that extremely contorted minority districts convey the social impression that race has dominated public decisionmaking — that the appearance that race has played such a role violates the Fourteenth Amendment. More concisely, appearance is part of the reality the Constitution addresses.

b. The weak view of the facts. If this interpretation of Shaw is incorrect, it must be because a different set of facts lies behind the North Carolina districting scheme. The alternative, "weaker" view of the facts would be that North Carolina could not have created a significantly ***521** more compact second minority district than CD12. On this view, the Justice

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

Department erred in concluding that the state could have created such a district. In light of the difficulty of reaching firm conclusions from the record, [124] this possibility cannot be dismissed. If the Justice Department were mistaken, then the "bizarre" shape of CD12 would reflect good-faith efforts of the North Carolina General Assembly to comply, not self-serving political ends. Perhaps when the General Assembly attempted to design a second minority-controlled district, the only possibilities turned out to be districts as odd in shape as the one the Assembly eventually chose. [125]

If this account is accurate, the reasons behind the design of CD12 would be more purely race-conscious ones. No manipulation of the VRA or racial symbolism for narrow partisan advantage or protection of incumbents would have been involved. Instead, the state was primarily motivated by the goal of creating a second minority-controlled district; this motivation, not others, would account for the peculiar shape of CD12. To some, this version of the facts might make the design of the district less troubling. On this view, it is far worse for politicians to manipulate social perceptions and pursue political agendas under the guise of complying with federal law and ensuring fair minority representation. When the only means of ensuring fair and effective minority representation is through oddly shaped districts, the direct and exclusive pursuit of this goal should, on this view, be accepted. To others, the weaker interpretation of the facts would make the case even more troubling, for race would then be the dominant purpose behind CD12. Now the actual facts (not the social perceptions) would be that concerns for race had dominated all other redistricting values.

The judicial opinions in Shaw and the record evidence we have reviewed do not permit us to make a convincing choice between the "strong" and "weak" views of the facts. [126] Certainly the Court comes ***522** closest to having assumed the strong version. [127] Moreover, the very terms in which the Court chose to confront the formal legal question to be decided assumes this strong version of the facts. Thus, the appellants initially filed a broad jurisdictional statement that directly challenged the state's power to draw majority-black districts. [128] But in noting probable jurisdiction of the case, the Court directed the parties to brief a different and narrower question:

> Whether a state legislature's intent to comply with the Voting Rights Act and the Attorney General's interpretation thereof precludes a finding that the legislature's congressional redistricting plan was adopted with invidious discriminatory intent where the legislature did not accede to the plan suggested by the Attorney General but instead developed its ***523** own. [129]

This way of framing the issue assumes the state could have complied, but deliberately chose its own alternative.

The factual ambiguity behind Shaw v. Reno suggests two quite different interpretations of the decision's reach. Because the Court seemingly decided the case after assuming the strong version of the facts, Shaw might be read as addressing only similar factual contexts. That is, Shaw might stand for the more narrow proposition that a state must justify "highly irregular" minority districts under strict scrutiny when — and only when — the state could have created a reasonably compact minority district instead. If this reading is right, Shaw would turn out to be a case of minimal significance addressing only exceptional circumstances; it would have no impact on actual minority representation. States would have to choose more compact districts over extreme ones, but the number of minority districts in a state or nationwide would not be affected. This interpretation of the decision is consistent with the actual question the Court purported to decide and assumes, as the Court seemingly did, the strong view of the facts.

Alternatively, Shaw might stand for the broader proposition that, even when a state has no other way of creating a minority district, it cannot resort to "highly irregular" shapes to do so without other compelling justifications. This reading, of course, would have far greater effect on minority districts throughout the country; precisely how great depends on the meaning courts give to "highly irregular," a question on which we offer guidance in Parts III and IV. Conceivably

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

this question might be addressed on remand, for the state might seek to defend its district on the ground, in part, that no more significantly compact minority district could have been created.

The facts the Court apparently assumed and the precise legal question presented provide support for reading Shaw narrowly. But, as a predictive matter, we think it more likely the broader reading will prevail. Particular factual contexts often influence the atmosphere in which the Court approaches major legal issues, but those precise facts are sometimes left behind as courts seize upon the broad legal principles the Court has seemingly laid down. In City of Richmond v. J.A. Croson Co., [130] for example, the atmosphere surrounding the Court's review of state affirmative action set-aside programs was certainly influenced by the fact, which the Court stressed, [131] that black officials controlled Richmond's city council. Yet the racial composition of the ***524** enacting body has become irrelevant as lower courts have taken Croson to establish broad constitutional principles for local set-aside programs. [132]

In the redistricting context, it seems unlikely that courts will read Shaw to distinguish between "bizarre" minority districts that are the only way to enhance minority representation and "bizarre" districts created where reapportionment bodies could have designed more compact ones. Shaw emphasizes its own specific facts, but the decision is simultaneously written in broad rhetorical and legal terms. To the extent the decision is primarily focused on the social perceptions about politics and race that the Court views irregular race-conscious districts as generating, it seems yet more implausible that courts will distinguish necessarily irregular districts from more superfluous ones. Thus, we think it most likely courts will emphasize the broad themes of Shaw and apply it as a general constraint on "highly irregular" race-conscious districts.

5. Does Shaw Apply to White Districts?

In order to test this analysis, consider whether Shaw applies to districts whose general or voting-age population is overwhelmingly white. Formalistically, and doctrinally, this might be viewed as an easy question: equal protection cannot apply differently to white-dominated and black-dominated districts. Indeed, a defining trait of the current Court is its emerging commitment to the principle that the Equal Protection Clause cannot apply differently depending on the specific racial group that legislation benefits, burdens, or singles out. This vision informs the strict scrutiny standard adopted in City of Richmond v. J.A. Croson Co. [133]

Yet, in the redistricting context, this kind of formal equality seems particularly odd as well as inconsistent with any purposive, rather than formal, interpretation of Shaw. To begin with, Shaw does not recognize a general constitutional barrier to "highly irregular" districts. [134] Strict scrutiny is not required for districting that is "bizarre on its face," but only for districting that is "so bizarre on its face that it is 'unexplainable on grounds other than race.'" [135]

If we ask how best to give meaning to these principles when appliedto ***525** white-controlled districts, the social and political contexts in which such districts are likely to arise suggest that Shaw might rarely, if at all, apply. Highly irregular, white-controlled districts might be created in three general contexts. First, they might be located in a state, like Iowa, that is overwhelmingly white. Conceivably, such a district might involve contorted boundaries for a number of reasons, including partisan advantage, incumbency protection, or enhancement of one local economic interest at the expense of others. Yet, by definition, the strange appearance of such a district could not be understood in racial terms, let alone only in racial terms. Thus, on its own terms, Shaw would not apply.

Next, consider a similar district in a state with a significant black population, but where the oddly shaped white district is located in a region of the state far removed from where most black residents live. Congressional District 4, in Tennessee, appears to be such a district; it cuts a swath through the middle of the state and, as our quantitative analysis will show later, it is one of the most diffused districts in the country. [136] Tennessee's voting-age population is 14.6% black, but largely concentrated in the southwestern part of the state, around Memphis. Thus, no plausible basis appears to exist for

concluding that race explains this "highly irregular" district. Any district that might reasonably take its place, no matter how compact, would likely include a similar percentage of white voters. Under this scenario, the district might be odd, but not because it is "segregating" races. Again, on its own terms Shaw presumably would not apply; Tennessee would not have to defend this district under strict scrutiny.

The third, more complicated, scenario would involve a highly irregular district in a state with a significant black population or in a region in which such a population lives. If the state designs the district with a racially discriminatory intent or if the district results in minority-vote dilution, it would be unlawful without regard to Shaw. But, if it is not unlawful on those grounds, could such a district plausibly generate the perception that it has been designed for racial reasons? In the absence of illegal minority-vote dilution, this scenario is factually unlikely because numerous nonracial reasons might account for the district's irregular shape. However base or noble the motivations of partisan manipulation, incumbency protection, and the like might be, they are not racial motivations. Nor are whites likely to benefit, as whites, from contorted district shapes that do not have the effect of diluting minority votes. In other words, when people see "bizarrely ***526** shaped," white-dominated districts — and no illegal vote dilution is taking place — are they likely to perceive those districts as extremist creations in the name of race, at least as Shaw understands that concept? [137]

The important general point here is that many reasons might explain oddly shaped white-dominated districts. Yet similar black-dominated districts are more likely to reflect a single, recurring aim: to enhance effective minority representation. This asymmetry is a function of the social realities of race in this country and of the existence of the VRA. Whites do not need to be concentrated into districts to assure their effective political participation; in contrast, as the VRA recognizes, minorities might need effective control over some "safe" districts to avoid their submergence in a hostile majority.

In terms of applying Shaw, this means that, in principle or in actual fact, Shaw is unlikely to affect white districts. Only in the third scenario is Shaw potentially relevant, and, even there, it seems unlikely that courts will find race to be the basis for contorted majority-dominated districts (in the absence of actual vote dilution). This result might seem an obvious corollary of the "similarly situated" requirement of equal protection: given social realities, black and white districts rarely, if ever, arise in similar circumstances. But courts, including the Supreme Court, might find it difficult to embrace this conclusion directly. To announce that Shaw constrains only the choices of policymakers designing minority-controlled districts is, at the least, awkward, particularly for a Court committed to formal equality. Yet the logic of Shaw itself would seem to dictate such a conclusion.

We are now in a position to summarize the purposes and principles that underlie Shaw. Government cannot redistrict in a way that conveys the social impression that race consciousness has overridden all other, traditionally relevant redistricting values. In the Court's view, certain districts whose appearance is exceptionally "bizarre" and "irregular" suggest that impression. Plaintiffs need not establish that they suffer material harm, in the sense of vote dilution, from such a district. Shaw is fundamentally concerned with expressive harms: the ***527** social messages government conveys when race concerns appear to submerge all other legitimate redistricting values.

Identifying these principles is one task; giving meaningful content to them is another. The "special harms" which concern the Shaw Court arise only when some threshold of distorted district "appearance" has been crossed. But how is that threshold to be recognized? If Shaw is fundamentally concerned with social perceptions, can legal criteria be developed to discipline the inquiry — of courts and reapportionment bodies — into these perceptions? Alternatively, are these expressive harms so inarticulable and unquantifiable that courts must be left to apply their intuitive judgments in an ad hoc, case-by-case fashion?

In Part II, we describe previous efforts of courts to give content to similar requirements governing election-district shape. The unpromising history of these efforts suggests the need for an alternative approach. In Part III, we develop quantitative standards for judging district appearance and thereby giving content to Shaw's principles.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

II. Compactness Under State Law and the Voting Rights Act

Shaw raises the issue of district compactness in an unusual — indeed, singular — legal context: the constraints the U.S. Constitution imposes on the appearance of legislative districts. As noted earlier, Shaw is the first case to suggest such a constraint as a matter of federal constitutional law. [138] Issues of district compactness [139] have arisen in ***528** two other legal contexts, however, and judicial experience from these other settings provides a starting point for considering the ways courts might implement Shaw.

First, twenty-five states, through state constitutions or statutes, require compact legislative districts. [140] In practice, these requirements have been largely ineffective. [141] Second, the VRA itself, as interpreted in Thornburg v. Gingles, [142] requires proof that a reasonably compact minority district could be created in order to establish substantive liability. [143] Although only a few decisions have addressed this aspect of Gingles, the VRA cases provide useful additional information concerning judicial implementation of compactness standards. This experience also suggests that, absent quantitative guidelines, judicial efforts to give content to compactness requirements are likely to be inconsistent, ad hoc, and unpredictable.

Neither of these experiences suggests that easy solutions, will be forthcoming to Justice White's concern that Shaw is unworkable. [144] Recent developments in both technology and the social sciences, however, offer a principled and judicially administrable way out of this new redistricting "thicket." [145] That path involves embracing quantitativemeasures ***529** of "district appearance" that social scientists and statisticians have developed in recent years.

A. State Compactness Requirements

Nearly all of the twenty-five states that require compact districts express this requirement in qualitative terms. Many provisions simply require that districts be "compact," often in a ritualistic trilogy like the following from the Illinois Constitution: districts must be "compact, contiguous and substantially equal in population." [146] In other states, this language is modified by provisions requiring that districts be as "compact as possible," as "compact as practicable," or "reasonably compact." [147] Just two states, Iowa and Colorado, express compactness requirements in specific quantitative formulas. [148]

With respect to both reapportionment practice and judicial decisionmaking, these requirements have been ineffective. The requirements seem to be infrequently litigated; when they are, state courts have been reluctant to enforce them, expressing extreme deference to political bodies. To be sure, a few courts have overturned redistricting plans on state law compactness grounds. [149] Not surprisingly, perhaps, ***530** the state courts in the two states, Iowa and Colorado, that embody compactness standards quantitatively are among the few courts to have found compactness violations. [150] Generally, however, state courts purport to enforce these requirements while signaling that they will seriously scrutinize only dramatic departures from the requirements. Often, courts will not invalidate individually noncompact districts unless they find the entire districting plan to be insufficiently compact. [151] In addition, when state courts do confront challenges to district compactness, they typically rely on their own intuitive visual assessments — even when the parties have presented expert testimony analyzing districts through quantitative measures. [152]

This article provides quantitative information that bolsters the sense one gets from reading the caselaw that qualitative compactness standards have little practical effect. Using social-scientific methods that we describe and justify later in this article, we have compared the compactness of U.S. House of Representatives districts in the 1980s and 1990s in those states that legally require compact congressional districts with those that do not. Table 1 presents these results.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

*531 Table 1

Compactness of U.S. House Districts in 1980s and 1990s by Presence of Compactness Requirements [153]

	DISPERSION SCORES		PERIMETER SCORES	
	RANGE	MEAN	RANGE	MEAN
1980s				
Compactness Required N=33	.05-.59	.39	.11-.59	.34
Compactness Not Required N=396	.06-.71	.37	.02-.72	.27
1990s				
Compactness Required N=30	.05-.58	.36	.06-.54	.26
Compactness Not Required N=398	.03-.64	.36	.01-.72	.24

Footnotes

Note: States with only one congressional representative are excluded. Hawaii, Iowa, Missouri, Montana, Virginia, West Virginia and Wyoming require compactness for congressional districts. Montana in the 1990s and Wyoming in both decades are excluded as single-district states.

For present purposes, it is sufficient to know that the quantitative measures of district compactness in Table 1 vary from 0.0 to 1.0, with more compact districts scoring higher on this scale. As Table 1 reveals, there appears to be no meaningful difference, either in the 1980s or the 1990s, between the compactness of congressional districts in states that legally require it and those that do not. [154] This result suggests that redistricting bodies do not take compactness into account any more when it is legally required, and that courts have not been willing to enforce such requirements in ways that affect outcomes.

The number of states that require compactness of congressional districts is small; hence, conclusions based on these data must be tentative. [155] Nevertheless, the best inference from the available information is that, as presently enforced, qualitative state compactness requirements do little to stimulate greater regularity in congressional district shapes.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

***532 B. Compactness Requirements Under the Voting Rights Act**

Legal requirements that districts be compact also arise under the VRA. [156] The Court has yet to give this requirement much specific content. Last Term, however, in another significant voting-rights case, Growe v. Emison, [157] the Court intimated that state and local jurisdictions, as well as lower courts, were paying insufficient attention to compactness. Growe might suggest that the Court is likely to return soon to the requirement of compactness under the VRA. [158]

Even before the Supreme Court's focus on compactness last Term, questions of appropriate district shape were becoming increasingly important in the lower courts. [159] Under the VRA, compactness arises both as an element of plaintiffs' claims and as a defense put forward by jurisdictions. Compactness concerns can also arise at both the liability and remedial stages of litigation. To date, only a handful of federal courts have addressed these issues; like the state courts, those that have done so have relied on intuitive, eyeball assessments rather than quantitative standards. The decisions display considerable inconsistency. [160]

At one pole, some courts have viewed the governmental interest in enhancing minority representation as sufficient in and of itself to justify contorted district shapes. The leading example is Dillard v. ***533** Baldwin County Board of Education, [161] in which the court rejected the county's argument that a proposed majority-minority school board district would be "too elongated and curvaceous." [162] The court explained that compactness "does not mean that a proposed district must meet, or attempt to achieve, some aesthetic absolute, such as symmetry or attractiveness." [163] Thus, the court accepted plaintiffs' proposed districting plan for the county board of education, even though it included this narrow, elongated district. [164] Other courts have taken a comparative approach. They hold minority-controlled districts that "look rather strange" to be nonetheless sufficiently compact when they "are not materially stranger in shape than at least some of the districts contained" in a jurisdiction's current districting plan. [165]

At the other extreme, some courts decline to find substantive VRA liability when the only possible minority-controlled districts are, in the court's view, insufficiently compact. Thus, one federal court recently rejected a proposed district as "an Odd contortion" that "reaches down to get a pocket of white voters in the south-east-central part of the county and then curves around to the west and then back to the north-east corner of the county . . . ." [166] Rhetorically asking, "does a legislative body have to draw lines in a distorted way?" the court answered "no." [167] Similarly, another federal court recently rejected a VRA challenge to a county supervisory district in which the plaintiffs' proposed plan joined black residents from three distinct municipalities into a single district. The court concluded that " t his exercise results in extreme gerrymandering," with the district being "drawn in an unusual or illogical manner." [168]

Courts also merge the definition of compactness into other relevant districting criteria, such as whether the district preserves a "community ***534** of interest" or enables "effective representation." Yet, even when courts merge these inquiries, the decisions continue to conflict. For example, the Dillard court said "a district would not be sufficiently compact if it [were] so spread out that there was no sense of community" [169] and then went on to accept a narrow district that stretched most of a county's length. In contrast, the court in East Jefferson Coalition for Leadership and Development v. Jefferson Parish [170] adopted a similar "recognizable community" definition of compactness, [171] but, in applying the standard, it held that a thirty-five-sided district that crossed the Mississippi River failed to meet the standard. The failure to create this district, therefore, did not constitute a VRA violation. [172]

Different federal courts have also interpreted compactness requirements inconsistently with respect to the same geographic features. A recurring issue is whether minority areas in different regions can be joined through corridorlike connections. One court rejected a districting plan that connected two black populations by a "long, narrow corridor."

The court labeled this "unacceptable 'gerrymandering"' that "arbitrarily cuts diagonally through the center of the county." [173] But another court explicitly approved a "corridor" between black populations, concluding that it was "not unreasonably irregular in shape, ***535** given the population dispersal within the County." [174]

Whether any of these federal court decisions merely appear to be in tension with each other, or directly conflict, cannot be determined without an intensely local appraisal of each geographic context. At the least, however, these decisions, and others like them, [175] reveal considerable uncertainty as to how courts and other bodies interpret and weigh compactness against other relevant redistricting values. This is not surprising: compactness is the conceptual point at which the tension between the traditional American commitment to territorial districting and the VRA concern for fair representation of group interests must be resolved. [176]

The appropriate trade-off between enhancing minority representation and respecting the interests reflected in a territorial-based districting system is both elusive and an issue of considerable political and ***536** philosophical conflict. In the absence of some guidelines for making this trade-off, the likely result will be increasingly inconsistent judicial decisions and manipulative uses of the VRA by districting bodies. One alternative is to develop quantitative approaches for evaluating district appearance. In Part III, we turn to that task.

III. Defining District Appearance Consistently

Recent developments in both theory and technology now make it possible to evaluate district "appearances" in a systematic and consistent way. Quantitative information can now be generated concerning different aspects of an election district's shape, including how much its borders meander and how much the area it covers is concentrated or diffused. In this Part, we show how such quantitative measures provide a better alternative to judging district "compactness" than the intuitive approaches courts used before Shaw. In addition, Shaw elevates the stakes considerably in the search for a workable means of defining "irregular" districts, for, with a constraint of this sort constitutionally enshrined, judicial power over the politics of redistricting is potentially expansive, undisciplined, and explosive. Quantitative measures for assessing election-district shapes provide perhaps the most promising approach to turning Shaw into a set of relatively clear and principled guidelines.

The theory of Shaw makes social perceptions about district appearance central. This might suggest that these social perceptions are what we should seek to quantify. Nonetheless, for several reasons, we focus instead on district appearance itself. Although we believe the impulse behind Shaw ultimately rests on judicial concerns for social perceptions, we believe those concerns must necessarily operate at a general level, rather than forming the basis for concrete decisions regarding particular districts. That is, Shaw is not likely to become a transmission belt through which social perceptions are directly relayed, case by case, into constitutional doctrine. The spectre of legal decisions turning on public opinion surveys is no more appealing here than in other areas in which legal doctrine is nonetheless responsive, in a general sense, to social perceptions. The problem is not just the unadministrability of any legal standard grounded on such vaporous foundations. More importantly, the relevant social perceptions would have to be ones the legal system could legitimately credit; only perceptions that are properly informed, for example, and generated under normatively appropriate conditions could plausibly be relevant. Thus, the relevant social perceptions would have to reflect acceptance of governing law, such as the VRA itself, as well as awareness of relevant ***537** general facts, such as, perhaps, the way in which redistricting routinely operates.

As a result, courts implementing Shaw cannot treat social perceptions as a brute fact on which to ground decisions, even if we could measure those perceptions accurately. Courts must inevitably play the more active role of attributing normativity to certain perceptions; in the mediating legal language typically used in such contexts, courts must decide which social perceptions to deem "reasonable." Ordinary observers, for example, might recoil at the shape of many or most congressional districts today, but Shaw does not penetrate this deeply into the foundations of current politics. Shaw

is designed to deal with aberrational contexts, not routine ones — with "highly irregular" and "bizarre" districts, not common ones. Courts will have to determine legitimately and consistently when this line can be said to have been crossed.

Shaw thus sets into motion constitutional doctrine ultimately concerned with social perceptions and collective understandings, but a doctrine that courts must necessarily implement with some critical perspective on these perceptions. At the moment, there appear to be two alternative methods by which courts might take on this role. The first is for courts to evolve, on a case-by-case basis, a series of qualitative judgments concerning when districts are sufficiently "irregular" to trigger strict scrutiny. In the context of redistricting, this common law evolutive approach poses multiple dangers. Individual judges do not confront enough redistricting cases to be likely to develop sufficiently informed intuitions about the broader pattern of district shapes. If left to their untutored qualitative assessments, judges are likely to render inconsistent and unpredictable decisions, as has occurred with previous efforts to enforce compactness standards. Yet the costs of uncertainty in this area are particularly high. Redistricting forces on all sides will struggle to exploit any uncertainties for political gain. Fomenting yet more litigation and further delaying the time at which plans become effective create additional costs.

The second alternative for implementing Shaw — the quantitative approach we develop here — is more promising, not just for implementing Shaw, but for other, related purposes. First, Shaw requires that values associated with district appearance be judicially separated from other relevant redistricting concerns; district appearance triggers strict scrutiny, after which jurisdictions must offer sufficient justifications to account for "highly irregular" shapes. To implement this framework, district appearances must therefore be separated, at least initially, from other districting values. Before Shaw, many commentators ***538** had resisted treating appearance or compactness as of any intrinsic value; compactness might be associated with relevant substantive districting values, like preserving communities that shared common political interests, but commentators viewed compactness as a poor proxy for those values. [177] Similarly, commentators disagreed as to whether a requirement of compactness is an important instrumental prophylactic against partisan and other forms of gerrymandering. [178] ***539** For Fourteenth Amendment purposes, however, the terms of the debate have shifted. Shaw isolates district appearance and turns it into a threshold factor for setting strict scrutiny into motion. Thus, district appearance must now be constitutionally assessed, in and of itself, regardless of whether commentators might value it intrinsically, instrumentally, or not at all.

Second, outside of constitutional law, Shaw will also likely pressure courts to focus more attention on what compactness ought to mean under the VRA. Statutory requirements of compactness will be implicated in numerous voting-rights cases, particularly for dispersed minority populations, thus generating the need for clear guidelines implementing this element of the VRA. Quantitative measures of compactness are a way of providing clear and consistent standards for courts and reapportionment bodies to follow.

Third, such measures can be used to shift the focus of courts and others from individual districts, examined in isolation, to the pattern of districting within a state, as well as nationwide. We can also compare the shapes of districts historically, enabling examination of the response of district shapes to various forces over time. This kind of information can make judicial inquiry into district "appearances" meaningful by establishing the baselines against which individual districts can be evaluated. Absent such baselines, different judges are likely to find quite different districts failing their intuitive conception of "bizarre." This information is also crucial for general public discussion of where we are and ought to be in the legal regulation of the redistricting process. Thus, in Part IV, we are able to rank all the current U.S. congressional districts, compare North Carolina District 12 to other districts, indicate how many majority and minority districts are designed in ways that might trigger the strict scrutiny of Shaw, and compare U.S. congressional districts over time.

The information we provide here should be used carefully, and we must note several caveats at the outset. As in most legal areas, quantitative measures for redistricting are not a panacea. With respect to the question in Shaw, quantitative measures cannot be used mechanically to determine whether a district is "bizarre." Even after district shapes are catalogued in absolute terms, the significance of the results will continue to depend on the specific contexts

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

in which particular districts exist. Maryland, for example, is a convoluted state, and any "irregular" district there is presumptively less troubling than a similar district in the square state of Colorado. The results of our quantitative studies enable meaningful threshold comparisons. The ultimate significance ***540** of any quantitative assessment of district "appearance," however, necessitates analysis of the specific political and geographic context in which particular districts originated.

In addition, we do not suggest that there is some ideal level of compactness that every district ought to meet. Nor do we suggest that there is some objective level of "highly irregular" that every district ought to avoid. Neither Shaw nor the VRA entail any requirement that districts meet some Platonic ideal of shape. Similarly, at what point irregular districts become "too irregular" is a political and legal judgment about the appropriate trade-off between competing values; quantitative measures can provide absolute and comparative information about districts, but they cannot resolve this question of judgment. Once such judgments are made, however, quantitative measures can assist in ensuring that they are carried out consistently.

Redistricting is an area in which quantitative standards have demonstrated their appeal in the past. Once Baker v. Carr [179] declared malapportionment claims justiciable, legal principles gravitated quickly, indeed almost ineluctably, to the one-person-one-vote quantitative formula. Although there is disagreement over the extreme mathematical exactitude the Court has given this principle, [180] there is little disagreement that one person, one vote is the appropriate ideal. Quantitative measures of compactness cannot function in precisely the same way as the one-person-one-vote measure, because no obviously analogous ideal exists toward which all district shapes should converge. Yet, after Shaw, similar forces may impel courts toward using quantitative approaches to define, at least, the outer-boundary constraints the Constitution now imposes on the conjunction of race-conscious districting and district shape. Given that no approach to redistricting is politically neutral, public confidence in both courts and redistricting bodies is likely to be enhanced through quantitative standards capable of being applied in consistent ways.

A. The Nature of the Problem

Shaw suggests that North Carolina District 12 is self-evidently so extreme in design that it stands out at a glance. Thus, while Justice O'Connor acknowledges the possible "difficulty of determining from the face of a single-member districting plan that it purposefully distinguishes between voters on the basis of race," she emphasizes that ***541** "proof sometimes will not be difficult at all." [181] As another example, she points to the obviously "tortured" [182] municipal boundaries in Gomillion v. Lightfoot. [183]

The task of determining when district appearances are so "highly irregular" as to require strict scrutiny, however, will be more difficult than these comments suggest. First, the language of "appearance" obscures the fact that districts might be oddly shaped along several different dimensions. In the absence of a clear conceptual understanding of what dimensions of district appearance are relevant, the basis for judging districts will be unclear. Different observers will find different aspects of districts to be troubling. Second, district shapes vary along a continuum; they do not come marked in two clearly distinct categories of the reasonably regular and the bizarre. Third, one cannot adequately distinguish the relevant variations among districts through intuitive, eyeball assessments.

To begin to understand the nature of the problems, consider Figures 2 and 3, which show thirteen current congressional districts drawn after the 1990 Census.

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE
TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE
TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE
TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE
TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE
TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

***548** Most observers would probably agree that Michigan CD7 (Figure 2(a)) is considerably more compact than Texas CD18 (Figure 2(g)), and that Michigan CD9 (Figure 3(a)) is more compact than Florida CD22 (Figure 3(f)). Beyond these observations, it becomes more difficult to make such assessments; but the districts in Figures 2(a) and 3(a) might also generally seem reasonably compact. Perhaps there would even be agreement that the districts in Figures 2(g) and 3(f) are irregular, maybe extremely so. Line-drawing problems, however, quickly become substantial. If the districts in Figures 2(g) and 3(f) were minority-dominated districts, would their design be so irregular as to be presumptive evidence of districting processes in which race had exerted too dominant an influence over other values? What about districts "close to" the most distorted ones in the country — such as districts "in between" Figures 2(f) and 2(g) or in between Figures 3(e) and 3(f)?

Keep in mind that there are 428 congressional districts in states with more than one representative. Given this large number, the range of shapes illustrated in Figures 2 and 3 is not surprising. Indeed, one would expect an almost continuous gradation from very regular to very irregular. Of course, a single court would not have to ***549** consider all 428 districts simultaneously. Litigation involving a single state would typically involve only five to twenty districts. Nevertheless, consistent standards are needed to guide and constrain policymakers. Left to intuitive judgments, policymakers will find the task of ordering districts by appearance unlikely to yield consensus. [184]

Part of the difficulty involved in creating standards stems from the fact that "the" appearance of a district could mean one of several things. District shape can be measured along several seemingly relevant dimensions. We will define these different dimensions in technical detail shortly, but we first describe them in more intuitive terms.

First, we might ask how dispersed, or spread out, a district is. This question is commonly taken to mean how efficiently the district covers the territory it includes: in common terms, the question is how "round" or "square" the district is, or how "long" it is versus how "wide." [185] From this perspective, the crucial issue is the degree to which a district has a central core and the extent to which all points in the district are relatively close to that core. If we judge districts in terms of how dispersed they are, circular or square districts will be the most compact. Extremely long and narrow ones are much more dispersed and hence would be judged as less compact, as would districts that tie together two or more core areas with narrow corridors. Dispersion is also worse if "fingers," or other protrusions, stick out from the main body of a district.

Second, one might judge districts by the regularity or length of their perimeters. The important concern in this assessment ought not to be the number of sides, but how similar and regular the sides are. From this perspective, what matters is how much a district's borders wander around in contorted ways. Legislative districts with smooth borders, especially ones of equal length, are most regular or compact. When borders are not straight or when they repeatedly twist and turn, perimeter measures will be accordingly low.

Third, we might judge districts in terms of how regularly they distribute the population in and around the district. We are less accustomed to judging shapes this way; it does not play a role in elementary geometry. In the context of legislative districting, however, such a measure makes some sense. Legislators represent people, not land. ***550** Moreover, the way in which district lines move through or around population concentrations is at the heart of concerns regarding such devices as "cracking" or "packing" minority populations. One way to systematize these concerns is to examine the size of the population in the district and compare it to the population outside but near the district. From this perspective, a district that encapsulates most of the population in some well-defined area would be highly regular. Exclusion of large numbers of people who live within such an area makes a district fare much worse on this dimension.

Choosing among these different dimensions makes a significant difference in judgments about the "appearance" of legislative districts. A district can be "highly irregular" in one dimension but not in others. Consider the contrast between "dispersion" and "perimeter" in, for example, Texas CD18 (Figure 2(g)). This district includes most of the city of Houston, is by far the most Democratic in Texas, and was designed to yield a fifty-one percent black population (forty-nine percent black voting-age population). The adjoining Texas CD29 was designed in 1991 as a new Hispanic district, thought to be required under the VRA, and has a Hispanic population of sixty percent (voting-age population of fifty-four percent). To achieve these dual objectives, the redistricters carved heavily Hispanic blocks out of Texas CD18 and moved them next door into Texas CD29. [186]

Texas CD18 is not spread over a large area, hence it does not enclose a highly dispersed population. Despite being part of a large metropolitan area, its bands of streets and neighborhoods do not stretch out excessively. Although it contains extremely narrow corridors, it does not, like North Carolina CD12, stretch between cities many miles apart. Consequently, in terms of the first dimension described above — dispersion — Texas CD18 is not highly irregular. Yet, to some observers, the shape of this district is likely to be as troubling as that of North Carolina CD12. Its borders, especially on the west, meander in and out in an almost continual dance. In the second sense described above — perimeter regularity — this district is certainly extreme.

Next, consider Florida CD22 (Figure 3(f)). This district contains the barrier islands and lucrative beachfront properties of Florida's Gold Coast and has the highest percentage of over-sixty-five residents of any U.S. congressional district. This district is not a minority one, though its shape resulted in part from efforts to maximize the black ***551** percentage in the adjoining 23d and 17th districts. [187] The borders of Florida CD22 are relatively smooth. [188] With few exceptions, the district does not snake into and out of the neighborhoods of cities. While in some places it moves farther inland than in others, this pattern is obviously necessary to include a sufficiently large population. In terms of perimeter, this district is fairly regular. [189] Yet in length and width, the district stretches nearly 100 miles from north to south and is never more than about five and a half miles wide. This shape makes it look more like a flagpole than any other district in the country. In the sense of dispersion — in terms of its territory not being close together — this district is certainly extreme.

Intuitive assessments based on visual appearance alone are thus likely to produce tremendous uncertainty. Indeed, if we now return to what is frequently considered the most egregious and self-evident example of the manipulation of district boundaries, the classic Gomillion case, the difficulties become even more obvious. Consider Figure 4, the Tuskegee municipal boundaries before and after the city council redrew them.

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

***552** Justice O'Connor suggests that this example is extreme on immediate inspection. Yet, in terms of visual appearance alone, the twenty-eight-sided figure hardly looks more irregular than a number of the districts in Figures 2 and 3. [191] If the Tuskegee boundaries are extreme simply because of the way they look, the majority of congressional districts would be equally extreme. [192] What actually makes Gomillion easy and exceptional is that, in the context of Tuskegee, this particular pattern of line drawing had such a racially differential effect that it could only be a blatant example of a racist design to exclude black residents ***553** from the political boundaries of the town. [193] Any intuition that the appearance of this twenty-eight-sided figure, standing alone, is an example of extreme manipulation of district appearance would be considerably misguided.

Thus, both abstract considerations of the different ways one can judge appearance and the current array of congressional districts argue for a more systematic, consistent way of comparing district appearances. Fortunately, in recent years, quantitative methods for assessing district appearance have been developed. The results are expressed in terms of a

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

district's compactness. While measures of compactness are only now being introduced into redistricting procedures and their use is not yet settled, Shaw makes certain quantitative measures more meaningful and relevant than others.

B. Three Quantitative Measures of Compactness

Compactness has been part of the redistricting lexicon for over a century, but only recently has it been rigorously and quantitatively defined. Even with the development of appropriate, theoretical definitions, the technology for measuring compactness was not effectively available until the 1990s. The recent digitization of U.S. geography carried out by the U.S. Census Bureau has made it possible to apply the new quantitative approaches with considerable accuracy. [194]

Compactness can be measured along several dimensions and in different ways. In a systematic review of proposed conceptions of compactness, which one of the authors of this article led, [195] three distinct dimensions emerged as most relevant. [196] These dimensions are the traits we have described colloquially above: dispersion, perimeter, and population. We now provide more technical definitions of each and then employ the two of them to rank and analyze congressional districts throughout the country.

*554 1. Dispersion

The term dispersion captures "how tightly packed or spread out the geography of a district is." [197] Underlying all dispersion measures is the notion that a perfect district is a regular, simple shape, usually a circle. Different quantitative measures exist because different ideal shapes can be taken as a starting point [198] and because there are multiple ways of measuring deviations from the ideal shape. [199]

During the 1990s round of districting litigation, one approach became common. This technique measures the ratio of the district area to the area of the minimum circumscribing circle. [200] Such a test is intuitively meaningful and has useful technical features. Operationally, it involves taking the areas of the district and of the smallest circle that completely encloses the district. The ratio of the former to the latter yields the dispersion compactness score. [201] Hence, a circular district is perfectly compact. A square district is relatively compact because, when one draws a circle around the district, there is little area inside the circle that is not also in the district. A long, narrow district, or one with "fingers" or other extensions, is less compact because it takes a large circle to enclose the entire district, yet much of that circle is empty.

We arranged the congressional districts in Figure 3 in descending order of dispersion, measured in this way. Districts do not come much more square than Michigan CD9. Minnesota CD7 is too rectangular to be perfectly compact, but it still ranks high. Maryland CD3 circles around Baltimore and includes no area west of the city, which lowers its compactness. Ohio CD19 is stretched out, relatively long and narrow, and is consequently even less compact. Florida CD3 *555 essentially has no central core; not surprisingly, it has a very low compactness score. The extreme flagpolelike district discussed above, Florida CD22, has the lowest dispersion score of any district in the country.

Dispersion scores theoretically range from 1.0, which is perfectly compact — a circle — to 0.0 — a straight line. For the districts in Figures 3(a) to 3(f), the scores are .50, .40, .30, .20, .11, and .03, respectively. With an appropriate technical measure of how dispersed districts are, we are thus able to rank order congressional districts as well as to provide a more precise sense of the magnitude of the differences between the "appearance" of various congressional districts. This analysis can provide guidance to reapportionment bodies and discipline the judicial assessments Shaw now requires.

2. Perimeter

Instead of focusing on the dispersion of a district, we can examine the extent to which district borders wander in irregular ways. We do this through a perimeter measure; the most effective technical measure of perimeter relates length of the district perimeter to the area the district includes. [202] The intuitive justification for this measure is that a given perimeter length will enclose the most area if the shape it surrounds is a circle. Once again, then, a circle is the baseline against which districts are compared. A precise definition of the measure we use here is the ratio of the district area to the area of a circle with the same perimeter. [203]

***556** In general, districts that have smooth borders and relatively regular shapes will have shorter boundaries and enclose considerable area given the boundary length. They therefore score high on this perimeter measure. Convoluted district borders substantially lengthen the boundary without enclosing more area and hence score low.

We arranged the congressional districts in Figure 2 in descending order of perimeter scores. Michigan CD7 has nearly straight borders and is relatively square-shaped. Mississippi CD5 is regularly shaped and has mostly smooth borders, except along the Mississippi River and Gulf Coast. [204] California CD22 has a stair-step border on the northeast. This feature, in addition to the coastline and two small islands, lowers its perimeter score, but the district remains sufficiently regular for its score to fall in the middle of the district scores shown. Wisconsin CD9, Texas CD14, and North Carolina CD7 have increasing boundary twists and turns, and they therefore score progressively lower. Finally, the border of Texas CD18 is extraordinarily long for the area it encloses as a result of the many narrow corridors, wings, or fingers that reach out to enclose black voters, while excluding nearby Hispanic residents.

Perimeter scores, like dispersion scores, theoretically range from 1.0 to 0.0. The perimeter scores for the districts in Figures 2(a) to 2(g) are .50, .40, .30, .21, .10, .05, and .01, respectively. Using this measure, we can rank all congressional districts in terms of the regularity of their borders, as well as suggest the magnitude of differences between districts. If courts applying Shaw focus on district perimeter, this quantitative approach can yield a far more systematic and clear set of norms than intuitive judicial assessments.

3. Population

A third focal point for concerns of district "appearance" is sometimes taken to be the way in which a district distributes voters. We can translate this concern into a population measure, which focuses not on shape alone, but on the distribution of population between a district and its surrounding territory. Developing a quantitative measure requires some way of comparing the district's population with the "nearby" excluded population. Commentators have suggested two ***557** similar measures; both are ratios in which the numerator is the district's population. [205] In the most common measure, the denominator is the population in what is called the "rubber-band" area around the district — the area that would be inside a rubber band stretched tightly around the district. [206] In the alternative measure, the denominator is the population in the minimum circumscribing circle — it excludes populations that would fall outside the state. Both measures vary from 1.0 to 0.0. [207] For reasons we describe in Section III.C, population measures do not seem to reflect the concerns Shaw expresses. Thus, we do not provide quantitative assessments of the districts in Figures 2 and 3 in terms of population measures.

C. The Relevant Measures Under Shaw

Of the three potentially relevant measures of compactness — dispersion, perimeter, and population — the first two best capture the concerns Shaw expresses. Although the decision offers little in the way of specific criteria for judging "bizarre" appearances, it invokes many synonyms for widely dispersed districts and for those whose borders are severely distorted. Indicating concern for perimeter manipulation, Shaw refers to Gomillion as employing "a tortured municipal boundary

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

line," [208] and Shaw similarly takes note of the way in which North Carolina CD12 "winds in snake-like fashion" through various areas. [209]

At the same time, Shaw also refers to the concentration of a "dispersed" minority population and to individuals "widely separated by geographical and political boundaries." [210] In describing District 12, the Court notes that it is "approximately 160 miles long and, for much of its length, no wider than the I-85 corridor." [211] These comments refer not to twists and turns of district boundaries, but to how spread out the district is, both geographically and with respect to the types of areas — rural versus urban, farming versus manufacturing — it encompasses. Similarly, the proposed state senate district, about which ***558** the Court intimated doubts in Growe v. Emison, [212] has a relatively smooth, but elongated, border. [213] These comments point to concerns about a district's dispersion.

For these reasons, we believe that if courts and reapportionment bodies look to quantitative approaches to implement Shaw, the dispersion and perimeter measures are the most appropriate. Population measures do capture certain manifestations of partisan or racial gerrymandering, but they do not measure "shape" in the usual sense and therefore do not necessarily reflect the problems Shaw identifies. [214] In our quantitative assessment of congressional districts throughout the country, we will therefore rely on only the dispersion and perimeter measures.

In interpreting the results that follow in Part IV, one must keep in mind at least three complexities, to which we have alluded above. [215] First, compactness, as quantified, varies on a continuum from zero to one. The point when the compact becomes the noncompact requires judgments about social perceptions that Shaw barely begins to articulate. [216]

Second, although both dispersion and perimeter appear relevant under Shaw, they measure different dimensions. Recall the contrast between the tight core and wandering boundaries of Texas CD18 (Figure 2(g)) and the highly dispersed, but smooth bordered, Florida CD22 (Figure 3(f)). [217] Different quantitative measures will not always ***559** rank individual districts, and even districting plans, in identical order. [218] For many districts, the two measures will yield similar results, but, when they conflict, questions will remain as to which measure, or what combination of the two measures, should be the focus.

Third, one must take care in comparing compactness scores across states and between different types of jurisdictions. The more compact a state as a whole, the more one might expect its individual districts to be compact. [219] Similarly, as a general rule, we might expect state legislative and local districts to be more compact than congressional districts. [220] Contextual differences of these sorts must be considered before drawing ultimate conclusions concerning comparisons across districts. At the same time, Shaw seems to discuss district appearance in absolute terms or as a generic concept; before requiring strict scrutiny for District 12, the Court did not compare it to other congressional districts in North Carolina or anywhere else. With the quantitative measures defined and these caveats in mind, Part IV analyzes the compactness of congressional districts throughout the country.

IV. The Compactness of Congressional Districts in the 1980s and 1990s

In this Part, we apply our quantitative methods to answer three questions that Shaw raises. First, we compare North Carolina District 12 to other districts in the state to determine the extent to which ***560** District 12 is aberrational. Second, we examine post-1990 congressional districts throughout the country to determine which districts, and how many, have dispersion or perimeter scores comparable to District 12. Specifically, we determine how many African-American-dominated, Hispanic-dominated, and white-dominated districts have shapes that appear, at least initially, to be as irregular as District 12. As a related point, we also show how many congressional districts would be affected if courts translated Shaw into an absolute requirement that districts not exceed some specific measure of compactness.

Finally, we compare the shape of congressional districts in the 1990s with those in the 1980s to determine whether districts have become less compact in recent years. If they have not, Shaw would constitute a sudden change in the legal rules governing districting. If they have, Shaw would not change the rules in the middle of the game, but rather would be a response to the changed context of districting.

A. North Carolina District 12 in the Context of the 1990 North Carolina Redistricting Plan

After the Justice Department's denial of preclearance for its first effort at redistricting, the North Carolina General Assembly eventually designed the twelve-seat congressional districting plan that took effect in time for the 1992 congressional elections. As a map of this plan shows,[221] it included several districts, in addition to CD12, that many observers might consider irregularly shaped.

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

***561** Note: The shaded districts, Districts 1 and 12, are minority-dominated ones. In the 1992 congressional elections, District 1 elected Eva Clayton and District 12 elected Melvin Watt, North Carolina's first two black congressional representatives since Reconstruction.

***562** Several facts immediately stand out. First, in a certain obvious sense, District 12 is unlike any other district in that it wanders through the middle of the state as a long, thin line. On the other hand, it might be less distinct than many readers would expect. Shaw emphasizes the extreme length of District 12, but the northwestern-most district, District 5, covers more miles east to west and a similar number of miles north to south. Indeed, many readers may be surprised by how many districts in North Carolina fall considerably short of being square or rectangular. We wonder whether even two districts satisfy many readers' intuitive view of how districts should be drawn. In general, this map confirms the fact that district shapes vary along a continuum and that separating them through an eyeball assessment is extremely difficult. Is District 1, 2, 3, 7, or 10 considerably more compact than District 12? How can one meaningfully compare the appearance of these other districts with District 12 and with each other?

In Table 2, we provide the dispersion and perimeter scores for the 1990s North Carolina congressional districts:

Table 2

Compactness of North Carolina Congressional District in 1990s[222]

	COMPACTNESS MEASURE	
DISTRICT	**DISPERSION**	**PERIMETER**
1	.25	.03

2	.25	.06
3	.35	.06
4	.40	.32
5	.14	.08
6	.44	.09
7	.29	.05
8	.33	.17
9	.28	.07
10	.30	.06
11	.29	.14
12	.05	.01
Mean	.28	.095
Standard Deviation	.10	.08

With these quantitative assessments, we can reach one confident conclusion. District 12 is certainly the least compact of North Carolina's districts; measured either in terms of dispersion or perimeter, District 12 ranks lowest in the state. Whether it is so unique as to be consideredan ***563** aberration, however, becomes a matter of judgment. In terms of the dispersion measure, District 12 falls far below any other district,[223] even when compared to its nearest competitor, District 5. Along this dimension, most other districts are considerably more compact. This comparison means that District 12 has less of a central core than all other districts or, conversely, that it is relatively longer and narrower than other districts. It incorporates a significantly more geographically dispersed population. With respect to district perimeters, however, District 12 is far less unusual. While it remains the least compact when judged this way, the perimeter scores for nine of the twelve districts are less than 0.10. These scores are quite low compared to districts throughout the country.[224] Indeed, almost all the districts in North Carolina have perimeters that could be classified as quite, if not extremely, irregular.[225] To observers who focus on CD12 in isolation, this result might come as a surprise. It might also raise questions as to whether the "appearance" of any congressional district ought to be evaluated on its own or only in the context of the other districts in the same redistricting plan. Perhaps irregular minority districts are, or should be, less troubling when contained within a redistricting plan that employs similarly contorted majority-dominated districts.[226] In Shaw, the Court's first entry into this arena, however, the Court assessed CD12 in isolation from other districts in the same plan.

B. The Compactness of 1990s Congressional Districts Throughout the Country

With the quantitative measure we have described above and recently developed technology, we are able to rank congressional districts ***564** throughout the country in terms of their dispersion and perimeter.[227] In Table 3, we provide an abbreviated version of this information by listing the congressional districts whose dispersion or perimeter score (or both) is relatively low. In choosing the cutoff points used in Table 3, we do not imply that all districts below those points, or only those districts, are vulnerable after Shaw. Later in this section, in Table 4, we show how many districts, majority and minority, are affected when a range of different cutoff levels are used to define "low" dispersion and perimeter scores.[228] The cutoff points in Table 3 are somewhat arbitrary,[229] and on each dimension they are higher

than the scores of North Carolina District 12. Nonetheless, because they identify the districts that are objectively least compact, these are the most important tables we present for the purpose of Shaw's future application.

Table 3

1990s Congressional Districts With Low Dispersion Or Perimeter Compactness Scores [230]

DISTRICT	DISPERSION SCORE	PERIMETER SCORE	LARGEST POPULATION GROUP	
CA36	.04	.10	White	69%
FL3	.11	.01	Black	55
FL17	.08	.06	Black	56
FL18	.14	.03	Hispanic	67
FL22	.03	.05	White	83
HI2	.05	.11	Asian	53
IL4	.19	.03	Hispanic	65
LA4	.13	.01	Black	66
LA6	.29	.05	White	82
MA3	.14	.11	White	78
MA10	.15	.06	White	94
NJ13	.11	.07	White	42 [a2]
NY5	.19	.05	White	79
NY7	.22	.05	White	58
NY8	.06	.03	White	74
NY9	.27	.04	White	82
NY12	.12	.02	Hispanic	58
NC1	.25	.03	Black	57
NC5	.14	.08	White	83
NC7	.29	.05	White	70
NC12	.05	.01	Black	56
TN4	.12	.08	White	95
TX3	.29	.05	White	86
TX6	.21	.02	White	88
TX18	.36	.01	Black	50
TX25	.20	.02	White	53

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

TX29	.19	.01	Hispanic	61
TX30	.24	.02	Black	49 a2

Footnotes

Note: Districts shown here are all those with a dispersion score of ≤ 0.15 or a perimeter score of ≤ 0.05. For the purpose of this table, 'White' means non-Hispanic white; 'Black' means non-Hispanic black; and 'Asian' means Asian or Pacific Islander. 'Hispanics' may be of any race, and 'population' refers to total population.

a2 Please also note that blacks and Hispanics constitute a majority in NJ13 and TX30.

***565** One must make comparisons carefully because of the effects of state shapes.[231] Twenty-eight congressional districts fall below the ***566** compactness levels we have selected. In two cases, however, the low scores are clearly artifacts of their unusual geography; they can be quickly dismissed because geography, not legislative politics, immediately accounts for their apparently low compactness. Hawaii CD2 is composed of islands, and California CD36 includes two islands as well as part of the coast in the greater Los Angeles area.[232]

With respect to the remaining districts, one result is immediately striking. If we rather crudely consider dispersion and perimeter simultaneously, by simply adding the two scores, North Carolina CD12 turns out to be the worst district in the nation. In this specific sense, this district is truly exceptional. Thus, if a district must be at least as "bizarre" as District 12 to trigger strict scrutiny, and if bizarreness is measured by adding dispersion and perimeter scores, District 12 stands alone. This result is potentially of considerable significance: if Shaw is applied by adding the quantitative and perimeter measures used here, no other current congressional district is as extreme as that in Shaw.

At the same time, District 12 is not a statistical outlier under this combined approach, for other districts are not far behind. New York CD8 and Florida CD22 are nearly at the level of North Carolina CD12 on both measures, followed closely by Florida CD3 and CD17, Louisiana CD4, New York CD12, and then by Florida CD18 and New Jersey CD13.

While combining the two measures in this way is revealing, it poses several theoretical and conceptual problems. Most significantly, Shaw provides no guidance as to whether a district should be considered "highly irregular" if it is extreme on either dimension — dispersion or perimeter — alone or only when these two dimensions are combined. This point is especially relevant for districts like the previously discussed Texas CD18, which is not spread over a large area but does have a very irregular border.[233]

If we focus on dispersion scores alone, North Carolina CD12 turns out to be the second worst in the nation,[234] with the long, narrow district we described earlier, Florida CD22, at the bottom.[235] Other ***567** districts, however, follow close behind. If Shaw requires that CD12 be deemed noncompact, the question of how to treat districts that are similarly, but not quite as badly, dispersed — such as New York CD8 (majority white) or Florida CD17 (majority black) — remains open.

If we focus on perimeter irregularities alone, North Carolina CD12 remains extreme, but several other districts are equally extreme. Even more clearly than with dispersion, compactness falls along a continuum when we focus on the shape of boundary lines. Distinguishing the "unusual" from the "highly irregular" or "bizarre" inevitably requires seemingly arbitrary cutoffs.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

Note that over half the districts in Table 3 are majority white. In part, this distribution occurs because majority-white districts that border on irregular minority-majority districts necessarily incorporate those irregularities into their own boundaries.[236] In absolute terms, a greater number of extremely noncompact districts — as defined in Table 3 — are white-controlled districts. In relative terms, however, minority districts would currently suffer more from any rule that barred districts with scores below the levels of dispersion and perimeter in Table 3. The fifteen majority-white districts listed constitute only four percent of the 370 majority-white districts in the country. But the six majority-black districts are nineteen percent of the thirty-one majority-black districts nationwide, and the four majority-Hispanic districts are twenty percent of the country's twenty majority-Hispanic districts.[237] In addition, given our earlier analysis,[238] Shaw might have little or no effect on any of the extremely irregular white-dominated districts.

Table 3 further reveals that a few states have the most at stake in the way Shaw is applied. More than three-quarters of the districts in Table 3 are concentrated in only five states: Florida, Louisiana, New York, North Carolina, and Texas. In at least some of these states, Shaw has already influenced litigation.[239] That so many irregular districts ***568** are concentrated in a few states will exacerbate the problem of choosing the relevant baseline for assessing districts. As noted earlier, judges might evaluate an individual district against the mean compactness scores of other districts in that state. Alternatively, judges might examine an individual district in isolation or, perhaps more meaningfully, by comparing it to the kind of nationwide districting standards we make available in this article.

As noted, the cutoffs in Table 3 are somewhat arbitrary. In Table 4, we shift these threshold levels, while keeping them at the low end of the spectrum, and show how many minority and majority districts are affected as the "appearance" threshold changes.

Table 4

Number of 1990s Congressional District Falling Below Various Levels of Compactness[240]

	DISPERSION SCORE			PERIMETER SCORE		
	≤.15	.16-.20	.21-.24	≤.05	.06-.08	.09-.12
Number of Districts	15	25	27	20	30	31
Number of Minority Districts[a3]	07	11	05	10	10	05
Cumulative Number of Districts	15	40	67	20	50	81
Cumulative Number of Minority Districts	07	18	23	10	20	25
Number of Districts with Dispersion Score ≤.24 and Perimeter Score ≤.12			41			

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

Number of Minority Districts with Dispersion Score ≤.24 and Perimeter Score ≤.12	17

Footnotes

a3 Districts with combined black and Hispanic populations of more than 50%

The results further illustrate our argument that congressional districts lie along a compactness continuum. As cutoff levels are raised, even by small amounts, more and more districts fall below them. The levels in Table 4 also give a more concrete idea of the degree of compactness of districts at the low end of the spectrum. For example, one out of every twenty congressional districts currently in use has a perimeter score no higher than that of North Carolina CD7 (Figure 2(f)), and ***569** more than one in ten has a score less than that of Texas CD14 (Figure 2(e)).

The number of minority districts below various cutoffs goes up more slowly. Nonetheless, the results in Table 4 show in stark fashion the tension between the goals of more minority districts and high levels of compactness, at least as congressional districts were drawn before Shaw. If courts were to define "highly irregular" as districts that violated the strictest standards of both dispersion and perimeter that Table 4 uses, seventeen of the current fifty-one single-minority districts in the country would be subject to strict scrutiny.

C. Compactness of Congressional Districts over Time

In response to Shaw, some might argue that the Court's sudden concern with district appearances arose only when states began to use unusual boundaries to create minority-dominated districts. Those who take this view necessarily assume that districts have always been as contorted as they are presently. If this premise is right, Shaw might be taken to reveal a cynical or even invidious concern with district shapes only when they benefit minorities.

To test this premise, we compared the compactness of congressional districts in the 1980s and the 1990s.[241] We first focus on North Carolina, which had eleven districts in the 1980s. Table 2 contains the dispersion and perimeter scores for the 1990s districts;[242] Table 5, below, provides these scores for the 1980s districts.

Table 5

Compactness of North Carolina Congressional Districts in 1980s[243]

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

	COMPACTNESS MEASURE	
DISTRICT	DISPERSION	PERIMETER
1	.57	.46
2	.34	.27
3	.39	.27
4	.26	.26
5	.30	.29
6	.36	.33
7	.36	.28
8	.34	.28
9	.30	.22
10	.38	.27
11	.36	.42
Mean	.36	.30
Standard Deviation	.08	.07

***570** As these tables reveal, districts became significantly less compact, at least in North Carolina, after the 1990 round of redistricting. In terms of dispersion, all but one district had a score of .30 or above in the 1980s while, today, only five of the twelve districts are that compact. The perimeter measure, however, reveals even more striking results. Every current district, with the exception of CD4, has a considerably more distorted perimeter than the worst North Carolina district in the 1980s. Average perimeter compactness has plummeted. Although most North Carolina districts are still built around a core area — though less so than in the 1980s — they meander in and around that area to a far greater extent than previously. Compared to the 1980s districts, especially on the perimeter measure, almost all the current districts are significantly more irregularly designed.

For the most part, the pattern in North Carolina turns out to be a general one. Table 6 provides a state-by-state comparison of district compactness, measured in terms of dispersion and perimeter, for the 1980s and for the 1990s. We also show the numbers of districts falling below various levels of compactness.

Table 6

Compactness of 1980s and 1990s Congressional Districts, by State [244]

	DISPERSION SCORES			PERIMETER SCORES		
STATE	RANGE	MEAN	#≤.20	RANGE	MEAN	#≤.08
Alabama						
1980s	.28-.71	.44		.23-.46	.33	
1990s	.26-.48	.39		.11-.26	.18	
Arizona						
1980s	.30-.47	.42		.23-.44	.33	
1990s	.30-.57	.41		.15-.47	.25	
Arkansas						
1980s	.37-.54	.44		.21-.34	.28	
1990s	.35-.52	.44		.18-.35	.27	
California						
1980s	.09-.54	.33	4	.06-.39	.20	5
1990s	.04-.57	.39	2	.10-.45.	29	0
Colorado						
1980s	.31-.52	.43		.18-.44	.33	
1990s	.25-.56	.40		.15-.38	.26	
Connecticut						
1980s	.27-.54	.40		.12-.37	.26	
1990s	.27-.55	.41		.20-.39	.32	
Florida						
1980s	.16-.63	.40	1	.13-.56	.36	0
1990s	.03-.56	.31	7	.01-.50	.20	6
Georgia						
1980s	.19-.48	.34	1	.16-.48	.28	0
1990s	.17-.47	.34	1	.07-.32	.18	2

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

Hawaii						
1980s	.05-.30	.18	1	.11-.41	.26	
1990s	.05-.34	.19	1	.11-.38	.24	
Idaho						
1980s	.21-.54	.38		.21-.36	.28	
1990s	.21-.56	.38		.20-.34	.27	
Illinois						
1980s	.15-.53	.38	1	.14-.55	.30	0
1990s	.19-.56	.34	1	.03-.52	.27	1
Indiana						
1980s	.28-.53	.39		.16-.57	.33	
1990s	.25-.53	.39		.14-.57	.27	
Iowa						
1980s	.31-.56	.42		.33-.46	.38	
1990s	.32-.54	.43		.30-.54	.41	
Kansas						
1980s	.34-.54	.45		.33-.67	.50	
1990s	.35-.50	.44		.24-.51	.39	
Kentucky						
1980s	.26-.51	.41		.22-.42	.29	
1990s	.21-.64	.38		.16-.36	.24	
Louisiana						
1980s	.26-.60	.37	0	.09-.31	.24	0
1990s	.13-.48	.31	2	.01-.23	.09	4
Maine						
1980s	.31-.45	.38		.12-.21	.17	
1990s	.31-.45	.38		.13-.21	.17	
Maryland						
1980s	.18-.57	.39	1	.08-.40	.22	1
1990s	.16-.51	.32	1	.08-.37	.18	1
Massachusetts						
1980s	.17-.51	.32	3	.02-.54	.23	1
1990s	.14-.43	.28	2	.06-.28	.15	3
Michigan						
1980s	.20-.48	.35	1	.07-.51	.29	1
1990s	.20-.63	.43	1	.07-.61	.38	1

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

Minnesota						
1980s	.35-.54	.40		.26-.56	.37	
1990s	.36-.56	.45		.22-.47	.35	
Mississippi						
1980s	.29-.57	.46		.14-.41	.31	0
1990s	.30-.52	.43		.08-.40	.21	1
Missouri						
1980s	.37-.59	.45		.24-.57	.39	
1990s	.34-.58	.44		.18-.53	.32	
Nebraska						
1980s	.27-.46	.34		.28-.56	.38	
1990s	.33-.45	.40		.26-.49	.39	
Nevada						
1980s	.28-.54	.41		.25-.72	.49	
1990s	.43-.44	.43		.27-.56	.41	
New Hampshire						
1980s	.22-.32	.27		.18-.26	.22	
1990s	.23-.30	.26		.18-.23	.20	
New Jersey						
1980s	.20-.58	.37	1	.10-.39	.21	0
1990s	.11-.51	.33	2	.07-.37	.19	2
New Mexico						
1980s	.25-.48	.35		.26-.40	.34	
1990s	.36-.52	.44		.32-.37	.33	
New York						
1980s	.06-.56	.30	6	.03-.39	.20	7
1990s	.06-.55	.30	8	.02-.45	.20	8
North Carolina						
1980s	.26-.57	.36	0	.22-.46	.30	0
1990s	.05-.44	.28	2	.01-.32	.09	8
Ohio						
1980s	.25-.53	.39	0	.09-.49	.31	
1990s	.20-.61	.38	1	.11-.58	.27	
Oklahoma						
1980s	.23-.52	.37		.18-.27	.23	
1990s	.24-.59	.38		.16-.32	.22	

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

Oregon						
1980s	.20-.45	.36	1	.23-.43	.30	
1990s	.22-.46	.37	0	.15-.44	.27	
Pennsylvania						
1980s	.25-.55	.40	0	.10-.50	.27	
1990s	.16-.62	.39	1	.11-.45	.26	
Rhode Island						
1980s	.18-.28	.23	1	.06-.21	.14	1
1990s	.22-.46	.34	0	.22-.52	.37	0
South Carolina						
1980s	.23-.50	.40		.22-.39	.31	0
1990s	.22-.39	.31		.08-.29	.16	1
Tennessee						
1980s	.15-.43	.28	2	.13-.38	.26	0
1990s	-.12-.42	.30	1	.08-.26	.17	1
Texas						
1980s	.23-.57	.39	0	.12-.52	.26	0
1990s	.19-.54	.31	5	.01-.38	.13	9
Utah						
1980s	.43-.51	.46		.27-.35	.31	
1990s	.32-.55	.46		.33-.40	.36	
Virginia						
1980s	.20-.55	.37	1	.12-.44	.30	0
1990s	.22-.52	.31	0	.06-.29	.17	2
Washington						
1980s	.26-.56	.38	0	.11-.42	.24	
1990s	.20-.53	.38	1	.12-.43	.25	
West Virginia						
1980s	.26-.44	.32	0	.15-.31	.23	
1990s	.20-.39	.28	1	.11-.19	.15	
Wisconsin						
1980s	.24-.51	.38		.19-.45	.30	
1990s	.25-.63	.39		.18-.72	.33	
Nationwide						
1980s	.05-.71	.37	25	.02-.72	.28	16
1990s	.03-.64	.36	40	.01-.72	.24	50

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

Footnotes

Note: States with only one congressional representative are excluded. Slightly higher thresholds are used here than in Table 3 to show the large number of quite, if not extremely, low scores in the two decades.

***573** The nationwide figures make it clear, of course, that low compactness is not an invention of the 1990s. A few districts in the 1980s were extremely noncompact, nearly as much so as the least compact districts of the 1990s. In addition, a few states had significantly less compact districts in the 1980s than in the 1990s. California is the prime example. Under the Burton districting plan, considered one of the most notoriously partisan gerrymanders in recent years, several extremely contorted districts were created, making overall compactness scores lower than in the 1970s [245] and lower than those in most other states.

In general, however, there is no denying that the present congressional districts are less compact than those they replaced. [246] Between ***574** the 1980s and 1990s, average compactness levels dropped, precipitously in the case of district perimeters. More importantly, at extremely low levels of compactness, the number of districts increased sharply. Overall, the number of districts with very low scores rose substantially, with the decline in perimeter scores the most noticeable. Nationwide, the number of districts with scores at or below .08 more than tripled, as seen in Table 6.

State-by-state comparisons indicate that the number of states in which average compactness declined is greater than the number in which average compactness increased (by a margin of thirty-two to nine for perimeter scores). However, the results in Table 6 also reveal that low compactness is particularly prominent in a small number of states. The chronological comparison in those states indicates the depth of the change the 1990s districting created. In Florida, Louisiana, North Carolina, and Texas, only one district in the 1980s was below the dispersion or perimeter cutoffs shown in Table 6. In these same states in the 1990s, sixteen districts fall below the dispersion cutoff, and twenty-seven fall below the perimeter cutoff.

Three factors best explain this dramatic decline. First, since Karcher v. Daggett, [247] congressional districts must have virtually identical populations. [248] In pursuit of the mathematic exactitude the Court has demanded, jurisdictions necessarily have had to compromise other values, like compactness. This is a trade-off legal doctrine itself has imposed on political bodies. Second, the increasing sophistication of redistricting technology enables constant manipulation and recalibration of district boundaries to achieve that equalization, or other goals. The new computer programs facilitate twists and turns in perimeters that add or subtract small numbers of people until some desired level of equality is achieved — or until more partisan and personal agendas are realized. Third, the interpretation of the VRA in Thornburg v. Gingles [249] has played a major role. Gingles had the effect ***575** of requiring jurisdictions to put greater emphasis on fair and effective representation of minority interests. Because the emphasis on interest representation often conflicts with the traditional role of geography in constructing districts — particularly when minority populations are dispersed — Gingles has led to further deviations from compactness. These explanations are consistent with the greater decline in perimeter measures compared to dispersion measures and with the strong correlation between states with large minority populations and those whose perimeter scores declined in the 1990s. [250]

Whether rightly or wrongly decided, Shaw therefore cannot be seen as the Court's sudden awakening to a phenomenon of long-standing existence. Contorted appearances are not a new invention, but shifts in legal doctrine and technological developments have combined to produce generally less compact congressional districts and a number of extremely noncompact individual districts. In this sense, Shaw should be seen as an outgrowth of the changes occurring in the 1980s, including those the Court itself set into motion through changes in legal doctrine.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

V. Thresholds Versus Justifications: The Legal Role of Compactness

District "appearance" is a threshold, not an ultimate, issue under Shaw. It is important to be clear about the precise way in which Shaw makes compactness relevant. "Bizarre" districts that appear to be drawn for racial reasons are not per se unconstitutional. Instead, jurisdictions must offer specific, legitimate, and compelling purposes that account for the location and design of these districts. Under Shaw, noncompactness functions as a trigger for strict scrutiny; once a district crosses a threshold of noncompactness, special burdens of justification apply. Nonetheless, even extremely noncompact districts can survive strict scrutiny if sufficiently justified.

The process of justification involves two steps. First, the odd shape of a district must result from a state's pursuit of aims that are legitimate and constitutionally compelling. Second, the means the state chooses must be narrowly tailored to achieving those legitimate aims and no others. The issue of justification, therefore, is as crucial as that of appearance. Shaw, however, touches on that issue only briefly. In this last section, we can sketch a few considerations relevant to the justification inquiry.

***576** Potentially acceptable justifications can be divided into three types: those that are obviously legitimate; those that pose more difficult questions; and those that trace directly to the VRA. With respect to each, we both describe the general form of justification and suggest some of the difficulties courts will face in applying it. We then turn to the more pervasive and general problem posed by Shaw's demand that intensely political and partisan districting decisions be justified in terms of rational, articulable principles. This conflict between the political and the legal poses daunting obstacles to judicial application of Shaw.

A. Justifications: Ends

1. Conventionally Sufficient Ends

Certain traditional districting ends are, in theory, precisely the kind that will provide sufficient justification under Shaw for even "highly irregular" districts. They include respecting existing political boundary lines when they are oddly shaped, following natural geographic features of a landscape, and preserving "communities of interest." At the least, when a court finds these ends to be the dominant purpose behind a district's design, Shaw ought to be satisfied.[251] For mixed-motive cases, however, in which these purposes are present alongside race-conscious districting aims, Shaw provides no direct guidance. With respect to "highly irregular" minority districts, these cases are likely to be common. Whether in such situations the enhancement of minority representation must be a motivating factor, the dominant motivating factor, or the exclusive motivating factor remains an open question.

Even after courts determine the appropriate causation standard, the evidentiary and administrative difficulties they will face in seeking to untangle mixed motives will remain formidable. The underlying purposes and principles that animate Shaw should govern the choice of standard. If we are right that Shaw fundamentally concerns social perceptions that race has subordinated all other traditionally relevant values in redistricting — but that race-conscious districting is not per se a constitutional problem — the proper causation standard in mixed-motive contexts ought to track this concern. This interpretation might suggest that the enhancement of minority representation must be more than merely a motivating factor behind a "highly irregular" district; it ***577** must be either the exclusive explanation for that district or, at the least, the dominant purpose behind it. Deciding on which standard is most consistent with Shaw, however, requires a more detailed analysis of the likely effects of these different scenarios on social perceptions.

Apart from the problem of mixed motives, these theoretically sufficient justifications will pose additional conceptual difficulties in practice. With respect to "community of interest" justifications, reapportionment bodies often give some weight to defining districts in terms of attributed common interests. The list of potential interests, all reflected in actual

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

districting plans, includes urban interests, rural interests, coastal interests, agricultural interests, mountain interests, beachfront property ownership, ethnic interests, and many more. The intersection between race-conscious districting and the acknowledged legitimacy of preserving communities of interest generates at least three interrelated questions that courts applying Shaw must confront.

First, what kinds of interests can policymakers legitimately treat as the basis for attributing a community identity to some group? This question is normative, not descriptive. The issue is which of the many dimensions that might describe some group's common interest may be acted on by legislators. If living on the coast defines a legitimately distinct political interest, does being wealthy? If so, does being poor?

Once inroads into territorial districting can be made in the name of preserving communities of interest, the second question is whether policymakers can treat race itself as constituting such an interest. The argument for doing so is particularly strong when two of the predicates to a section 2 claim under Gingles are present: that is, when majorities engage in racial-bloc voting against minority interests that are themselves politically cohesive. Under these circumstances, there might be strong reasons for permitting, if not requiring, policymakers to define communities of interest in racial terms. If urban residents or rural residents can be assumed to have cohesive political interests, perhaps racial groups can as well [252] — particularly when this cohesiveness is not assumed, but demonstrated in fact.

With respect to "bizarrely" shaped race-conscious districts, however, Shaw seems to reject this kind of justification. If a "bizarre" district that appears to be a racial gerrymander cannot stand absent sufficient justification, the fact that the district was designed to be a racial gerrymander cannot provide that justification. This different ***578** treatment of race and other interests may be a basis for criticizing Shaw, but it is the sine qua non of the decision.

Third, as the Court has recognized in other contexts, race frequently correlates with other socioeconomic factors. [253] In evaluating oddly shaped districts, this correlation will require courts to attempt to untangle legitimate communities of interest from the now-illegitimate one of race. If blacks as blacks cannot be grouped into a "highly irregular" district, but urban residents or the poor can, how will courts distinguish these contexts, and under what mixed-motive standard?

In short, even the justifications most readily acceptable in theory — acknowledgement of existing political boundary lines, recognition of natural geographic features, preservation of communities of interest — will pose considerable difficulty in application.

2. More Complex Ends

Redistricting necessarily distributes political power between parties and specific politicians, particularly incumbent officeholders. In general, the Supreme Court has embraced political realism and, at least to some extent, tolerated these facts as inevitable or even desirable. As Justice White, perhaps the leading judicial realist in this area, wrote for the Court in Gaffney v. Cummings: [254] "Politics and political considerations are inseparable from districting and apportionment. . . . I t requires no special genius to recognize the political consequences of drawing a district line along one street rather than another. . . . The reality is that districting inevitably has and is intended to have substantial political consequences." [255] After Shaw, the extent to which partisan objectives and protection of incumbent officeholders will be permitted to justify "highly irregular" race-conscious districts, if at all, becomes a critical question.

Currently, the Justice Department is taking the litigation position that these ends partisan advantage or incumbent protection — do suffice to justify districts that Shaw requires to pass strict scrutiny. Thus, in post-Shaw litigation challenging certain black-dominated congressional districts in Louisiana, the Justice Department has filed a brief arguing that "where a compact majority-minority district could be drawn, but the state chooses to draw the district in a different, less ***579** compact way to protect an incumbent or to give partisan advantage to one political party, the state will be able

to explain the odd shape of the district on considerations other than race." [256] As a descriptive or analytic statement, this assertion is certainly accurate, as we argued earlier, [257] but whether these explanations will satisfy Shaw is more uncertain.

The pattern of judicial response to these motivations in other redistricting contexts forms an intricate mosaic. With respect to protecting incumbents, federal courts accept this as legitimate state policy in some contexts; moreover, federal courts are actually required to defer to state aims of this sort in some circumstances when those courts are called upon to redistrict. For example, in interpreting the cause of action Davis v. Bandemer [258] creates, which makes extreme partisan gerrymandering unconstitutional, courts increasingly focus on whether the plan treats incumbents of both parties "fairly." If a plan pairs too many incumbents from the same party against each other in a new district, this becomes significant evidence of impermissibly partisan redistricting. [259] In effect, this approach not only tolerates state efforts to protect incumbents, but comes dangerously close to ensuring fair districting by making public office a personal sinecure. [260] Federal courts have labeled protecting incumbents an "important state goal" [261] and a "legitimate" justification when special justifications for district design are required. [262] Similarly, the Supreme Court has held that, when federal courts are forced to choose among state redistricting plans, those courts must respect state policy preferences for preserving ***580** "the constituencies of congressional incumbents." [263]

Yet, in other redistricting contexts, federal courts have refused to acknowledge state interests in protecting incumbents. For example, when jurisdictions fail in repeated efforts to draw legally valid redistricting plans, federal courts assume that role. In these circumstances, some courts explicitly refuse to permit partisan or incumbency concerns to influence redistricting policy. [264] In the recent court-mandated reapportionment of the Minnesota legislature, the court evaluated the plan in terms of independent, nonpartisan fairness criteria, explicitly assuming a veil of ignorance concerning effects on incumbents. [265] In other cases, court-appointed expert witnesses have specifically requested that they not be provided with data concerning partisan or incumbent effects of various plans. [266] Arguably, an affirmative judicial role in redistricting might implicate different concerns than a more passive review of policymakers' reapportionment plans, but these cases reflect some judicial discomfort with legitimating too strongly state efforts to protect existing officeholders.

As for the legitimacy of partisan political aims, the argument that they justify "bizarre" race-conscious districts can be pressed in two forms. In the most compelling form, states might argue that oddly shaped districts are necessary to create a legislature that fairly reflects the distribution of partisan power in a state. In the least attractive but often more realistic form, states might argue that the political forces in control of redistricting ought to be permitted to exploit their advantage as far as possible. The argument would continue that, as long as this pursuit of political advantage is not carried to the unconstitutional ***581** extremes that Bandemer condemns, state political forces should be permitted to battle for control, even through the means of contorted, race-conscious districts. The Court has acknowledged the inevitable role of political aims in redistricting and has held that the pursuit of "political fairness," in the form of districts designed to bring about proportional representation of Democrats and Republicans in the state legislature, is not unconstitutional. [267] Beyond that context, however, the Court has not suggested how much weight partisan aims will be given under the Fourteenth Amendment.

This wavering and uncertain pattern of decisions suggests a limit on the willingness of courts to accept state partisan and incumbency-protection interests as compelling ones. Shaw offers no direct guidance on the question, but it seems unlikely that courts will view these interests as sufficient to justify "highly irregular" race-conscious districts. Both the tenor of Shaw and its formal legal requirement of strict scrutiny suggest the Court believes it has identified a value of profound constitutional importance that certain oddly shaped districts threaten. Although a state's partisan agenda might be a legitimate aim that courts will defer to in some contexts, it will be awkward for courts to declare it compelling enough to override the constitutional values Shaw identifies.

In addition, Shaw itself suggests that partisan motivations are a further reason to condemn, rather than to salvage, "bizarre" race-conscious districts. No veil obscured the possible role of incumbency protection behind the creation of District 12; the dissents raised it several times as a reason justifying the district, [268] while amicus curiae squarely presented it as a reason to find North Carolina's plan unconstitutional. [269] With partisan "defenses" so obviously available, Shaw would be a strange exercise in formality if the Court believes that, on remand, these defenses should be sufficient to justify contorted districts. Moreover, if Shaw rests on concern for social perceptions involving the role of race in politics, this concern suggests invalidating "highly irregular" districts when these perceptions are likely. Shaw resists permitting politicians to manipulate these social perceptions in pursuit of their own self-interest and partisan advantage. For these reasons, we consider it unlikely courts will find protection of incumbents ***582** or pursuit of partisan gain to be a sufficiently compelling justification for "highly irregular" race-conscious districts.

3. VRA Compliance as an End

Race-conscious districting most often occurs in the context of efforts to comply with the VRA's ban on minority-vote dilution. [270] But compliance with the VRA is not a unitary phenomenon. Claims of compliance can arise in purely remedial contexts, they can arise when jurisdictions claim to be preventing future violations, or they can arise when jurisdictions affirmatively use race to comply with the general aim of enhancing minority representation.

As in other areas involving race and the Constitution, the purely remedial context is the easiest one. When a minority district is required for a jurisdiction to comply with either section 2 or 5, that mandate should provide sufficient justification under Shaw. [271] With respect to district shapes, the difficult question will not be whether required compliance satisfies strict scrutiny, but what kinds of districts the VRA will be interpreted to require. We have described the conflicting ways in which federal courts have approached that statutory question. [272] Shaw directly bears on this question only when an interpretation of the VRA would be unconstitutional — that is, when the district it requires would be unconstitutionally contorded. But, Shaw will cast a larger shadow, for it will likely change the background assumptions courts bring to interpreting the Act. Courts might become more likely to find that the Act does not require extremely noncompact districts, particularly at the stage of determining substantive liability under the Act. [273] The difficult question will not be the formal ***583** one of whether VRA compliance is sufficiently compelling, but how broadly the courts will construe this compliance. We examine this question shortly.

Apart from the pure remedial context, jurisdictions might use race to forestall potential VRA violations. With respect to oddly shaped minority districts, the crucial question is whether Shaw will lead to Croson-like constraints on racial redistricting. [274] Must jurisdictions first establish a factual predicate for the position that race-conscious districting is a necessary preventative? What evidence would be required and what level of proof must be met? For example, must jurisdictions engage in the costly and complex process of establishing racially polarized voting patterns, a task plaintiffs must undertake to establish a section 2 violation? Because we are focused here on "highly irregular" districts, it is unlikely jurisdictions will be able to establish that such districts are necessary to avoid substantive VRA liability. [275]

Finally, jurisdictions might seek to justify oddly shaped minority districts not in remedial terms, but prospectively. If forced to put this in terms of compliance with the VRA, jurisdictions might argue that such districting is consistent with the general purposes and spirit of the Act, even if not technically required. Jurisdictions might assert, for example, that these districts are a means of enhancing the legitimacy, fairness, and responsiveness of democratic institutions. Under Voinovich v. Quilter, [276] nothing in the VRA prohibits race-conscious districting justified in these terms. But, whatever the constitutional status of such justifications for race-conscious districts that are reasonably compact, Shaw seemingly requires that these justifications be found insufficient for "highly irregular" districts. Shaw requires strict scrutiny for

irregular districts, and, again, it is difficult to see the point *584 in that requirement if jurisdictions can successfully defend with the argument that they were seeking to enhance minority representation. [277]

B. Means: The Requirement of Narrow Tailoring

In addition to sufficiently compelling ends, Shaw requires "narrowly tailored" means that advance those ends with precision. [278] This will be a complex undertaking, again raising, among other difficulties, the problems of mixed motives.

Consider VRA compliance. When the Justice Department under section 5 or the courts under section 2 find that a jurisdiction is required to create an additional minority district, neither typically specifies precisely where that district must be located and how it must be designed. This policy of self-abnegation rests both on the recognition that districting implicates multiple, diverse values, and on policy reasons for deferring to state recommendations of those values. As long as the jurisdiction gets to the required end state and creates the additional district, federal concerns are satisfied.

In this context, the meaning of "narrowly tailored" is obscure. Absent direct specification from either the courts or the Justice Department as to how a district is to be designed, no obvious baseline exists against which to measure "narrowly tailored."

One solution is to construe this language to suggest that the minority districts the VRA requires must be drawn in the most compact way possible. Yet this would confuse the purpose of Shaw's strict scrutiny standard and require jurisdictions, for no obvious purpose, to compromise significant redistricting values. The purpose of demanding close connections between means and ends is to ensure that the state is not covertly pursuing forbidden ends. But compactness is not constitutionally required; [279] Shaw does not forbid noncompact districts per se. Instead, the suspect districts are those so noncompact as to create the social perception that the single value of race-conscious districting has subordinated all other districting values.

As a result, "narrowly tailored" in this context should mean no *585 more than avoiding "highly irregular" district shapes. This view may make the means test appear redundant, given that Shaw requires strict scrutiny for precisely such districts. Interpreted this way, however, the narrow tailoring requirement would still be an element in Shaw's logic because it would clarify that vague assertions of compliance with the VRA will not suffice. At the same time, as long as jurisdictions are complying with their VRA obligations, while still accommodating traditional redistricting goals, Shaw implies that they will retain policymaking discretion to make trade-offs among these goals. Shaw requires that jurisdictions respect value pluralism and avoid value reductionism. The requirement of "narrow tailoring" should be construed with this principle in mind.

C. Justifications: The General Problem

Easily lost in this technical legal analysis is the essential nature of the districting process. Districting implicates an array of values, some relatively neutral, some intensely partisan. For the most part, one cannot rank these values in any lexical order; no decision rule specifies the precise trade-offs to be made among these values when they conflict. [280] Moreover, the design of even a single district reflects not one decision, but the cumulation of hundreds of small decisions — whether to include this or that section of adjacent towns, whether to extend the district to the north or to the west, even whether to include this or that street. In addition, district plans draw from a virtually unlimited range of potential alternatives. There is no ideal districting plan that forms a baseline against which to measure individual districts or a district plan.

Shaw attempts to pull one thread out of this tapestry; it demands specific, articulable justifications in one particular districting situation. It is not clear, however, whether this aim can be achieved without unraveling the fabric of the districting process. Districting plans are integrated bundles of compromises, deals, and principles. To ask about the

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

reason behind the design of any one particular district is typically to implicate the entire pattern of purposes and trade-offs behind a districting plan as a whole.[281] Searching for "the reason" or ***586** "the dominant reason" behind a particular district's shape is often like asking why one year's federal budget is at one level rather than another. Moreover, to require a coherent explanation for the specific shape of even one district is to impose a model of legalistic decision making on the one political process that least resembles that model.

These general pressures may lead Shaw in another direction. Rather than providing a doctrine for recovering the reasons behind an irregular district, Shaw might eventually become an external constraint on the districting process. That is, Shaw might come to define an outer constraint on extreme noncompactness. As long as redistricting bodies stay within that constraint, however, they will retain the discretion to make arbitrary, politically laden policy trade-offs between competing districting values. In this way, Shaw would not demand ex post what does not take place ex ante: reasoned articulation of specific purposes for drawing district boundaries in particular ways.

Rather than seeking the reasons an irregular district was drawn, courts might implement Shaw as a constraint on the extent to which districts can become extremely noncompact. With a clearly announced constraint on extreme noncompactness, political bodies will understand the domains in which they cannot act and those within which they retain policymaking discretion. As long as policymakers stay within this specified constraint, courts will not have to inquire into the reasons behind district designs. Many of the issues discussed above can then be bypassed. When policymakers continue to believe they have sufficient reasons for violating this constraint, courts will still have to evaluate those justifications. Yet such contexts are likely to be rare once a clear constraint is specified.

Conclusion

In some respects, Shaw might function as the Baker v. Carr[282] of the Voting Rights Act era. In Shaw, the Court found justiciable an entirely new kind of equal protection claim that constrains the design of election districts. Like Baker, the decision will be controversial, in part because it is bereft of virtually any guidance as to how the elusive principles that underlie its holding are to be turned into an administrable set of standards. In an area as explosive as race and redistricting, ***587** the political, legal, and social costs of this uncertainty are potentially vast.

We have argued that Shaw ultimately must be understood in terms of judicial concern for "expressive harms." American conceptions of political representation are riven right now by competing ideals. Traditionally, the fundamental template has been that of the territorially based single-member districting system, in which geographically defined interests are the foundation on which political representation is built. Working within this mold, the VRA stresses instead direct representation of group interests, seeking to ensure the fair and effective representation of minority groups. In Shaw, the Court effectively held that the tension between these alternative visions had reached the breaking point. When jurisdictions create "bizarre" territorial districts, in single-minded pursuit of enhancing minority representation, they compromise the perceived legitimacy of political institutions. The harm is a generalized one, for it lies not in specific burdens on particular individuals, but in government's expression of disrespect for significant public values. Right or wrong, this is the theory on which Shaw is decided.

Expressive harms are notoriously difficult to translate into legal rules. We have argued that quantitative measures of compactness provide the most secure starting points for defining "bizarre" districts in principled and administrable terms. Using these measures, we have shown that North Carolina District 12 can legitimately be considered the least compact congressional district in the country. At the same time, other districts — majority and minority — are not far behind. The precise effect of Shaw will depend on how "irregular" a district must be to trigger strict scrutiny, but quantitative measures of compactness promise the most useful guidance for making that choice. Baker became meaningful once Reynolds v. Sims[283] translated it into the one-person-one-vote standard. If Shaw is to have its Reynolds, it will be through the quantitative measures of compactness we offer here.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

Footnotes

d1 (c) 1993 by Richard H. Pildes and Richard G. Niemi. All rights reserved.

a1 Professor of Law, University of Michigan. A.B. 1979, Princeton; J.D. 1983, Harvard. — Ed.

aa1 Professor of Political Science, University of Rochester. B.A. 1962, Lawrence University; Ph.D. 1967, University of Michigan. — Ed. For first-rate technical assistance, such as production of the maps and data sets included herein, this article relies on Election Data Services, Inc., Washington, D.C. and, more specifically, the efforts of Kimball Brace, Doug Chapin, and Jeff Macintyre. For extremely helpful comments on earlier drafts, we would like to thank Alex Aleinikoff, Steven Croley, Bernard Grofman, Sam Issacharoff, Larry Kramer, Jeffrey Lehman, Deborah Malamud, Harold Stanley, and the participants in the Yale Legal Theory Workshop. We were also fortunate to have exceptionally skillful research assistance from Jeffrey Costello and Michael Heel.

1 Pub.L. No. 89-110, 79 Stat. 437 (codified as amended at 42 U.S.C. §§ 1971, 1973 to 1973bb-1 (1988)).

2 113 S.Ct. 2816 (1993).

3 113 S.Ct. at 2827.

4 113 S.Ct. at 2832.

5 See 113 S.Ct. at 2832.

6 This constraint is found in numerous state constitutions and statutes, although it is not judicially enforced with a great deal of frequency. See infra text accompanying notes 146-52 (discussing state compactness requirements and their enforcement).

7 See, e.g., Bruce E. Cain, The Reapportionment Puzzle (1984); Robert G. Dixon, Jr., Democratic Representation: Reapportionment in Law and Politics (1968); Bernard Grofman, Criteria for Districting: A Social Science Perspective, 33 UCLA L.Rev. 77 (1985) [hereinafter Grofman, Criteria for Districting]; Bernard Grofman, Would Vince Lombardi Have Been Right If He Had Said: "When It Comes to Redistricting, Race Isn't Everything, It's the Only Thing"?, 14 Cardozo L.Rev. 1237 (1993) [hereinafter Grofman, Vince Lombardi].

8 Shaw, 113 S.Ct. at 2842 (White, J., dissenting).

9 Section 2, for example, explicitly speaks in racially conscious terms: "The extent to which members of a protected class have been elected to office . . . is one circumstance which may be considered" in assessing a dilution claim. 42 U.S.C. § 1973(b)(1988). There is no reason to assume, of course, that redistricters were not race conscious before the VRA.

10 42 U.S.C. § 1973 (1982).

11 478 U.S. 30 (1986).

12 The Act protects racial groups and, since 1975, language-minority groups, 42 U.S.C. §§ 1973(a), 1973b(f)(2) (1988) (defined as Asian Americans, American Indians, Alaskan natives, and persons of Spanish heritage in 42 U.S.C. § 1973*l*(c)(3) (1988)).

13 478 U.S. at 50-51. A major question the Court continues to leave open is whether plaintiffs can bring claims seeking "influence districts" — that is, districts in which the plaintiffs' group is not large enough to control election outcomes in a district, but large enough so that an alternative to the current system would give it significant enough influence, in conjunction with supportive coalition members, to control outcomes. See Voinovich v. Quilter, 113 S.Ct. 1149, 1155 (1993)(assuming, without deciding, viability of such claims); Growe v. Emison, 113 S.Ct. 1075, 1084 n.5 (1993)(leaving question open); Gingles, 478 U.S. at 46-47 n.12 (leaving question open); see also Prosser v. Elections Bd., 793 F.Supp. 859, 870 (W.D. Wis. 1992) (three-judge court; per curiam) ("The creation of a stronger 'influence' district, however, is a modest plus from the Act's standpoint."). For discussion of influence-district claims, see Bernard Grofman et al., Minority Representation and the Quest for Voting Equality 117-18

(1992); J. Morgan Kousser, Beyond Gingles: Influence Districts and the Pragmatic Tradition in Voting Rights Law, 27 U.S.F. L.Rev. 551(1993); Allan J. Lichtman & J. Gerald Hebert, A General Theory of Vote Dilution, 6 La Raza L.J. 1 (1993).

14 478 U.S. at 51.

15 478 U.S. at 56.

16 478 U.S. at 50-51. The best study of the emergence and content of the racial-polarization requirement is Samuel Issacharoff, Polarized Voting and the Political Process: The Transformation of Voting Rights Jurisprudence, 90 Mich.L.Rev. 1833 (1992).

17 More precisely, Gingles holds that vote dilution is shown only if, "under the totality of the circumstances," the challenged electoral mechanisms "result in unequal access to the electoral process," 478 U.S. at 46.

18 When multiple candidates are elected from a single jurisdiction, a cohesive minority population might constitute a significant fraction of the district and yet elect no members. That is, the majority population would always outvote them. See Lani Guinier, The Triumph of Tokenism, 89 Mich.L.Rev. 1077, 1094 (1991); Issacharoff, supra note 16, at 1839-40.

19 Cf. Richard G. Niemi et al., The Impact of Multimember Districts on Party Representation in U.S. State Legislatures, 10 Legis. Stud. Q. 441, 443-46 (1985).

20 See generally Samuel P. Hays, The Politics of Reform in Municipal Government in the Progressive Era, in American Political History as Social Analysis 205, 215-16 (1980).

21 See J. Morgan Kousser, The Undermining of the First Reconstruction: Lessons for the Second, in Minority Vote Dilution 27 (Chandler Davidson ed., 1984); J. Morgan Kousser, The Voting Rights Act and the Two Reconstructions, in Controversies in Minority Voting 144 (Bernard Grofman & Chandler Davidson eds., 1992) [hereinafter Kousser, The Voting Rights Act] ("The third means of accomplishing the counterrevolution [against Reconstruction], structural discrimination, involved such tactics as gerrymandering, annexations, the substitution of at-large for single-member-district elections . . . and the adoption of nonstatutory white primaries.").

22 See Grofman et al., supra note 13, at 109 ("Indeed, since Gingles was decided in 1986, as of mid-1991 only a handful of Section 2 cases involving challenges to single-member districts had been decided, and only four of these had been reviewed at the appellate level.") (citations omitted).

23 Growe v. Emison, 113 S.Ct. 1075, 1084 (1993). In a major VRA decision, a three-judge district court had anticipated this holding while recognizing that courts could not directly apply Gingles to single-member districts without modification. See Jeffers v. Clinton, 730 F.Supp. 196 (E.D. Ark. 1989), affd., 489 U.S. 1019 (1991):

Thornburg and Smith cannot be automatically applied to the single-member context. . . . But the basic principle is the same. If lines are drawn that limit the number of majority-black single-member districts, and reasonably compact and contiguous majority-black districts could have been drawn, and if racial cohesiveness in voting is so great that, as a practical matter, black voters' preferences for black candidates are frustrated by this system of apportionment, the outlines of a Section 2 theory are made out.

730 F.Supp. at 205.

24 As one example, this Term the Court will address challenges to the redistricting of Florida's single-member house and senate districts. 62 U.S.L.W. 3261 (Oct. 12, 1993) (summarizing the dispute in Johnson v. De Grandy, No. 92-519, prob. juris. noted, 113 S.Ct. 1249 (1993)). A principal issue in that case is precisely how Gingles should be applied to single-member districts. The State of Florida argues that proof of the Gingles preconditions is necessary, but not sufficient, in single-member district challenges. As the reply brief notes: "[P]roof of the Gingles preconditions simply does not make out a prima facie case of vote dilution in the single-member context. The Gingles preconditions are plainly relevant in the single-member context because they establish causation, but they cannot play the same role they do in multimember district cases." Reply Brief for Appellant at 3, Johnson v. De Grandy, No. 92-519, prob. juris. noted, 113 S.Ct. 1249 (1993).

25 Thornburg v. Gingles, 478 U.S. 30, 50 (1986); see also Grofman et al., supra note 13, at 115-16 ("[T]wo of the Gingles prongs can probably be applied with little or no modification. . . . The first prong, however, is more difficult to modify in a suitable way.").

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

26 Pope v. Blue, 809 F.Supp. 392, 394 (W.D.N.C.) (three-judge court), affd., 113 S.Ct. 30 (1992).

27 809 F.Supp. at 394.

28 Compare Gingles, 478 U.S. at 40, noting that no more than four percent of North Carolina's legislators were black in 1982 with Joint Center for Pol. & Econ. Stud., Black Elected Officials: A National Roster, 1991, at xxiii tbl. 3 (20th ed. 1992), finding that the number of black North Carolina state legislators as of January, 1991 was 19, which is 11% of 170, the total number of legislators. 478 U.S. at 40.

29 Shaw v. Reno, 113 S.Ct. 2816, 2820 (1993).

30 Section 5 of the VRA prohibits the implementation of any changes affecting voting in certain jurisdictions that the Act covers without the approval of the Attorney General or a special three-judge federal district court in the District of Columbia. To receive preclearance, a covered jurisdiction must establish that its proposed change does not have the purpose or effect of "denying or abridging the right to vote on account of race or color." 42 U.S.C. § 1973(c) (1982). Most jurisdictions prefer to seek preclearance from the Attorney General rather than a declaratory judgment in the special district court. See Drew S. Days III, Section 5 and the Role of the Justice Department, in Controversies in Minority Voting, supra note 21, at 52, 53 n.2 (citing Justice Department statistics). For an extensive academic study of the § 5 process, see Hiroshi Motomura, Preclearance Under Section Five of the Voting Rights Act, 61 N.C.L.Rev. 189 (1983).

31 Cf. Brief Amicus Curiae of the Republican National Committee in Support of Appellants at 9, Shaw v. Reno, 113 S.Ct. 2816 (1993) (No. 92-357).

32 Pope v. Blue, 809 F.Supp. 392, 394 (W.D.N.C.) (three-judge court) ("In order to protect white Democratic congressmen at the expense of Republicans, the General Assembly had to make [the majority-black] district very contorted."), affd., 113 S.Ct. 30 (1992).

33 Brief for the Federal Appellees at 10a app. B, Shaw v. Reno, 113 S.Ct. 2816 (1993) (No. 92-357)).
[T]he proposed configuration of the district boundary lines in the south-central to southeastern part of the state appear[s] to minimize minority voting strength given the significant minority population in this area of the state. In general, it appears that the state chose not to give effect to black and Native American voting strength in this area, even though it seems that boundary lines that were no more irregular than found elsewhere in the proposed plan could have been drawn to recognize such minority concentration in this part of the state.
Id.

34 Shaw, 113 S.Ct. at 2820 (citing Brief for Federal Appellees at 10a-11a app. B).

35 Brief for Federal Appellees at 15a-16a app. D.

36 Indeed, 80% of the district's residents live in cities with populations of 20,000 or more. In contrast, the other majority-black district, District 1, is predominantly rural. More than 80% of the residents in that district live outside cities with populations of 20,000 or more. Brief for Federal Appellees at 5 n.2.

37 See Shaw, 113 S.Ct. at 2841-42 n.10 (White, J., dissenting); see also text accompanying notes 116-32.

38 As long as states comply with their obligation to avoid minority-vote dilution, they generally retain policymaking discretion to draw their districts in accordance with their own assessment of state policy. States have no duty to "follow" the Attorney General's recommendations for the design of districts; in fact, the Attorney General does not make such recommendations. Although the Attorney General must determine that a majority-minority district is generally feasible to deny preclearance under § 5, this geographic determination is general and does not define any specific district design or location. See Drew S. Days, III & Lani Guinier, Enforcement of Section 5 of the Voting Rights Act, in Minority Vote Dilution, supra note 21, at 167, 171 ("[T]he department objective has not been to dictate any particular result.").
The Justice Department has consistently maintained that the VRA does not require extremely contorted and convoluted districts. As Drew Days, now Solicitor General, and Lani Guinier wrote in 1984, faced with a "set of facts in which it can be shown that no fairly drawn redistricting plan will result in minority control of one district because of dispersed minority residential patterns," the Justice Department's "response would not be to demand that the jurisdiction adopt a crazy-quilt,

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

gerrymandered districting plan to ensure proportional minority representation." Id. At the same time, the § 5 preclearance review is limited to determining whether minority-vote dilution is taking place. If it is not, the Justice Department does not believe it has the authority to reject a plan merely because it employs contorted districts. See, e.g., Letter from John R. Dunne, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice (Nov. 18, 1991) (preclearing Texas congressional redistricting plan at issue in Terrazas v. Slagle, 789 F.Supp. 828 (W.D.Tex. 1991), affd., 112 S.Ct. 3019 (1992)), quoted in Brief Amicus Curiae of the Republican National Committee in Support of Appellants at 9-10 n.6, Shaw v. Reno, 113 S.Ct. 2816 (1993) (No. 92-357); see also John R. Dunne, Remarks of John R. Dunne, 14 Cardozo L.Rev. 1127 (1993).

39 Political Pornography-II, Wall St. J., Feb. 4, 1992, at A14.

40 I-85 No Route to Congress, Raleigh News & Observer, Jan. 13, 1992, at A8.

41 Reading the "Inkblot," Raleigh News & Observer, Jan. 21, 1992, at A8.

42 See Grofman, Vince Lombardi, supra note 7, at 1261 (leading expert witness in voting-rights cases describing his own affidavit in which he characterized North Carolina District 12 as a "crazy-quilt" lacking "rational state purpose").

43 A third kind of voting-rights claim, which was the first to arise historically, is a less frequent litigation subject today. This is the claim of a direct and outright deprivation of the individual right to vote, as in cases that challenged poll taxes and literary tests. See, e.g., Guinn v. United States, 238 U.S. 347 (1915).

44 City of Mobile v. Bolden, 446 U.S. 55, 83 (1980) (Stevens, J., concurring).

45 See infra text accompanying notes 90-96.

46 At several points, the Court directly signals its awareness that it is defining two distinct types of claims. The clearest example arises in the Court's discussion of United Jewish Orgs., Inc. v. Carey, 430 U.S. 144 (1977) [hereinafter UJO], the leading equal protection vote-dilution precedent.

In that case, New York, in response to Voting Rights Act violations, had adopted a 1974 reapportionment plan that redesigned state senate and assembly districts in Kings County. The new plan did not change the number of districts with nonwhite majorities, but the new districts redistributed minority voters in ways likely to enhance the effectiveness of their voting power. One result, however, was that the 30,000-member Hasidic Jewish community in Williamsburgh, which the previous plan had located entirely in one assembly and one senate district, was fragmented into two assembly and senate districts. On behalf of these voters, plaintiffs brought a complaint charging New York with violating the Constitution by deliberately revising its reapportionment plan along racial lines.

Writing for the plurality, Justice White rejected this claim on the ground that states can engage in race-conscious districting as long as they do not unfairly dilute the voting power of any racial group. See 430 U.S. at 165 ("[T]here was no fencing out of the white population from participation in the political processes of the county, and the plan did not minimize or unfairly cancel out white voting strength."). Treating the Hasidic Jewish community as part of the white community for constitutional purposes, the plurality noted that the county's population was 65% white and that the new reapportionment plan left white majorities in control of 70% of the assembly and senate districts in the county. In the absence of vote dilution, the intentional use of race was not discriminatory and hence not a constitutional violation. 430 U.S. at 166 ("[A]s long as whites in Kings County, as a group, were provided with fair representation, we cannot conclude that there was a cognizable discrimination against whites or an abridgment of their right to vote on grounds of race.").

Shaw distinguishes UJO by categorizing it as a vote-dilution case and by recognizing an altogether different kind of claim: "UJO's framework simply does not apply where, as here, a reapportionment plan is alleged to be so irrational on its face that it immediately offends principles of racial equality." Shaw v. Reno, 113 S.Ct. 2816, 2829 (1993). Unlike UJO, here the allegation is "that the plan, on its face, was so highly irregular that it rationally could be understood only as an effort to segregate voters by race." 113 S.Ct. at 2829. Hence, even in the absence of vote dilution, Shaw holds that the deliberate use of race can constitute unconstitutional discrimination with respect to voting rights.

47 Shaw, 113 S.Ct. at 2824.

48 Brief for Appellants at 62, Shaw v. Reno, 113 S.Ct. 2816 (1993) (No. 92-357).

49 Brief for Federal Appellees at 16a app., Shaw (No. 92-357).

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

50 113 S.Ct. at 2838 (White, J., dissenting).

51 113 S.Ct. at 2826-27.

52 113 S.Ct. at 2826, 2829.

53 113 S.Ct. at 2820, 2827.

54 113 S.Ct. at 2818, 2825-26, 2831, 2843, 2845, 2848.

55 113 S.Ct. at 2818, 2829, 2832, 2842.

56 113 S.Ct. at 2827.

57 Our use of the term condemn is meant to focus on the ultimate question of whether a race-conscious intent invalidates such districts under the Constitution. Analytically, there are two stages to such an inquiry: whether Shaw requires strict scrutiny for such districts, and, if so, what kinds of justifications might suffice. Whichever way these formal questions are resolved, we believe Shaw does not stand for, or portend a sweeping proscription on, intentional race-conscious districting that does not involve actual vote dilution.

58 See, e.g., Chisom v. Roemer, 111 S.Ct. 2354, 2376 (1991) (Kennedy, J., dissenting) (writing separately solely to reserve question of the constitutionality of § 2).

59 See T. Alexander Aleinikoff & Samuel Issacharoff, Race and Redistricting: Drawing Constitutional Lines After Shaw v. Reno, 92 Mich.L.Rev. 588, 644 (1993) ("The Court's focus on a district's shape rather than the State's use of a racial classification will make the turn toward Bakke in the voting-rights field possible.").

60 The most significant example is the Court's discussion of the plurality opinion in United Jewish Orgs., Inc. v. Carey, 430 U.S. 144 (1977). The UJO plurality held that "neither the Fourteenth nor the Fifteenth Amendment mandates any per se rule against using racial factors in districting and apportionment," 430 U.S. at 161; that "the permissible use of racial criteria is not confined to eliminating the effects of past discriminatory districting or apportionment," 430 U.S. at 161; that "a reapportionment cannot violate the Fourteenth or Fifteenth Amendment merely because a State uses specific numerical quotas in establishing a certain number of black majority districts," 460 U.S. at 162; and that, in the absence of vote dilution, the deliberate use of race to enhance underrepresented minority groups casts "no racial slur or stigma with respect to whites or any other race . . . ." 430 U.S. at 165. Shaw does not directly take issue with any of these principles, distance itself from them, or suggest UJO is no longer authoritative. Instead, Shaw concludes that UJO reached a certain holding, conditioned on particular principles, and Shaw then applies these conditions to evaluate the North Carolina districting plan. Thus, the Court quotes a passage in which the UJO plurality had held that a state, employing sound districting principles, might deliberately draw districts in a race-conscious way for the purpose of ensuring fair minority representation. Shaw simply concludes that North Carolina appeared not to have adhered to sound districting principles. Shaw, 113 S.Ct. at 2832. For further discussion of the Court's treatment of UJO, see supra note 46.

61 For example, the Court states:
[R]edistricting differs from other kinds of state decisionmaking in that the legislature always is aware of race when it draws district lines, just as it is aware of age, economic status, religious and political persuasion, and a variety of other demographic factors. That sort of race consciousness does not lead inevitably to impermissible race discrimination.
113 S.Ct. at 2826 (emphasis added). The Court also affirms that "[t]he States certainly have a very strong interest in complying with federal antidiscrimination laws that are constitutionally valid as interpreted and as applied." 113 S.Ct. at 2830.
The Court does, however, obscure its position a bit in other passages that explicitly reserve judgment on one aspect of race-conscious districting: the intentional creation of majority-minority districts. 113 S.Ct. at 2828 ("Thus, we express no view as to whether 'the intentional creation of majority-minority districts, without more' always gives rise to an equal protection claim.") (quoting 113 S.Ct. at 2839 (White, J., dissenting)). One might read the Court's reservation of this question as casting doubt on this practice, even for reasonably compact districts. Any such reading, however, would be inconsistent with much else in the opinion as well as a direct attack on Gingles. That there is some ambiguity here might well reflect the divisions within the Shaw majority on these questions.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

62 113 S.Ct. 1149 (1993).

63 It should be disclosed that Professor Pildes was a legal consultant to the court-appointed special master in Quilter.

64 113 S.Ct. at 1153.

65 113 S.Ct. at 1156.

66 113 S.Ct. at 1156 (citations omitted).

67 In Quilter, the district court had found no racially polarized voting in the relevant areas of Ohio. In the absence of polarized voting, the Court recognized that black and white voters are essentially fungible; race-conscious districting cannot have a dilutive effect when voting patterns are not structured along racial lines. 113 S.Ct. at 1158.

68 113 S.Ct. at 1157-59.

69 Thus, the Court held that the district court had been clearly erroneous in finding a race-conscious intent behind the districting plan and then stated, "we express no view on the relationship between the Fifteenth Amendment and race-conscious redistricting." 113 S.Ct. at 1159.

70 As might be expected, the immediate reaction in the popular press tended to portray the decision in Shaw as a broad attack on race consciousness in districting, indeed on the fundamental principles of the Voting Rights Act itself. See, e.g., Max Boot, Supreme Court Rules that "Bizarre" Districts May Be Gerrymanders, Christian Sci. Monitor, June 30, 1993, at 7 (Shaw "throws into doubt the way the Justice Department has been enforcing the 1965 Voting Rights Act, designed to guarantee minorities political representation."); Linda Greenhouse, The Supreme Court: Reapportionment; Court Questions Districts Drawn To Aid Minorities, N.Y. Times, June 29, 1993, at A1 ("A sharply divided Supreme Court ruled today that designing legislative districts to increase black representation can violate the constitutional rights of white voters."); Dick Lehr, Court Casts Doubts over Race-Based Redistricting, Boston Globe, June 29, 1993, at 1 ("The US Supreme Court . . . ruled yesterday that congressional districts designed to give minorities a voting majority may be unconstitutional . . . .").

71 See, e.g., Metro Broadcasting Inc. v. FCC, 497 U.S. 547, 602-31 (1991) (O'Connor, J., dissenting); 497 U.S. at 631-38 (Kennedy, J., dissenting); City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989).

72 Shaw v. Reno, 113 S.Ct. 2816, 2824 (1993).

73 113 S.Ct. at 2825 (quoting Village of Arlington Heights v. Metropolitan Hous. Dev. Corp., 429 U.S. 252, 266 (1977)).

74 113 S.Ct. at 2838 (White, J., dissenting).

75 Redistricting is, of course, among the most intensely partisan of all policymaking, and those who control the process typically pursue the more directly partisan values of trying to maximize their party's influence. In addition, redistricters, including nonpartisan bodies, also frequently try to protect incumbent officeholders. When the redistricting is partisan, one party's incumbents may receive differential protection.

76 See infra notes 91-95 and accompanying text.

77 For one of the most extensive case law discussions of the values compact districting serves, see Prosser v. Elections Bd., 793 F.Supp. 859, 863 (W.D.Wis. 1992) (three-judge court; per curiam):

The objections to bizarre-looking reapportionment maps are not aesthetic (except for those who prefer Mondrian to Pollock). They are based on a recognition that representative democracy cannot be achieved merely by assuring population equality across districts. To be an effective representative, a legislator must represent a district that has a reasonable homogeneity of needs and interests; otherwise the policies he supports will not represent the preferences of most of his constituents. There is some although of course not a complete correlation between geographical propinquity and community of interests, and therefore compactness and contiguity are desirable features in a redistricting plan. Compactness and contiguity also reduce travel time and costs, and therefore make it easier for candidates for the legislature to campaign for office and once elected to maintain close and continuing contact with the people they represent.

78 Daniel D. Polsby & Robert D. Popper, Ugly: An Inquiry into the Problem of Racial Gerrymandering Under the Voting Rights Act, 92 Mich.L.Rev. 652, 670-71, 676-78 (1993). This can be viewed as one of the central themes of Lani Guinier's scholarship. See, e.g. Lani Guinier, Groups, Representation, and Race-Conscious Districting: A Case of the Emperor's Clothes, 71 Texas L.Rev. 1589 (1993).

79 Gordon E. Baker coined the term reapportionment revolution. Gordon E. Baker, The Reapportionment Revolution: Representation, Political Power, and the Supreme Court (1966).

80 438 U.S. 265 (1978).

81 See Jerold K. Footlick et al., The Landmark Bakke Ruling, Newsweek, July 10, 1978, at 19, 20, 25 (quoting Alan Dershowitz as stating that Bakke was "an act of judicial statemanship"; A.E. (Dick) Howard as terming Bakke "a 'Solomonic' compromise"; Benno Schmidt, Jr., as calling the decision "just about right"; and Charles Alan Wright terming Bakke "a very civilized ruling"); Bakke Wins, Quotas Lose, Time, July 10, 1978, at 8, 9 (quoting Paul Freund as believing the fuzziness of the decision was "a good thing").

82 Cf. Ronald Dworkin, Taking Rights Seriously 223-39 (1977). See generally Vincent Blasi, Bakke as Precedent: Does Mr. Justice Powell Have a Theory?, 67 Cal.L.Rev. 21 (1979) (developing arguments against the distinction).

83 Despite the rhetoric of public officials, some recent polling data suggest that individuals may not find a significant distinction between preferences and quotas. At the time of the legislative debates over the Civil Rights Act of 1991, Pub.L. No. 102-166, 105 Stat. 1071, 1075-76 (1991) (codified at 42 U.S.C. §§ 2000e to 2000e-16 (Supp. III 1991)), one poll reported that 88% of whites were opposed to "racial preferences," even in the absence of "rigid quotas." Tom Kenworthy & Thomas B. Edsall, Whites See Jobs on Line in Debate: Some Chicagoans Fear Reverse Bias, Wash. Post, June 4, 1991, at A1. Public opinion polls on affirmative action, however, are notoriously sensitive to the precise phrasing of questions and the context in which they are posed.

84 See, e.g., Frederick Schauer, The Rules of Jurisprudence: A Reply, 14 Harv. J.L. & Pub. Poly. 839 (1991); Kathleen M. Sullivan, Foreword: The Justices of Rules and Standards, 106 Harv.L.Rev. 22 (1992).

85 Even if this concern is appropriate in evaluating policy for some purposes, whether courts should interpret particular provisions of the Constitution to embody such concerns is a distinct question. The analysis of that question requires close attention to the text, history, purposes, and prior interpretations of particular provisions — a task this article does not undertake.

86 Guido Calabresi & Philip Bobbitt, Tragic Choices (1978).

87 Calabresi and Bobbitt term these a "strategy of successive moves," id. at 195, but the language of strategy might suggest a greater role for conscious intent and choice than is warranted. In healthy societies, the effect of the complex mix of public institutions and actors involved in policymaking may be to mediate these fundamental value conflicts through producing outcomes that oscillate between the relevant values, even when no particular actor intends such a result and when institutions are not specifically designed to produce this pattern of outcomes.

88 For example, Arrow's Theorem reveals that, in theory, public decisionmaking processes cannot be designed in ways that are fair and that preclude the possibility that decisions will cycle among various options (at least under conditions of significant social conflict). Based on this discovery, some scholars indict collective decisionmaking institutions for being unable to guarantee consistent policy outcomes. In contrast, one of us has argued that this kind of cycling might be a healthy means of sustaining the tension between fundamental values, rather than a weakness of democratic institutions. See Richard H. Pildes & Elizabeth S. Anderson, Slinging Arrows at Democracy: Social Choice Theory, Value Pluralism, and Democratic Politics, 90 Colum.L.Rev. 2121, 2171-75 (1990). As Calabresi and Bobbitt put it, "a society may limit the destructive impact of tragic choices by choosing to mix approaches over time." Calabresi & Bobbitt, supra note 86, at 196.

89 Id. at 18.

90 See infra note 105 and accompanying text (discussing "irreducible minimum" in the standing context).

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

91 Robert M. Cover, The Supreme Court, 1982 Term — Foreword: Nomos and Narrative, 97 Harv.L.Rev. 4, 4 (1983).

92 Actual intent, to the extent knowable, might be relevant evidence, but it is not the ultimate question at issue.

93 Among the passages in which the Court emphasizes social perceptions, the messages the districting plan conveys, and the way in which the plan is likely to affect collective understandings are the following:
(1) "The message that such districting sends to elected representatives is equally pernicious."
(2) "When a district obviously is created solely to effectuate the perceived common interests of one racial group, elected officials are more likely to believe that their primary obligation is to represent only the members of that group, rather than their constituency as a whole."
(3) "[The plan is] so highly irregular that, on its face, it rationally cannot be understood as anything other than an effort to 'segregat[e] . . . voters' on the basis of race."
Shaw v. Reno, 113 S.Ct. 2826, 2826-27 (1993) (quoting Gomillion v. Lightfoot, 364 U.S. 339, 341 (1960)).
Note also the frequent references to "reinforcing perceptions," or "reinforcing beliefs," as in the following:
(4) "[The plan] reinforces racial stereotypes and threatens to undermine our system of representative democracy by signaling to elected officials that they represent a particular racial group rather than their constituency as a whole."
113 S.Ct. at 2828.
Similarly, notice the Court's use of the language of "offense," which is commonly associated with expressive concerns:
(5) "[The] reapportionment plan is alleged to be so irrational on its face that it immediately offends principles of racial equality."
113 S.Ct. at 2829.
These passages and others, central to the opinion, are most convincingly explained only by recognizing that it is expressive harms that concern the Court in Shaw.

94 113 S.Ct. at 2827.

95 Vincent Blasi suggests that a similar, expressively oriented rationale provides the best explanation for Justice Powell's opinion in Bakke, although Blasi focuses primarily on the instrumental, rather than the intrinsic, justifications for such a rationale. Blasi, supra note 82, at 59 ("Perhaps Powell is saying that appearances are what matter most because the critical value is the longrun diminution of racial prejudice throughout the society and, depending on how they are perceived by the public, different race-conscious programs may have quite different effects on the racial attitudes of the populace."). Blasi then criticizes such an approach to constitutional doctrine on the familiar grounds that purported social perceptions are too uncertain a basis for constitutional doctrine. Id. at 60. In addition, he argues that responding to these perceptions by purporting to distinguish between race-as-one-factor and race-as-a-dominant-factor entails public hypocrisy, which Blasi views as "inevitably . . . corrupting." Id.

96 A similar idea underlies Charles Lawrence's revisionist account of Brown v. Board of Educ., 347 U.S. 483 (1954), an account that Lawrence then uses to argue for the constitutionality of regulating racist speech. See Charles R. Lawrence III, If He Hollers Let Him Go: Regulating Racist Speech on Campus, 1990 Duke L.J. 431. Lawrence argues that school segregation was unconstitutional precisely because of its expressive dimension or its cultural meaning. "Brown held that segregated schools were unconstitutional primarily because of the message segregation conveys — the message that black children are an untouchable caste, unfit to be educated with white children." Id. at 439. In Lawrence's view, Brown therefore stands for the principle that "the systematic group defamation of segregation be disestablished," id. at 441, and that "Brown is a case about group defamation." Id. at 463. To reach this conclusion, he argues that the "non-speech elements [of school segregation were] by-products of the main message rather than the message simply a by-product of unlawful conduct." Id. at 441.
This emphasis on cultural meanings as legally cognizable harms captures an important and neglected aspect of Brown and constitutional doctrine more generally. At the same time, Brown might exemplify this point less sharply than other examples. In Brown, the Court accepted lower court findings that "tangible' factors" were equal between the white and black schools at issue but relied on inequalities in "intangible considerations." 347 U.S. at 492-93. Moreover, the Court cannot have been unaware of the process by which states scrambled to bring particular black schools up to equivalent standards as they became subject to litigation. Brown might well be justified as a means of ensuring, without the need for case-by-case litigation, that state resources for education would not be discriminatorily allocated. See Geoffrey R. Stone et al., Constitutional Law 503 (2d ed. 1991) (asking whether pre-Brown doctrine, "by requiring the courts to evaluate the level of 'equality' in thousands

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

of segregated school systems throughout the country, [might] have produced an even more serious judicial intrusion on the political branches than Brown").

As a more elemental illustration, consider instead segregation in public accommodations, such as movie theaters. In this case there can be little claim of comparatively disadvantageous allocation of material benefits between white and black viewers; both groups see the identical movie, albeit from different physical locations. Even if we imagine a situation in which the seating locations did not reflect a social hierarchy (as they do when whites sit in front, blacks in the back or the balcony), such a state-mandated seating distribution along racial lines would surely violate the Constitution. In these contexts, the only reason that the seating segregation is illegal and immoral must be because of its expressive significance or, in Lawrence's words, its cultural meaning.

Lawrence goes on to argue that, if the only reason for regulating conduct is its expressive dimension, then the expression itself can be directly regulated. This is a far more controversial step. For Lawrence's response to criticisms that this move fails to respect the basic First Amendment distinction between conduct and speech, see Lawrence, supra, at 440-44.

97 113 S.Ct. 2194 (1993).

98 Of course, expressive and consequential effects are both effects or outcomes of policies. Part of what an action means is what it does. But it is helpful to observe the difference between these two dimensions of action. The labels are consistent with their usage in contemporary philosophy, but the semantic question of what labels are most helpful to capture the difference is not important. Whether we talk about the expressive dimensions of an action, its social meaning, or its symbolic significance, the crucial point is that actions both express values and attitudes as well as bring out more material consequences.

99 This test first emerged in Justice O'Connor's concurrence in Lynch v. Donnelly, 465 U.S. 668 (1984). Justice O'Connor developed it in subsequent separate opinions, and Supreme Court majority opinions have invoked the "no endorsement" idea with approval. See, e.g., Edwards v. Aguillard, 482 U.S. 578, 585-86 (1987). For a history of the development of this test in an article otherwise critical of it, see Steven D. Smith, Symbols, Perceptions, and Doctrinal Illusions: Establishment Neutrality and the "No Endorsement" Test, 86 Mich.L.Rev. 266, 268-76 (1987).

100 Lynch, 465 U.S. at 688 (O'Connor, J., concurring) (emphasis added).

101 465 U.S. at 688-93 (O'Connor, J., concurring). In Wallace v. Jaffree, 472 U.S. 38 (1985), Justice O'Connor elaborated on two questions that are difficult for all constitutional doctrines focused on expressive harms: how courts might determine "the" social perception of a policy, and from what perspective courts ought to make this interpretive judgment when, as is often likely, no unitary perception exists.472 U.S. at 73-76 (O'Connor, J., concurring). Thus, she argued that the relevant perceptions are those of an "objective observer" familiar with the text, legislative history, and implementation of the law in question, as well as the values recognized in the religion clauses of the Constitution. 472 U.S. at 76, 83 (O'Connor, J., concurring); see also Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos, 483 U.S. 327, 346-49 (1987) (O'Connor, J., concurring) (elaborating upon the "objective observer" perspective); Estate of Thorton v. Caldor, Inc., 472 U.S. 703, 711-12 (1985) (O'Connor, J., concurring) (same).

102 For an exhaustive summary of favorable commentary on the "endorsement test," see Smith, supra note 99, at 274 n.45.

103 See, e.g., Michael W. McConnell, Religious Freedom at a Crossroads, 59 U.Chi.L.Rev. 115, 147-57 (1992); Smith, supra note 99.

104 For an effort to show that much constitutional doctrine and disagreement turns on whether one understands substantive constitutional provisions as recognizing expressive harms, in addition to more material ones, see Richard H. Pildes, Competing Conceptions of Value in Constitutional Law: Expressive and Consequential Harms (Dec. 1, 1992) (unpublished manuscript, on file with author).

105 The law of standing is a notable example of this type of procedural doctrine. The Court recently restated the "irreducible minimum" that is required for standing under Article III:

[A] party seeking to invoke a federal court's jurisdiction must demonstrate three things: (1) "injury in fact," by which we mean an invasion of a legally protected interest that is "(a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical," (2) a causal relationship between the injury and the challenged conduct, by which we mean that the injury "fairly can be traced to the challenged action of the defendant," and has not resulted "from the independent action of some

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

third party not before the court," and (3) a likelihood that the injury will be redressed by a favorable decision, by which we mean that the "prospect of obtaining relief from the injury as a result of a favorable ruling" is not "too speculative." Northeastern Fla. Chapter of the Associated Gen. Contractors v. City of Jacksonville, 113 S.Ct. 2297, 2301-02 (1993) (quoting Lujan v. Defenders of Wildlife, 112 S.Ct. 2130, 2136 (1992); Simon v. Eastern Ky. Welfare Rights Org., 426 U.S. 26, 41-42 (1976); Allen v. Wright, 468 U.S. 737, 752 (1984), respectively); see Cass R. Sunstein, What's Standing After Lujan? Of Citizen Suits, "Injuries," and Article III, 91 Mich.L.Rev. 163 (1992) (discussing modern standing jurisprudence); see also Harold J. Krent & Ethan G. Shenkman, Of Citizen Suits and Citizen Sunstein, 91 Mich.L.Rev. 1793 (1993) (responding to Sunstein's analysis of standing).

106 Lujan v. Defenders of Wildlife, 112 S.Ct. 2130, 2143 (1992).

107 See, e.g., Allen v. Wright, 468 U.S. 737, 755 (1984) (rejecting the idea that stigmatic harm to a racially defined group gives an individual member of that group standing); see also Antonin Scalia, The Doctrine of Standing as an Essential Element of the Separation of Powers, 17 Suffolk U.L.Rev. 881, 881-82 (1983) ("[C]ourts need to accord greater weight than they have in recent times to the traditional requirement that the plaintiff's alleged injury be a particularized one, which sets him apart from the citizenry at large.").

108 For example, in the electoral context, the more traditional conception of standing recently led to dismissal of the constitutional challenge to the seating of Alcee Hastings as representative of Florida's 23d congressional district. Waggoner v. Hastings, 816 F.Supp. 716 (S.D.Fla. 1993). Hastings, a federal district judge who had been impeached, convicted, and removed from office, was subsequently elected to Congress. A plaintiff challenged his seating on the ground that the Constitution's impeachment provisions disqualified Hastings from holding any office under the United States. U.S. Const. art. I, § 3, cl. 7 reads:
Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.
The plaintiff, however, was registered to vote not in the 23d district, but in an adjoining one. He nonetheless asserted a generalized interest in having only constitutionally qualified officials representing Florida. Although the court found "an appeal to the logic of the plaintiff's argument about an interest of a citizen in having lawfully qualified representatives," the court dismissed the complaint for lack of standing. 816 F.Supp. at 718. The standing holding appears to be an alternative holding because the court also went on to find the claim nonjusticiable on other grounds. 816 F.Supp. at 720. This result reflects not only the traditional requirement of concrete and particularized injury, but the narrowness with which courts have conceptualized legal injury in the electoral context.

109 Shaw v. Reno, 113 S.Ct. 2816, 2828 (1993).

110 113 S.Ct. at 2824.

111 113 S.Ct. at 2822.

112 113 S.Ct. at 2824.

113 113 S.Ct. at 2847 (Souter, J., dissenting).

114 113 S.Ct. at 2828 (citations omitted).

115 The closest the Court comes to resolving the tension between traditional standing principles and the expressive harms Shaw recognizes is when the Court intimates that the voters in a particular "bizarre" district experience these harms distinctly: "When a district obviously is created solely to effectuate the perceived common interests of one racial group, elected officials are more likely to believe that their primary obligation is to represent only the members of that group, rather than their constituency as a whole." 113 S.Ct. at 2827. The notion here appears to be that seemingly single-valued redistricting runs the danger of constructing an inappropriate, or antiliberal, conception of the relationship between representation and community in a particular district. In many other passages, however, the Court describes the harms in ways that are not district specific. See, e.g., 113 S.Ct. at 2830 ("Nothing in the [Court's precedents] precludes white voters (or voters of any other race) from bringing the analytically distinct claim that a reapportionment plan rationally cannot be understood as anything other than an effort to segregate citizens into separate voting districts on the basis of race without sufficient justification.") (emphasis added). Even on the narrowest reading, passages like these seem to imply a standing principle broad enough at least to permit

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

any voter in a "bizarre" district to sue. Nevertheless, the question remains whether this kind of geographic standing limitation is consistent with the logic of the expressive harms the Court recognizes.

116 We do not explore in detail more subtle causation questions, such as whether the impermissible cause with which Shaw is concerned must be merely a contributing cause, the dominant cause, or the exclusive cause for a particular district's design. For further discussion, see infra text accompanying notes 251-52.

117 Citizens exposed to the plan will find it "so irrational on its face that it immediately offends principles of racial equality." 113 S.Ct. at 2829.

118 There is no way to prove that this assumption underlies the Court's approach to the case, for the Court made no formal finding or statement to this effect, but the atmosphere of the opinion strongly suggests that the Court believed North Carolina had defiantly rejected the Justice Department's suggestion in order to pursue state political agendas. For example, the Court referred twice to the fact that "the Attorney General suggested that North Carolina could have created a reasonably compact second majority-minority district in the south-central to southeastern part of the State," 113 S.Ct. at 2832, including in the very last paragraph of the opinion, when the Court is recapping the most important elements of the case to define the decision's basic principles. 113 S.Ct. at 2820, 2832. In addition, one of the dissenting opinions explicitly rests on the assumption that the state could have drawn a reasonably compact minority-dominated district, most likely in the southeastern part of the state, as the Attorney General had suggested. See 113 S.Ct. at 2841 n.10 (White, J., dissenting). Thus, the "strong" version of the facts most likely informed the Court's internal discussions and the Justices' individual deliberations.

119 See supra note 118.

120 See supra note 118. In other litigation, plaintiffs did allege that North Carolina's rejection of a majority-black district in the southern region of the state in favor of District 12 was the result of political gerrymandering motivated by the desire to protect Democratic incumbents. A three-judge court dismissed that suit, Pope v. Blue, 809 F.Supp. 392 (W.D.N.C. 1992), and the Supreme Court summarily affirmed. Pope v. Blue, 113 S.Ct. 30 (1992).

121 Shaw, 113 S.Ct. at 2827.

122 On remand or in future applications of Shaw, a crucial question is likely to be whether governments can legitimately assert that partisan advantage or protection of incumbents provides a compelling end under strict scrutiny to justify extremely contorted election districts. For discussion, see infra text accompany notes 254-69.

123 This article is not the place to provide a lengthy catalogue of such doctrines or decisions, but, as one example, consider the recent decision in New York v. United States, 112 S.Ct. 2408 (1992). There Congress had ratified a state-led effort to develop a comprehensive mechanism for fairly distributing the burdens of low-level nuclear waste disposal. The Court held that Congress could enforce this scheme constitutionally through monetary and other incentives, but it could not do so by requiring states to assume ownership of nuclear waste if they failed in their other obligations. 112 S.Ct. at 2412. In functional terms, the decision is easy to criticize, for Congress can enforce the statute through other, perhaps equally effective means — means just as "coercive" in effect as mandatory ownership. Yet the Court might be understood as concluding that Congress expresses a distinct — and constitutionally impermissible — attitude toward the states when it directly mandates their action. Even if vulnerable on functional or doctrinal grounds, the decision might be thought to assert the principle that Congress cannot understand its relationship to states in this way. Interestingly, Justice O'Connor is the author of New York. Thus, we might see a general theme emerging in Justice O'Connor's conception of constitutional law and the Court's role: a general attentiveness to the expressive dimensions of public action. For further examples of decisions that might be difficult to rationalize on functional grounds, but are best understood in more expressive terms, see the provocative account in Philip Bobbitt, Constitutional Fate 196-223 (1982).

124 See infra note 126.

125 If this were so, the state perhaps could have submitted its second districting plan for preclearance and tried to demonstrate to the Justice Department that a reasonably compact second minority district could not have been created. Of course, the state might have faced considerable costs, financial and political, from further delaying implementation of the post-1990 congressional redistricting.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

126 Trying to resolve which version of the facts — the "strong" or the "weak" version — is more accurate brings to the surface the complexities of current VRA theory and practice. First, when the North Carolina General Assembly came up with its first redistricting plan, which included only one black-dominated district, the General Assembly expressly concluded that "[i]t is apparent that it is only possible to create one majority black district that is reasonably compact, and that is what Chapter 601 does." Lacy Thornburg, Attorney General of North Carolina, Other Material Concerning the Purpose of the Plan, in Section 5 Submission for North Carolina Congressional Redistricting, Chapter 601 (Aug. 28, 1991) (unpublished document submitted to the Civil Rights Division, U.S. Department of Justice, copy on file with authors). In reaching this conclusion, the General Assembly, which Democrats controlled, rejected at least two Republican-sponsored alternatives that would have arguably created two minority-dominated districts (as well as, presumably, having Republican-favored partisan effects). The stated reasons for these rejections were that, in one plan, the second district was "so sprawling that it was most often described as 'ludicrous' or 'absurd,'" id. at 1, and that, in the other alternative, the second district

sprawled all over eastern North Carolina and looked like a river with many tributaries running from Virginia in the north to Wilmington in the south. It would be exceedingly hard to campaign effectively in this area, or to represent it well, since in many areas it is only one precinct wide.

Id. at 2. Thus, Republicans in North Carolina were no less willing to design highly contorted districts than the General Assembly was when the Assembly created District 12. Moreover, if these reasons are taken at face value, they suggest that the General Assembly sought to avoid extremely distorted districts and ended up with one only after the Department of Justice's denial of preclearance; these comments also suggest that designing a reasonably compact second minority district was considerably more difficult than the "strong" version of the facts assumes. Of course, whether the reasons the General Assembly offered should be taken at face value is a question that would require more detailed factual inquiry.

Second, it is difficult to judge (from the record material we have seen) the basis on which the Justice Department concluded that a second, reasonably compact minority district could have been created in southeastern North Carolina. The only map proposing such a district we have been able to discover in the record is that which the NAACP submitted to the Justice Department with a memorandum dated Oct. 29, 1991. This memorandum stated "[t]here are many ways that the population in the Southeast area of North Carolina can be configured to create another minority district. Our proposal is created to show that there is the possibility of the district." Memorandum from Samuel L. Walters, Assistant General Counsel, NAACP to George Harrison, Voting Rights Division, U.S. Department of Justice 1 (Oct. 29, 1991) (on file with authors). Yet this memorandum itself acknowledged that "[t]he map shows the district is not the most compact one ever created," id., and the proposed district would have had a population (not voting-age population, as far as we can tell) that would have been 51.2% Black and 8.4% American Indian. Id. at 2. Thus, even the district the NAACP proposed apparently depended on aggregating minority populations to create a second minority-controlled district. Whether the VRA permits or requires such aggregation of minority groups, and under what circumstances, remains a major unresolved question. The Justice Department did not specify the particular location of the second district it had in mind and generally refrains from proposing detailed district designs that local governments must follow. While the Court understandably seems to have accepted the Justice Department's assertion that a reasonably compact second district could have been created — the "strong" version of the facts — the record material we have been able to review does not convincingly establish this conclusion.

127 See supra text accompanying note 118.

128 Shaw v. Barr, 808 F.Supp. 461 (E.D.N.C. 1992), appeal docketed, No. 92-357 (U.S. Aug. 25, 1992).

129 61 U.S.L.W. 3418 (Dec. 7, 1992).

130 488 U.S. 469 (1989).

131 488 U.S. at 495-96.

132 See., e.g., Contractors Assn. v. City of Philadelphia, Nos. 92-1880, 92-1887, 1993 U.S. App. LEXIS 25908, at *26-28 (3d Cir. Oct. 7, 1993).

133 488 U.S. 469 (1989).

134 See supra text accompanying notes 51-57.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

135 Shaw v. Reno, 113 S.Ct. 2816, 2825 (1993)(quoting Village of Arlington Heights v. Metropolitan Hous. Dev. Corp., 429 U.S. 252, 266 (1977)).

136 See infra Table 3.

137 Conceivably, there might be situations in which boundaries were intentionally manipulated to deny blacks potential influence that would still not amount to illegal vote dilution. If there are ever such circumstances that do not violate the VRA itself, Shaw's logic would sensibly extend to these contexts.

138 See supra text accompanying note 6.

139 Nothing in the Constitution itself requires the states to create congressional districts. See U.S. Const.art. I, § 2. Indeed, in the first elections after ratification, the majority of new states held at-large congressional elections. Only Massachusetts, New York, Maryland, Virginia, and South Carolina were organized into representative districts. There is evidence that at least some of the Framers expected the states to create districts and intended the Time, Place, and Manner Clause of Article I, Section 4 to act as a brake against factional districting by state legislatures. Andrew Hacker, Congressional Districting: The Issue of Equal Representation 8-10 (1963). For example, James Madison approvingly asserted in The Federalist No. 56, at 379-80 (James Madison) (Jacob E. Cooke ed., 1961): "Divide the largest state into ten or twelve districts, and it will be found that there will be no peculiar local interest . . . which will not be within the knowledge of the representative of the district." Similarly, Alexander Hamilton stated at the New York ratifying convention: "The natural and proper mode of holding elections will be to divide the state into districts in proportion to the number to be elected." Alexander Hamilton, First Speech of June 21 in the New York Ratifying Convention, in Selected Writings and Speeches of Alexander Hamilton (Morton J. Frisch ed., 1985), quoted in Congressional Quarterly Inc., Jigsaw Politics: Shaping the House After the 1990 Census 6 (1990) (alteration in original).
As of 1840, nine of the 31 states continued to elect representatives at large. In response to the frequent occurrence of a majority party's sweeping an entire state delegation in at-large states, Congress invoked the Time, Place, and Manner Clause to pass the Reapportionment Act of 1842, ch. 47, 5 Stat. 491. That Act required, for the first time, that representatives "shall be elected by districts composed of contiguous territory equal in number to the number of Representatives" for each state. Reapportionment Act of 1842, ch. 47, 5 Stat. 491. Despite the Act, New Hampshire, Georgia, Mississippi, and Missouri conducted their 1842 elections under at-large systems; over protests, Congress seated all the members of these states. Congressional Quarterly Inc., supra, at 18.
In 1901, Congress added a compactness requirement to the Act, Reapportionment Act of 1911, ch. 5, § 3, 37 Stat. 13, 14; Reapportionment Act of 1901, ch. 93, § 3, 31 Stat. 733, 734, but this requirement was soon dropped. Reapportionment Act of 1929, ch. 28, § 2a, 46 Stat. 21, 26. See generally Steve Bickerstaff, Reapportionment by State Legislatures: A Guide for the 1980s, 34 Sw.L.J. 607, 610-11 (1980) (describing Congress's failure to pass a reapportionment act after the 1920 Census, thus delaying reapportionment until passage of the federal Reapportionment Act of 1929). The compactness requirement has never been revived. See Wood v. Broom, 287 U.S. 1 (1932) (interpreting the federal Reapportionment Act of 1929 to repeal compactness requirement); cf. Franklin v. Massachusetts, 112 S.Ct. 2767, 2771 (1992) (discussing the passage of the Reapportionment Act of 1929). Today, only the seven states that are entitled to a single representative — Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont, and Wyoming — hold at-large congressional elections. For a good overview of congressional reapportionment acts, see Emanuel Celler, Congressional Apportionment — Past, Present, and Future, 17 Law & Contemp. Probs. 268 (1952).

140 Grofman, Criteria for Districting, supra note 7, at 85. In Hawaii, Iowa, Missouri, Montana, Virginia, West Virginia, and Wyoming, state compactness requirements apply to congressional redistricting. See Larry M. Eig & Michael V. Seitzinger, Congressional Research Service, State Constitutional and Statutory Provisions Concerning Congressional and State Legislative Redistricting, CRS Rep. No. 81-143A (June 7, 1981) (citing statutes and constitutions from Hawaii, Iowa, Missouri, Montana, Virginia, West Virginia, and Wyoming); see, e.g., Shayer v. Kirkpatrick, 541 F.Supp. 922, 931-32 (W.D.Mo.), affd., 456 U.S. 966 (1982).

141 See infra text accompanying notes 149-55.

142 478 U.S. 30 (1986).

143 See supra note 13 and accompanying text.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

144 Shaw v. Reno, 113 S.Ct. 2816, 2842 (1993) (White, J., dissenting).

145 Justice Frankfurter coined the phrase "political thicket" in Colegrove v. Green, 328 U.S. 549, 556 (1946), and it has continued to accompany virtually all judicial entries into new issues surrounding redistricting. See generally Peter H. Schuck, The Thickest Thicket: Partisan Gerrymandering and Judicial Regulation of Politics, 87 Colum.L.Rev. 1325 (1987).

146 Ill.Const. art. IV. § 3(a).

147 See, e.g., Mich.Const. art. IV, § 2 (requiring state senatorial districts to be drawn "as rectangular in shape as possible"); Mo.Const. art. III, § 5 (mandating that state senate districts be "of contiguous territory, as compact and nearly equal in population as may be"); N.Y.Const. art. III, § 5 (requiring assembly districts to be drawn "in as compact form as practicable"). For a full survey of state compactness requirements, see Grofman, Criteria for Districting, supra note 7, at 177 tbl. 3.

148 One of the two compactness standards that the Iowa legislature adopted in 1980 is expressed as "the ratio of the dispersion of population about the population center of the district to the dispersion of population about the geographic center of the district." Iowa Code Ann. § 42.4(1)(c) (West 1991). Colorado's Constitution provides a compactness measure based on the sum of the perimeters of district boundaries. Colo.Const. art. V, § 47.

149 The leading recent state case is probably Schrage v. State Bd. of Elections, 430 N.E.2d 483 (Ill. 1981). The case is particularly significant because the court found a compactness violation with respect to the design of a single state district. More commonly, state courts that strike down redistricting plans do so on the ground that the plan as a whole, rather than an isolated district, violates state law requirements. Schrage was the first case in Illinois history to strike down a districting plan for violating the state constitution's compactness requirement. A year later, the court in Martin v. Soucie, 441 N.E.2d 131 (Ill.App.Ct. 1982), relied upon Schrage to defeat an apportionment plan for county board elections.
For other state cases finding violations of state law compactness requirements, see Preisler v. Doherty, 284 S.W.2d 427 (Mo. 1955) (invalidating state senatorial redistricting of the City of St. Louis); State ex rel. Barrett v. Hitchcock, 146 S.W. 40 (Mo. 1912) (invalidating entire Missouri state senatorial apportionment on constitutional compactness and population equality failings); In re Sherill, 81 N.E. 124 (N.Y. 1907) (invalidating entire 51-district New York state senatorial apportionment on grounds that two districts failed to meet constitutional compactness and population equality requirements); In re Livingston, 160 N.Y.S. 462 (Sup.Ct. 1916) (voiding apportionment of assembly districts within a senate district).

150 See Acker v. Love, 496 P.2d 75 (Colo. 1972); In re Legislative Districting of Gen. Assembly, 193 N.W.2d 784, 791 (Iowa 1972).

151 See, e.g., Preisler v. Kirkpatrick, 528 S.W.2d 422, 426-27 (Mo. 1975) (finding all but two districts to be within compactness requirements and holding that "considering the overall, state-wide plan developed . . . the districts established substantially comply with the compactness requirement" of the Missouri Constitution); Opinion to the Governor, 221 A.2d 799 (R.I. 1966) (finding districting plan valid absent "a complete departure from the requirement for compactness") (advisory opinion). See generally Grofman, Criteria for Districting, supra note 7, at 86.

152 A typical example is the recent decision of the Virginia Supreme Court in Jamerson v. Womack, 423 S.E.2d 180 (Va. 1992). There the plaintiffs challenged, on compactness grounds, two state senate districts, at least one of which was designed to be a majority-black district. The court acknowledged that one of the districts was longer than any other in the state and that the enacted plan split more counties than other plans the legislature had considered. At trial, each side offered expert testimony on the compactness of the districts and plan. On appeal, the Virginia Supreme Court did not evaluate this testimony or engage in any analysis of the quantitative measures presented. Instead, the court found it sufficient that the expert testimony was in conflict and that the trier of fact had accepted one side's testimony.423 S.E.2d at 186.
Similarly, in Schrage v. State Bd. of Elections, 430 N.E.2d 483 (Ill. 1981), the Illinois Supreme Court chose to "rely on a visual examination of the questioned district as other courts have done," finding that "a more precise measurement is unnecessary." 430 N.E.2d at 487; cf. In re Legislative Districting of the State, 475 A.2d 428, 437 (Md. 1984) ("With the possible exception of Colorado . . . no jurisdiction has defined or applied the compactness requirement in geometric terms. On the contrary, most jurisdictions have concluded that the constitutional compactness requirement, in a state legislative redistricting context, is a relative rather than an absolute standard.") (citation omitted).

153 Information provided by Election Data Services, Inc.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

154 Only the perimeter measure in the 1980s shows enough of a difference to be possibly meaningful. We discuss this measure infra at text accompanying notes 202-04.

155 With so few states requiring compactness, individual cases could greatly influence the results. Hawaii's districts are relatively noncompact because they are artifacts of the unusual geography (island composition); balancing this extreme, perhaps, are Iowa's relatively compact districts based, in part, on its rather square shape.

156 See Thornburg v. Gingles, 478 U.S. 30, 50-51 (1986).

157 113 S.Ct. 1075 (1993).

158 In Growe, a federal district court, after having appointed a special master, had crafted a redistricting plan for Minnesota's state senate. In overturning that decision, the Supreme Court described the one state senate district, which the district court had believed the VRA required, as an "oddly shaped creation." The Court also characterized as "dubious" the district court's assumption that this district was "geographically compact" under Gingles. 113 S.Ct. at 1085. The Court described this district, Senate District 59, as "stretching from south Minneapolis, around the downtown area, and then into the northern part of the city in order to link minority populations." 113 S.Ct. at 1083. In total population figures, the district was 43% black and 60% minority. 113 S.Ct. at 1083. Because the Court overturned the district court's judgment on other grounds, these comments are dicta, but they might nonetheless be suggestive.

159 See generally Pamela S. Karlan, Maps and Misreadings: The Role of Geographic Compactness in Racial Vote Dilution Litigation, 24 Harv.C.R.-C.L.L.Rev. 173, 199 (1989) ("Geographic concerns played only a minor role in the legislative history of amended Section 2. In the past two years, however, geographic compactness has moved to the forefront of vote dilution litigation . . . .") (footnote omitted).

160 In these cases, the courts sometimes discuss compactness in isolation and sometimes in terms of the appropriate trade-offs between it and other values. When courts treat compactness as the sole variable, they frame the judicial inquiry as whether districts are "sufficiently compact." When courts consider the appropriate trade-offs between shape and other relevant redistricting values — for example, avoidance of vote dilution, compactness, preservation of communities of interest — the question is what degree of compactness is consistent with other legitimate redistricting policies.
Although the way the question is framed initially may have some effect on shifting burdens of evidentiary production, ultimately these two approaches amount to the same inquiry. Whether a district is "sufficiently" compact, for example, is largely a function of how one weighs the value of compactness against competing districting values.

161 686 F.Supp. 1459 (M.D.Ala. 1988).

162 686 F.Supp. at 1466.

163 686 F.Supp. at 1465. Not anticipating Shaw, the court went on to add that "[a]n aesthetic norm" would be "an unworkable concept, resulting in arbitrary and capricious results, because it offers no guidance as to when it is met." 686 F.Supp. at 1465-66.

164 The court also noted that the county's proposed plan contained a similarly shaped district, and that the board's superintendent had testified that the district posed no administrative or other problems. 686 F.Supp. at 1466.

165 Jeffers v. Clinton, 730 F.Supp. 196, 207 (E.D.Ark. 1989); see also Neal v. Coleburn, 689 F.Supp. 1426, 1437 (E.D. Va. 1988) (stating that asymmetrical districts are acceptable when "in line with the configurations of electoral districts that have been approved in other cases").

166 Bryant v. Lawrence County, 814 F.Supp. 1346, 1350 (S.D. Miss. 1993). The court also concluded that the plaintiffs drew the proposed districts "without regard to natural geographic boundaries, [or] splitting of precincts." 814 F.Supp. at 1350.

167 814 F.Supp. at 1351.

168 Clark v. Calhoun County, 813 F.Supp. 1189, 1198 (N.D.Miss. 1993).

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

169 Dillard v. Baldwin County Bd. of Educ., 686 F.Supp. 1459, 1466 (M.D.Ala. 1988) (noting that a district would have "no sense of community . . . if its members and its representatives could not effectively and efficiently stay in touch with each other; or . . . if its members and its representatives could not easily tell who actually lived within the district").

170 691 F.Supp. 991 (E.D.La. 1988).

171 "A proposed district is sufficiently compact if it retains a natural sense of community. To retain that sense of community, a district should not be so convoluted that its representative could not easily tell who actually lives in the district." 691 F.Supp. at 1007.

This principle appears similar to one that Bernard Grofman has recently advanced under the label of "cognizability":

I wish to argue that districts can be so far from cognizable that they violate what we might think of as a due process component of equal protection by damaging the potential for "fair and effective representation." By "cognizability," I mean the ability to characterize the district boundaries in a manner that can be readily communicated to ordinary citizens of the district in commonsense terms based on geographical referents. . . .

. . . .

Egregious violations of the cognizability principle can be identified by making use of standard criteria of districting, such as violation of natural geographic boundaries, grossly unnecessary splittings of local subunit boundaries (such as city and county lines), and sunderings of proximate and contiguous natural communities of interests.

Grofman, Vince Lombardi, supra note 7, at 1262-63 (footnotes omitted). Grofman acknowledges that he does not yet have a clear operational test for noncognizability, which he recognizes is especially problematic because cognizability is best thought of as a continuum. Id. at 1262.

172 691 F.Supp. at 1007. The court nonetheless did invalidate Jefferson Parish's unusual council-election scheme, which was not used anywhere else in Louisiana, on other grounds. 691 F.Supp. at 994 n.2, 1008.

173 Potter v. Washington County, 653 F.Supp. 121, 130 (N.D.Fla. 1986).

174 Neal v. Coleburn, 689 F.Supp. 1426, 1437 (E.D.Va. 1988).

175 See, e.g., Magnolia Bar Assn. v. Lee, 793 F.Supp. 1386 (S.D.Miss. 1992) (finding no § 2 violation in Mississippi judicial redistricting, partially on grounds that majority-minority districts could not be drawn without splitting counties), affd., 994 F.2d 1143 (5th Cir.1993); Wesch v. Hunt, 785 F.Supp. 1491, 1499 (S.D.Ala.) (adopting a court-decreed plan that creates a majority-African-American congressional district for Alabama without "extensive gerrymandering"), affd. sub nom. Camp v. Wesch, 112 S.Ct. 1926 (1992), and affd. sub nom. Figures v. Hunt, 113 S.Ct. 1233 (1993); Burton v. Sheheen, 793 F.Supp. 1329, 1356 (D.S.C. 1992) ("[I]n light of § 2's strong national mandate . . . a district is sufficiently geographically compact if it allows for effective representation."); Gunn v. Chickasaw County, 705 F.Supp. 315, 322-23 (N.D.Miss. 1989) (rejecting proposed remedial plan partially on grounds that it did not give proper consideration to existing political subdivisions and cohesive neighborhoods); Carstens v. Lamm, 543 F.Supp. 68 (D.Colo. 1982) (fashioning a court-decreed congressional redistricting plan for Colorado); Rybicki v. State Bd. of Elections, 574 F.Supp. 1082, 1097 (N.D.Ill. 1982) (refusing to invalidate the Illinois General Assembly's districting plan as "noncompact" partially on grounds that plaintiffs' proposed plan contained similarly noncompact districts).

176 This tension is also apparent in the district court cases. Some courts tend to treat the VRA as creating an affirmative duty to draw majority-minority districts when reasonably possible. See, e.g., DeGrandy v. Wetherell, 794 F.Supp. 1076, 1085 (N.D.Fla. 1992) ("[W]e conclude that 'the law supports the drawing of a minority district where, in light of minority concentrations and community of interests, such a district can reasonably be drawn.'") (quoting Report of the Special Master at 14 (May 18, 1992)), cert. granted sub nom. Johnson v. DeGrandy, 113 S.Ct. 2437 (1993); Jeffers v. Clinton, 730 F.Supp. 196, 205 (E.D.Ark. 1989) ("If . . . reasonably compact and contiguous majority-black districts could have been drawn, and if racial cohesiveness in voting is so great that . . . black voters' preferences for black candidates are frustrated . . . the outlines of a Section 2 theory are made out."), affd., 498 U.S. 1019 (1991).

Several recent decisions, however, have emphatically denied any duty on the part of the legislature to maximize minority political representation. See, e.g., Teague v. Attala County, 807 F.Supp. 392, 404 (N.D.Miss. 1992) ("The Voting Rights Act never was intended as a vehicle for creating 'safe' black or other minority seats."); Nash v. Blunt, 797 F.Supp. 1488, 1496 (W.D. Mo. 1992) ("[W]e do not believe Congress intended the Act to require maximum representation."), affd. sub nom. African Am. Voting Rights Legal Defense Fund, Inc. v. Plunt, 113 S.Ct. 1809 (1993); Turner v. Arkansas, 784 F.Supp. 553,

573 (E.D.Ark. 1991) (Section 2 of the VRA "is not violated . . . simply because [a] legislature does not enact a districting plan that maximizes black political power or influence."), affd. 112 S.Ct. 2296 (1992).
According to a former Assistant Attorney General, Civil Rights Division, "[t]here is one thing the Civil Rights Division does not do: It does not require, because the law does not require, the maximization of minority representation." Dunne, supra note 38, at 1128.

177 Commentators have generally argued that compact districting directly advances three principal values: enhanced communication between representatives and constituents; greater voter knowledge of their representatives and of their political "neighbors"; and greater trust in the legitimacy of a political system in which districts appear "fairly" shaped — or, at least, not obviously unfairly shaped.
With respect to the first value, some have argued that technological changes — such as telephones, modern highway systems, fax machines, and the like — considerably undermine the relationship between compactness and effective communication. See, e.g., Cain, supra note 7, at 32-33. At the same time, communication still often takes place in group contexts, with legislators meeting all manner of boards, committees, organizations, governmental bodies, and so on. Compact districts might facilitate communication because they are likely to hold in check the number of such groups. Empirical evidence on this question is slim. "Community-based" districts make it more likely that constituents can identify their congressmen, though this result does not necessarily mean that such districts encourage better communication. Richard G. Niemi et al., The Effects of Congruity Between Community and District Congruity on Salience of U.S. House Candidates, 11 Legis. Stud. Q. 187 (1986). There is, of course, no guarantee that compact districts enhance communication, but the question is whether there is any meaningful tendency in this direction.
With respect to voter knowledge, the above study suggests, not surprisingly, that constituents are more likely to know the names of their congressmen when the lines of districts and "natural" communities coincide. See id. at 187-88 (citing studies). At the same time, "meaningful" and compact districts are not necessarily the same. When cities or other political subdivisions are themselves noncompact, requiring compact districting would be at odds with this very concern. See Grofman, Vince Lombardi, supra note 7, at 1263 (advocating a "cognizability," rather than a compactness, standard).
Finally, with regard to the claimed relationship between compactness and political legitimacy, critics have argued the public knows so little about districting that any such effect can be safely ignored. See Cain, supra note 7, at 188-91. Shaw, however, with its evident concern about social perceptions, appears to reject this argument.
Of course, to the extent that departures from compactness are necessary to promote other values, such as enhancing fair and effective minority representation, a complete assessment of compactness must weigh the costs of departing from it against whatever values it might intrinsically serve. Cain writes:
Those who argue for the importance of compactness must be willing to accept limitations on the achievement of equity for minorities. . . . From the perspective of the white, median voter in this country, compactness is desirable, since it enhances the strength of the majority. From the perspective of the nonwhite population, compactness deprives them of equitable representation for the same reason.
Id. at 51.

178 For a strong argument that compact districting does tend to minimize impermissible gerrymandering, see Justice Steven's separate opinion in Karcher v. Daggett, 462 U.S. 725, 755-58 (1983) (Stevens, J., concurring). Nevertheless, compactness certainly is not sufficient to guarantee fair distribution of power among competing groups — assuming, for the moment, that fairness is to be measured through some degree of proportionality between groups in the electorate and in the representative body. An equitable distribution of power depends on the geographical distribution of the relevant groups. In addition, computer programs now allow the creation of large numbers of potential districts, all of them compact, but differing in their partisan, racial, and other characteristics. Thus, the ability of compactness to serve as a partial constraint on gerrymandering is lesser now than previously. See generally Cain, supra note 7, at 35-38.

179 369 U.S. 186 (1962).

180 See Karcher v. Daggett, 462 U.S. 725 (1983).

181 Shaw v. Reno, 113 S.Ct. 2816, 2826 (1993). As the Court puts it, in some cases, a district is "so highly irregular that, on its face, it rationally cannot be understood as anything other than an effort to 'segregat [e] . . . voters' on the basis of race." 113 S.Ct. at 2826 (quoting Gomillion v. Lightfoot, 364 U.S. 339, 341 (1960)).

182 113 S.Ct. at 2826-27 (discussing Gomillion).

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

183 364 U.S. 339 (1960).

184 Shaw presumably also applies to state legislative districts. In upper houses of state legislatures, the number of districts is often 30-50, and in lower houses the number is often 100 or more. Harold W. Stanley & Richard G. Niemi, Vital Statistics On American Politics 153 tbl. 4-6 (4th ed. 1994).

185 One should not confuse these questions with how big a district is in absolute size. Districts in sparsely populated areas of a state are necessarily larger in overall size than those in large urban areas; given one-person-one-vote requirements, this disparity cannot be avoided.

186 The facts concerning these districts are drawn from Michael Barone & Grant Ujifusa, The Almanac Of American Politics 1994, at 1250-51, 1275-76 (Eleanor Evans ed., 1993) (describing the creation and composition of Texas CD18 and Texas CD29, respectively). In the first election in Texas CD29, a Hispanic did not win the seat. Id. at 1276.

187 Id. at 320.

188 In part, this apparent smoothness is a function of the scale of the map. If each city were shown in detail, one would see more border irregularities.

189 It turn out, as we shall see, that this district is so extremely long and narrow that, together with the lengthened western border, it is relatively noncompact with respect to its perimeter. Nonetheless, at first glance, its border characteristics do not appear troubling.

190 The source of this map is Gomillion v. Lightfoot, 364 U.S. 339, 348 (1960).

191 To be sure, one projection sticks out incongruously from the side of the main body of the new boundaries. Yet even Wisconsin CD9 (Figure 2(d)), which appears by comparison to be fairly regular, has an appendage on the north side that sticks out some miles from the main portion of the district.

192 Two hundred thirty-nine of the 1990s congressional districts are less compact than the reconfigured Tuskegee district on both of the quantitative measures introduced below.

193 The Tuskegee case was so extreme because the effect was "to remove from the city all save only four or five of its 400 Negro voters while not removing a single white voter or resident." Gomillion v. Lightfoot, 364 U.S. 339, 341 (1960).

194 The cost of calculating district compactness scores does not seem to have stopped states and even some local jurisdictions from making them. The entire cost of redistricting has increased dramatically in recent years, but, given requirements for strict population equality, for example, the marginal additional burden of calculating district compactness should not be prohibitive.

195 Richard G. Niemi et al., Measuring Compactness and the Role of a Compactness Standard in a Test for Partisan and Racial Gerrymandering, 52 J. Pol. 1155 (1990).

196 These characteristics also turn out to be the basis for most operationalizations of the term.

197 Niemi et al., supra note 195, at 1160.

198 Some might suggest that hexagons provide a better base than circles because hexagons can fill an entire space, in principle, with no "in-between" area left over. Given the irregular shapes of states and other jurisdictions, however, it is unlikely that any real area could be divided into a set of perfect hexagons, even if equal population were not a consideration. Perfection in the real world of districting is impossible regardless of the theoretical standard one uses.

199 Because squares — which have equal length and width — are considered relatively compact, some have suggested that length and width should be the basis of quantitative measures. See, e.g., Curtis C. Harris, Jr., A Scientific Method of Districting, 9 Behavioral Sci. 219, 221 (1964). The difficulty is that no unique method exists of measuring the length and width of irregular shapes. Length might well be the distance between the two points farthest apart in the district. Yet what is the width? How would one judge it in congressional districts such as those shown in Figures 2(f) or 3(c)?

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

200 Earnest C. Reock, Jr., originally defined this measure, Earnest C. Reock, Jr., Note, Measuring Compactness as a Requirement of Legislative Reapportionment, 5 Midwest J. Pol. Sci. 70, 71 (1961), which Niemi and others catalogued as Dispersion 7. Niemi et al., supra note 195, at 1161.

201 In a practical sense, it is not always easy to measure areas of complex shapes, though computer programs are now available for this purpose.

202 Intuitively, one might think the most obvious measure of perimeter is overall perimeter length, measured in distance units, such as miles or kilometers. The Colorado State Constitution incorporates this approach for its state legislative districts. Colo. Const. art. V, § 47. While easy to grasp, this measure has certain undesirable properties, especially when comparing congressional districts across the nation. First, because overall length is very sensitive to the absolute size of a district, one can only sensibly apply it to districting plans taken as a whole. That is, as noted above, it makes little sense to compare the overall lengths of the boundaries of rural and urban districts. See supra note 185. Rural districts, no matter how smooth and regular their borders, will register longer boundaries than urban ones, no matter how convoluted the boundaries of the latter. Comparing alternative districting plans on the basis of the overall boundary lengths for all the districts in the state does make sense. Nevertheless, given regional variations between urban and rural areas, one cannot reasonably compare individual districts, even within one state. In addition, comparisons of aggregate boundary lengths across states are inappropriate because the shapes of the states will greatly affect such measurements. For these reasons, we do not use this measure here.

203 In equation form, this definition is expressed as $4(pi)A/P^2$, where A is the area and P is the perimeter of the district. One can easily confirm that a circle has a perimeter score of 1, as follows. If the perimeter of a circle is P, by definition, $P = 2(pi)r$, where r is the radius of the circle. In addition, A, the area of the circle, is $(pi)r^2$. Then, perimeter score = $4(pi)((pi)r^2)/ (2) (pi)r^2) = 1$. This measure is called the Schwartzberg measure in Daniel D. Polsby & Robert D. Popper, The Third Criterion: Compactness as a Procedural Safeguard Against Partisan Gerrymandering, 9 Yale L. & Poly. Rev. 301, 348-49 (1991). In fact, as Polsby and Popper point out, it is a slight variation (and improvement) of the measure originally proposed by Schwartzberg. Id. at 349 n.204; see also Joseph E. Schwartzberg, Reapportionment, Gerrymanders and the Notion of "Compactness," 50 Minn.L.Rev. 443 (1966).

204 These observations illustrate the point that natural features will affect compactness scores — dispersion as well as perimeter. The effects of natural features are a reason that one cannot use such scores in a mechanical fashion to eliminate districts that fall below some predetermined level. For more discussion, see infra text accompanying notes 231-32.

205 Niemi et al., supra note 195, at 1162 tbl. 1.

206 In technical terms, this measure is described as the minimum convex figure that completely contains the district.

207 For the "rubber-band" definition, a perfect district would be one in which the border had only "convex" angles — that is, a rubber band stretched around it would have no areas that are outside the district but inside the rubber band. For the alternative definition, a circle would receive a score of 1.0.

208 Shaw v. Reno, 113 S.Ct. 2816, 2826-27 (1993).

209 113 S.Ct. at 2821.

210 113 S.Ct. at 2827.

211 113 S.Ct. at 2820-21.

212 113 S.Ct. 1075 (1993); see supra notes 157-58 and accompanying text.

213 113 S.Ct. at 1085.

214 Having for the first time been able to calculate and assess fully a population measure, we are able to see that it measures, in part, the type of population the districts include and exclude, and not simply the degree to which the districts retain nearby populations. In particular, largely rural or suburban districts may tend to circle around an urban area rather than incorporate a portion of the city itself. This pattern often leaves a large population in the "rubber-band" or circle area, lowering the

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

population score. Favoring higher scores would thus give preference to districts that mixed urban and suburban or rural areas. For example, Colorado CD4, near Denver, and Ohio CD13, near Cleveland, are outlying districts that have relatively low scores on the population measure because they abut large urban areas. A largely rural or suburban district that circles around an urban area also lowers the dispersion measure. The effect, however, is especially strong for population measures; the excluded land area may not be great, but the excluded population will often be large. For these reasons, we will refrain from further use of population measures.

215 See supra text accompanying notes 177-80.

216 Lest this statement seem to render the concept meaningless, consider the analogy of outdoor temperature. There is no bright line dividing hot from warm or warm from cold. Although there are some meaningful points on the temperature scale, such as the point at which water freezes, those points do not provide an objective division between hot and cold. Temperature is relative. Yet we all make use of temperature information daily.

217 Can one simply combine dispersion and perimeter scores by averaging them? The problem with averaging the two scores is that it can mask situations in which one score is high and the other low. In principle, one might have a district with a dispersion score of .80 and a perimeter score of .02. The average — .41 — appears fairly reasonable; indeed, it is greater than the mean score for the congressional districts in many states. Nevertheless, it hides the extremely low perimeter score. Such extreme situations are not likely to occur in practice, but the data we present below, see infra Table 3, reveal a number of situations in which the average does not convey an extremely low score on one — usually the perimeter — measure. See supra text accompanying note 186 for the discussion of Texas CD18.

218 Niemi et al., supra note 195, at 1167-76, demonstrate this point with respect to entire plans.

219 Note that some states with water boundaries define the perimeters of the district as extending into the water — for example, a relatively straight line in the middle of a river dividing two states. Consequently, one cannot always equate the apparent shape of the state with the compactness levels possible.

220 Federal constitutional requirements of one person, one vote are more stringent for congressional districts. For state legislative districts, the Court has declared population deviations of up to 10% to be presumptively valid and has upheld deviations up to 16.4% while noting that the latter "approach tolerable limits." Brown v. Thompson, 462 U.S. 835, 842 (1983); Mahan v. Howell, 410 U.S. 315, 319, 329 (1973). In contrast, the standard for a congressional district remains that the district be "as mathematically equal as reasonably possible." White v. Weiser, 412 U.S. 783, 790 (1973); see also Karcher v. Daggett, 462 U.S. 725 (1983) (finding unconstitutional for congressional districts an average deviation from absolutely perfect equipopulation of 0.1384% when the maximum deviation of any one district was only 0.6984%.). The stricter the requirement of population equality, the more districts are likely to deviate from compactness. Note, though, that some state constitutions require nearly absolute equality of state legislative districts.

221 See infra Figure 5.

222 Information provided by Election Data Services, Inc.

223 Just as there is no bright line between compact and noncompact districts, there is no one number that determines whether the difference between compactness scores is significant. Clearly, a small difference — for example, .01 — is not meaningful, and certainly the larger the difference, the more likely it is that the scores are meaningfully different. A given difference has to be evaluated at least in the context of: (a) whether the difference is due to geographical or other obvious factors — for example, a case in which adjoining districts are "reoriented" so that the common border is now along a meandering river, or a case in which one district follows noncompact subjurisdiction boundaries while another is made compact by crossing those boundaries; (b) the size of the difference in both dispersion and perimeter score — it can even happen that differences in dispersion and perimeter scores are contradictory; and (c) whether the comparison is of the average scores for entire plans or of the scores of specific districts — a plan average may be based on scores of a large number of districts, so even if a few districts in the plan are made substantially more (or less) compact, the average across all districts may not change much.

224 Nationwide, 13% of congressional districts have perimeter scores below 0.10. See infra Table 3.

225 Note that only Districts 1 an 12 are majority-minority districts.

226 See supra text accompanying note 165.

227 We have also ranked them in terms of the population measure, but for reasons discussed above, see supra text accompanying notes 208-14, we do not provide that information here.

228 See infra Table 4.

229 A historical comparison may be of interest: as suggested above, the "uncouth twenty-eight-sided" figure in Gomillion is not particularly noncompact by the standards of the 1990s. See supra notes 190-91 and accompanying text. We estimate its dispersion score to be in the neighborhood of .41, and its perimeter score to be approximately .34. The dispersion score puts the district above the average 1990s congressional districts in all but seven states; the perimeter score is above the average in all but eight states.

230 Information provided by Election Data Services, Inc.

231 One of the authors previously wrote that we should "almost always" limit comparisons to one state or jurisdiction. Niemi et al., supra note 195, at 1176. Professor Niemi now regards nationwide comparisons as more useful than that statement would suggest, as long as one makes them with sensitivity to the shapes of states and to other complicating factors such as islands and coast or shorelines.

232 In both cases, the islands are well spread out, thus greatly lowering the dispersion score. The perimeter score is also reduced because the perimeter is calculated around each island — as well as mainland area — separately.

233 If one averages the dispersion and perimeter scores for Texas CD18 (Figure 2(g)), the resulting score is .185, which does not place it among the 25 least compact congressional districts in the nation.

234 We leave aside the cases of California CD36 and Hawaii CD2 because they are artifacts of the unusual geography of the two states.

235 Political observers describe this oddly shaped district as a result of the way in which the Voting Rights Act was interpreted in Florida. The beach towns were apparently isolated when the adjoining 23d and 17th districts, just inland from the coast, were designed as minority-dominated districts. From this perspective, the oddly shaped coastal district is the residue of an effort to create minority-dominated districts. See generally Barone & Ujifusa, supra note 186, at 320-21 (describing Florida CD22 and the redistricting process).

236 In addition to Florida CD22, Louisiana CD6, New York CDs 5, 7-9, and North Carolina CD7 are each majority-white districts that share parts of borders with a minority district.

237 All these figures exclude districts in which no one racial or ethnic group is a majority. The exact numbers, but not the conclusion, would change if we counted those districts. Stanley & Niemi, supra note 184, at 43-44 tbl. 1-17, lists congressional districts with a majority-minority population, based in part on Election Data Services data.

238 See supra text accompanying notes 181-220.

239 See, e.g., League of United Am. Citizens v. Clements, 999 F.2d 831 (5th Cir.1993) (en banc); Hines v. Mayor of Ahaskie, 998 F.2d 1266 (4th Cir.1993); Kimble v. County of Niagara, 826 F.Supp. 664 (W.D.N.Y. 1993).

240 Information provided by Election Data Services, Inc.

241 As noted earlier, the ability to calculate compactness scores has been developed only recently. See supra text accompanying note 194.

242 See supra Table 2.

243 Information provided by Election Data Services, Inc.

244 Information provided by Election Data Services, Inc.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

245 See Niemi et al., supra note 195, at 1175.

246 That extremely noncompact districts are not evident, in general, in the 1970s and 1980s does not, of course, mean they were not prevalent in earlier periods. Southern Redeemers used gerrymanders, involving extremely noncompact election districts, as a central technique to reestablish political control after the national retreat from Reconstruction began in 1877. Thus, in Mississippi, Redeemers in 1877 concentrated "the bulk of the black population in a 'shoestring' Congressional district running the length of the Mississippi River, leaving five others with white majorities. Alabama parceled out portions of its black belt into six separate districts to dilute the black vote." Eric Foner, Reconstruction: America's Unfinished Revolution, 1863-1877, at 590 (1988). In South Carolina, Democrats constructed the "bizarre" South Carolina Seventh District in 1885, which "contained the homes of two Republican incumbents and sliced across county lines in order to pack in every possible black voter." Kousser, The Voting Rights Act, supra note 21, at 144. After these gerrymanders, the Seventh District in South Carolina was 81.7% black and the Sixth District in Mississippi was 77.5% black. Id. at 148. (There are small discrepancies between Foner's and Kousser's figures regarding the postgerrymander populations in the Mississippi congressional districts.).

247 462 U.S. 725 (1983).

248 In 1983, the Court upheld the invalidation of a New Jersey districting plan in which the maximum deviation from exact equality was 0.6984%. The Court based its holding on the existence of a plan with a smaller deviation and the fact that the state had not justified its adoption of a less accurate plan. Karcher, 462 U.S. at 725.

249 478 U.S. 30 (1986).

250 Of the states with combined black and Hispanic populations above 20%, between 10% and 20%, and less than 10%, 13 of 15 (87%), 7 of 9 (78%), and 12 of 19 (63%), respectively, saw a decline in their perimeter scores.

251 See, e.g., Shaw v. Reno, 113 S.Ct. 2816 (1993) ("[W]hen members of a racial group live together in one community, a reapportionment plan that concentrates members of the group in one district and excludes them from others may reflect wholly legitimate purposes. The district lines may be drawn, for example, to provide for compact districts of contiguous territory, or to maintain the integrity of political subdivisions."); Reynolds v. Sims, 377 U.S. 533, 578 (1964).

252 These assumptions are always subject to constitutional and VRA constraints, of course, that prohibit minority-vote dilution.

253 See, e.g., Washington v. Davis, 426 U.S. 229, 248 n.14 (1976).

254 412 U.S. 735 (1973).

255 412 U.S. at 753; see also White v. Weiser, 412 U.S. 783, 795-96 (1973) ("Districting inevitably has sharp political impact and inevitably political decisions must be made by those charged with the task.").

256 Supplemental Brief for the United States as Amicus Curiae at 14, Hays v. Louisiana (W.D.La. filed Aug. 9, 1993) (No. 92-1522S).

257 See supra text accompanying notes 90-96.

258 478 U.S. 109 (1986).

259 For example, after the Wisconsin legislature failed to reapportion itself following the 1990 Census, the court adopted its own plan and construed Bandemer to require that the smallest number of incumbents be paired. The critical feature of the plan chosen was that it "pair[ed] only 16 incumbents in both houses of the legislature, and only 6 of the same party." Prosser v. Elections Bd., 793 F.Supp. 859, 871 (W.D.Wis. 1992).
The Supreme Court has acknowledged the legitimacy of state efforts to protect incumbents on several occasions. See, e.g., Karcher v. Daggett, 462 U.S. 725, 740-41 (1983); Burns v. Richardson, 384 U.S. 73, 89 n.16 (1966) (minimizing competition between incumbents does not necessarily establish invidiousness).

260 For a critique of the courts' protection of incumbents as a way of ensuring against extreme partisan gerrymandering, see Samuel Issacharoff, Judging Politics: The Elusive Quest for Judicial Review of Political Fairness, 71 Texas L.Rev. 1643, 1672

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

(1993) ("Courts have repeatedly invoked Bandemer for the proposition that it is impermissible to place incumbents in head-to-head contests with each other in redrawn districts.").

261 Burton v. Sheheen, 793 F.Supp. 1329, 1342 (D.S.C. 1992) (describing the avoidance of incumbent contests as "an important state goal").

262 Gonzalez v. Monterey County, 808 F.Supp. 727, 735 (N.D.Cal. 1992).

263 White v. Weiser, 412 U.S. 783, 797 (1973). Note, though, that the Court explicitly reserved the different question of whether a state can justify a deviation from population equality among districts that is a prima facie violation of equal protection on the ground that it is necessary to protect incumbents. 412 U.S. at 791-92. Justice Marshall rejected the Court's willingness to defer to state desires to protect incumbents, even when the question arises only in the context of federal courts' choosing between reapportionment plans after a constitutional violation has been established.412 U.S. at 799 (Marshall, J., concurring in part).

264 See, e.g., Prosser v. Elections Bd., 793 F.Supp. 859, 867 (W.D.Wis. 1992) (three-judge court; per curiam) ("Judges should not select a plan that seeks partisan advantage — that seeks to change the ground rules so that one party can do better than it would do under a plan drawn up by persons having no political agenda — even if they would not be entitled to invalidate an enacted plan that did so."); Terrazas v. Slagle, 789 F.Supp. 828, 844 (W.D.Tex. 1991) ("[E]nsuring free and equal access to the ballot, not partisan considerations or the protection of incumbents, is the sole focus of federal law in the area of redistricting and reapportioning seats to legislative bodies."), affd., 112 S.Ct. 3019 (1992) (mem.).

265 "The plan developed by the court was developed without regard to the residence of incumbents. Adherence to principles of compactness and population equality, and respect for governmental boundaries insures that partisan gerrymandering is reduced or eliminated." Emison v. Growe, 782 F.Supp. 427, 445-46 (D.Minn. 1992) (footnote omitted), revd., 113 S.Ct. 1075 (1993).

266 See, e.g., Issacharoff, supra note 260, at 1694.

267 See supra notes 254-55 and accompanying text.

268 Shaw v. Reno, 113 S.Ct. 2816, 2841 (1993) (White, J., dissenting), 113 S.Ct. at 2843 (Stevens, J., dissenting).

269 See, e.g., Brief Amicus Curiae of the Republican National Committee in Support of Appellants at 12-13, 19-21, Shaw.

270 Many years ago, John Ely observed that legal standards treating ex post racially disparate impact as racial discrimination would necessarily require policymakers ex ante to engage in race-conscious policymaking. He noted:
[So] long as the Court remains unwilling to order states to take race into account . . . judicial review must await proof of racial motivation and cannot be triggered by disproportion per se. To undertake automatically to invalidate [state actions] because of racial disproportion would obviously be to order that balance be intentionally achieved.
John H. Ely, Legislative and Administrative Motivation in Constitutional Law, 79 Yale L.J. 1205, 1260 (1970). Because the VRA prohibits electoral arrangements that discriminate in intent as well as result, policymakers must be aware of — rather than indifferent to — the racial distribution of political power that different electoral structures will produce.

271 See, e.g., Shaw, 113 S.Ct. at 2830 ("The States certainly have a very strong interest in complying with federal antidiscrimination laws that are constitutionally valid as interpreted and as applied.") There is some circularity, inevitably, to this analysis. If only "highly irregular" districts trigger strict scrutiny, then only those districts require special justification. But as a statutory matter, courts are unlikely to interpret the Act to require highly irregular districts after Shaw.

272 See supra text accompanying notes 160-76.

273 Even if courts become more strict in the way they interpret the first prong of Gingles, thus finding no liability when no reasonably compact minority district can be created, they might still permit "highly irregular" districts as a remedy after liability has otherwise been found. Thus, once § 2 requires a jurisdiction to create a minority district, the jurisdiction might prefer an irregular to a compact district. In this context, however, the jurisdiction could not defend itself on the ground that the VRA required the irregular district. The legal question would then be whether the creation of this irregular district was "narrowly tailored" to remedy the violation, a question we address infra at text accompanying notes 278-80.

 © 2017 Thomson Reuters. No claim to original U.S. Government Works.

274 We focus here only on oddly shaped districts, rather than race-conscious districts in general, because of our view that Shaw applies only to the former. See supra text accompanying notes 57-74.

275 If the Justice Department denied § 5 preclearance on the ground that the failure to create a particular, "highly irregular" district would amount to a potential § 2 violation, a jurisdiction that complied by drawing such a district would likely have sufficient justification. Of course, an aggressive interpretation of Croson could further require that the Justice Department's conclusion of potential § 2 liability itself rest on a sufficient factual foundation, such as proof of racially polarized voting in the relevant area.

276 113 S.Ct. 1149 (1993).

277 As we argued earlier, see supra text accompanying notes 126-32, Shaw can be read broadly and narrowly; if Shaw applies only when a more compact minority district could have been created, then the inability to do so would provide a sufficient defense under strict scrutiny.

278 Shaw v. Reno, 113 S.Ct. 2816, 2819 (1993). This statement is made in the specific context of remedying violations under § 5's nonretrogression standard. 113 S.Ct. at 2819. The Court does not make a similarly explicit statement regarding narrow tailoring with respect to § 2. Nonetheless, nothing the Court says about § 5 would appear to distinguish it from § 2 in this respect.

279 Shaw, 113 S.Ct. at 2827 (citing Gaffney v. Cummings, 412 U.S. 735, 752 n.18 (1973)).

280 It is generally recognized that equal population and avoidance of minority-vote dilution are goals that must be achieved. Beyond that, there is widespread disagreement on the priority ranking of other goals.

281 See, e.g., Robert G. Dixon, Jr., Fair Criteria and Procedures for Establishing Legislative Districts, 9 Poly. Stud.J. 839, 844 (1981) (noting that districting is not an exercise in logic but in compromise and accommodation); Issacharoff, supra note 260, at 1650 (noting that states are hard pressed to articulate coherent policies for districting plans "in light of the political horsetrading and compromises that typically — and perhaps inevitably — underlie such plans"). The difficulties here are analogous to those that underlie the judicial resistance to engage in substantive rationality review of economic legislation; just as individual economic regulations are tied to each other through an ongoing process of compromise and logrolling, individual district lines cannot be rationalized apart from the compromises and trade-offs they embody. See generally Frank Michelman, Politics and Values or What's Really Wrong with Rationality Review, 13 Creighton L.Rev. 487 (1977) (analyzing rationality review of economic regulation).

282 369 U.S. 186 (1962).

283 377 U.S. 533 (1964); see also Wesberry v. Sanders, 376 U.S. 1 (1964) (requiring one person, one vote for congressional districts). Professors Aleinikoff and Issacharoff make a similar observation. See Aleinikoff & Issacharoff, supra note 59, at 622 ("Shaw would then be the Baker of compactness standards, with its own Reynolds presumably to follow.").

92 MILR 483

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.

North Carolina General Assembly
Senate

SENATOR ERICA SMITH-INGRAM
2ND DISTRICT

OFFICE: 1118 LEGISLATIVE BUILDING
16 W. JONES STREET
RALEIGH, NC 27601-2808
PHONE: (919) 715-3040
FAX: (919) 754-3344
EMAIL: erica.smith-ingram@ncleg.net
DISTRICT: BERTIE, CHOWAN, EDGECOMBE, HERTFORD, NORTHAMPTON, MARTIN TYRRELL, WASHINGTON

COMMITTEES:
AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
APPROPRIATIONS ON EDUCATION/HIGHER EDUCATION
COMMERCE AND INSURANCE
EDUCATION/HIGHER EDUCATION
TRANSPORTATION

Recommended Criteria for Construction of NC Legislative Districts

1. **Equal Population:** The 2010 federal decennial census data shall be used as the basis of population for the establishment of districts in the plan. Within the limits of the law, efforts shall be made to account for population growth.

2. **Contiguity:** Legislative districts shall be comprised of contiguous territory which may consist of both landmass and bodies of water. To the extent practicable, areas within a legislative district shall be easily accessible for commerce, from other areas of the same district, without requiring members to transit through an adjacent legislative district to gain such access.

3. **Total Black Voting Age Population:** None of the nine Senate districts and 19 House districts deemed as unconstitutional by the US Supreme Court in the Covington case shall have a total black voting age population higher than that which existed in those enacted NC legislative districts that were in effect in 2010, except for when a district is naturally occurring because it is drawn compactly or drawn in respect of the Whole County Provision.

4. **Voting Districts:** Voting districts ("VTDs") should be split only when necessary to comply with the zero deviation population requirements set forth above in order to ensure the integrity of political data.

5. **Partisan Symmetry:** Partisan symmetry posits that a district plan should treat the major parties symmetrically in terms of the conversion of votes to seats. The Committee shall make reasonable efforts to achieve this ideal by constructing plans that provide for the equally efficient conversion of partisan proxy votes from selected statewide elections, in such a way, as to prospectively achieve a distribution of seats commensurate with the partisan makeup of the state.

6. **Efficiency Gap:** The efficiency gap of plans considered for enactment shall not exceed five percent. The efficiency gap shall be determined by using the simplified efficiency gap calculation. Such calculations shall use the 2016 US President and US Senate election results as proxy votes for

assessing prospectively, the likely partisan performance of districts as constructed within the maps being considered for enactment.

7. **Compactness:** The Committee shall make reasonable efforts to construct districts in the Senate and House district plan that improve the compactness of the current districts and keep more counties and VTDs whole as compared with the current enacted plan.

8. **Whole-County Provision:** Pursuant to complying with the whole-county provision as mandated by the North Carolina Constitution, to the greatest extent practical, the Committee shall not divide counties in creating legislative districts except wherein compliance with the whole-county provision has been preempted or otherwise superseded by federal law or court rulings. When division of counties is required, reasonable efforts shall be made not to divide a county into more than two districts.

9. **Partisan Advantage:** Maintaining or establishing a partisan advantage for any party shall NOT be a criterion for the construction or approval of House and Senate district plans.

10. **Plan Completion Date:** The North Carolina General Assembly shall complete and submit new House and Senate district plans to the United States District Court fopr the Middle District of North Carolina no later than August 21, 2017.

From The Office of

Senator Ben Clark

North Carolina Senate District 21

Date: August 2, 2017

Recommended Criteria for Construction of NC Legislative Districts

1. **Equal Population:** The 2010 federal decennial census data shall be used as the basis of population for the establishment of districts in the plan. Within the limits of the law, efforts shall be made to account for population growth.

2. **Contiguity:** Legislative districts shall be comprised of contiguous territory which may consist of both landmass and bodies of water. To the extent practicable, areas within a legislative district shall be easily accessible for commerce, from other areas of the same district, without requiring members to transit through an adjacent legislative district to gain such access.

3. **Total Black Voting Age Population:** None of the nine Senate districts and 19 House districts deemed as unconstitutional by the US Supreme Court in the Covington case shall have a total black voting age population higher than that which existed in those enacted NC legislative districts that were in effect in 2010.

4. **Voting Districts:** Voting districts ("VTDs") should be split only when necessary to comply with the zero deviation population requirements set forth above in order to ensure the integrity of political data.

5. **Partisan Symmetry:** Partisan symmetry posits that a district plan should treat the major parties symmetrically in terms of the conversion of votes to seats. The Committee shall make reasonable efforts to achieve this ideal by constructing plans that provide for the equally efficient conversion of partisan proxy votes from selected statewide elections, in such a way, as to prospectively achieve a distribution of seats commensurate with the partisan makeup of the state.

6. **Efficiency Gap:** The efficiency gap of plans considered for enactment shall not exceed five percent. The efficiency gap shall be determined by using the simplified efficiency gap calculation. Such calculations shall use the 2016 US President and US Senate election results as proxy votes for assessing prospectively, the likely partisan

1117 Legislative Building, 16 W. Jones Street, Raleigh, NC 27601 • (919) 733-9349 • ben.clark@ncleg.net

performance of districts as constructed within the maps being considered for enactment.

7. **Compactness:** The Committee shall make reasonable efforts to construct districts in the Senate and House district plan that improve the compactness of the current districts and keep more counties and VTDs whole as compared with the current enacted plan.

8. **Whole-County Provision:** Pursuant to complying with the whole-county provision as mandated by the North Carolina Constitution, to the greatest extent practical, the Committee shall not divide counties in creating legislative districts except wherein compliance with the whole-county provision has been preempted or otherwise superseded by federal law or court rulings. When division of counties is required, reasonable efforts shall be made not to divide a county into more than two districts.

9. **Partisan Advantage:** Maintaining or establishing a partisan advantage for any party shall NOT be a criterion for the construction or approval of House and Senate district plans.

10. **Plan Completion Date:** The North Carolina General Assembly shall complete and submit new House and Senate district plans to the United States District Court for the Middle District of North Carolina no later than August 21, 2017.

LEAGUE OF WOMEN VOTERS® OF NORTH CAROLINA

August 9, 2017

Dear Senator Hise and Representative Lewis:

Our democratic system requires that citizens trust their elected officials to do what is right for them and our state. Increasingly, American citizens have **lost trust in state government**, including their legislatures. The most recent Gallup poll, in 2016, found that trust has plummeted, falling 20 points in 20 years.

Partisan redistricting, long practiced by both Democrats and Republicans, contributes to this decline. It permits one side to gain electoral advantage well exceeding its share of the votes. Voters conclude that their votes no longer count, undermining the very foundations of our precious democratic system.

We have an opportunity now to begin rebuilding citizens' trust in our government by **adopting a more open, transparent, and impartial method to draw our electoral maps.** The increased transparency shown by the Joint Redistricting Committee to date is encouraging and much welcomed by the League.

Redistricting reform has become a priority for North Carolina voters across the political spectrum. The most recent poll, conducted for a nonpartisan group by a professional polling organization, found that **80% of North Carolina voters think it is unfair for our elected representatives to draw their own districts.**

This view was shared by **Democrats (85%), Republicans (74%), and unaffiliated voters (80%)** - numbers up sharply from last December, when an earlier poll found that 69% of unaffiliated, 59% of Democrat, and 49% of Republican voters in North Carolina support redistricting reform. The new poll found that this is also a voting issue for our citizens: a majority of voters in each group and more than 2/3 of unaffiliateds reported they would be more likely to support candidates who advocate redistricting reform.

The **League encourages the Joint Redistricting Committee to take concrete steps today to rebuild voter trust by adopting a transparent process and politically neutral criteria to draw districts that will truly reflect our beautiful state's diverse communities and our voters.**

To the League, transparency means **public access to all related information prior to the draft districts being considered for a vote.** Related information includes all records, computer programs, committee communications, public comments, assumptions, terms and standards, and any data or formulas submitted to, or considered by, any member of the Joint Redistricting Committee, its contractors, or others, regardless of who developed them. Information should be made broadly available to the public in multiple formats and without delay. The public's business should be conducted in the light of day.

Measurable criteria should enable the General Assembly to draw districts that: 1) are **politically neutral**, showing no undue favor to any political party or individual, as measured by **the Efficiency Gap**; 2) prohibit use of voter information, including individuals', incumbents', and candidates' addresses, party, or voting record; 3) create geographically **compact and contiguous** districts as measured by several complementary tests, such as Polsby-Popper, Reock, and Convex Hull; 4) comply with the **Voting Rights Act** by designing districts that ensure a level playing field for members of minority groups, providing them the opportunity to elect candidates of their choice, measured, if possible, by a multi-year **Polarized Voting Analysis** or similar quantitative assessment; and 5) maintaining, as much as possible, municipal and county boundaries, keeping precincts whole and communities of interest intact.

The League of Women Voters looks forward to working with this committee and both of you, Representative Lewis and Senator Hise. **We urge you to develop and implement criteria and practices that improve trust in the election processes for this and future redistricting efforts.**

Janet Hoy and Margaret Salinger

Co-Presidents

P.O.BOX 2213 | CHAPEL HILL | NC | 27515-2213 WWW.LWVNC.ORG

NORTH CAROLINA GENERAL ASSEMBLY
JOINT SELECT COMMITTEE ON REDISTRICTING

TRANSCRIPT OF THE PROCEEDINGS
AUGUST 10, 2017 SESSION

In Raleigh, North Carolina
Thursday, August 10, 2017
Reported by Robbie W. Worley

Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070

SEN. HISE: Recognize Representative Lewis for an announcement.

REP. LEWIS: Ladies and gentlemen, good morning. It is my intent at this time to announce that the Democrats have requested, and have been granted, an opportunity to caucus in Room 423 of this building. So any Democrats that are in the room, the Democrats are going to caucus in Room 423. There will be a joint Republican caucus, House and Senate, in Room 415 immediately upon the recess. The recess will take place at the conclusion of my announcement and will be in effect until 10:35.

So with that, Mr. Chairman, may I be recognized for a motion?

SEN. HISE: You are so recognized.

REP. LEWIS: Mr. Chairman, for the purpose of caucusing, I move that this Committee stand in recess until 10:35 a.m.

SEN. HISE: The motion is that the Committee stand in recess until 10:35 a.m. Is there any objection?

REP. LEWIS: Mr. Chairman, if I could speak briefly?

SEN. HISE: Go ahead.

REP. LEWIS: I believe I did a poor job of trying to announce that the Democrats are going to caucus in Room 423, and the Republicans are going to caucus in Room 415.

SEN. SMITH-INGRAM: Point of clarification. During the recess, are we going to have the information on the criteria?

REP. LEWIS: Thank you for that question, Senator. A copy of the criterion the Chair is intending to present was given to the Democratic Leader of the House, and it's my belief he does intend to share that at this caucus.

SEN. HISE: Any objection? Hearing none, the Committee will stand in recess 'til 35.

(Proceedings went off the record.)

SEN. HISE: The committee will come to order. Thank you, members of the committee, members of the public. If you'd please come to order again. I will begin by announcing our Sergeant at Arms for today's meeting. If you could please identify yourself?

In the House we have Reggie Sills, Malachi McCullough, Jim Morgan and Young Bae. In the Senate we have Terry Barnhardt, Jim Hamilton, Frances Patterson, Hal Roach. And I will announce

for everyone, as well, our court reporter that is with us today, Robbie Worley. Thank you for being here today, and for your work on this Committee meeting.

Having gone through the requested caucuses this morning, and others, I will go ahead and open up. I think he's going to need just a second. Recognize Representative Lewis.

REP. LEWIS: Thank you, Mr. Chairman. Good morning, ladies and gentlemen. I'm David Lewis, the Senior Redistricting Chairman for the House. At last week's meeting, I distributed to the Committee and to the public what I believe were the ideal county groupings. The maps were titled "County Groupings for 2017 Senate Plan" and "County Groupings for 2017 House Plans." As I mentioned then, it is our intent to use these county groupings. If there is anyone who knows of a different county grouping formula that is more optimal, I'm asking them to submit that map to the Committee as soon as possible. As of now, no map with more optimal groupings has been submitted.

The purpose of today's meeting is for the Committee to adopt criteria by which the maps will be drawn. After review of the public comment, the

online public input database, the committee meeting last week, and the proposed criterion submitted in writing by Senators Smith-Ingram, Blue and Clark, Chairman Hise, Chairman Dollar and I submit the following criteria for adoption.

Mr. Chairman, with your permission, I would like for the criteria labeled "Equal Population" to be distributed to the Committee and displayed for the public on the overhead screens.

(Pause.)

Mr. Chairman, I believe members have copies, and it's displayed on the screen. May I proceed?

SEN. HISE: You may.

REP. LEWIS: Thank you, Mr. Chairman. Mr. Chairman, the first criterion that I propose that the Committee adopt is titled "Equal Population." The Committee shall use the 2010 Federal Decennial Census Data as the sole basis of population for drawing legislative districts in the 2017 House and Senate plans. The number of persons in each legislative district shall comply with a plus or minus five percent population deviation standard established by Stephenson versus Bartlett. That is the criterion. And to speak on it, this

criterion is very similar to what was submitted to the Committees by Senator Smith-Ingram and Senator Clark.

The Chair has proposed that we use the census data from the 2010 Census in drawing the legislative district this time because that is the standard that is required by law. We will also comply with a plus or minus five percent population deviation standard established by Stephenson I. Mr. Chairman, this is my proposal for this criterion. I'd be happy to answer any questions at your direction.

SEN. HISE: Representatives, just for notation for members of the Committee, I thought it was important to realize that even those these may be numbered or referred to as the first criterion, this is a nominal designation and does not necessarily list ordinal or order of importance of the criteria listing. Any questions or comments regarding the first proposed criterion?

Representative Dollar, yes?

REP. DOLLAR: Mr. Chairman, for a motion to adopt the criterion by the Committee.

UNIDENTIFIED MEMBER: Mr. Chair, division?

SEN. HISE: It is the intent of the Chair to call for a roll-call vote for all votes.

UNIDENTIFIED MEMBER: Thank you.

SEN. HISE: Thank you. So, Representative Dollar, and to make that a joint, I will say the Chairmen of the Committee have moved for adoption of the first criterion. We will begin with the House of Representatives, if there is no objection at this point, and allow the Clerk to call the roll. If you're in favor of the adoption, please signify by saying aye. If you're opposed to the adoption, please signify by saying no. Are we not ready?

CLERK: Yeah. Representative Bell? Representative Jackson?

REP. JACKSON: Nay. I'm sorry, aye. Aye. Warming up.

CLERK: Okay. Jackson, aye. Representative Stevens?

REP. STEVENS: Aye.

CLERK: Stevens, aye. Representative Szoka?

REP. SZOKA: Aye.

CLERK: Representative Szoka, aye. Representative Brawley?

REP. BRAWLEY: Brawley, aye.

CLERK: Representative Brawley, aye. Representative Brockman?

REP. BROCKMAN: Aye.

CLERK: Representative Brockman, aye. Representative Burr?

REP. BURR: Aye.

CLERK: Representative Burr, aye. Representative Davis? Representative Davis? Representative Dixon?

REP. DIXON: Aye.

CLERK: Representative Dixon, aye. Representative Dobson?

REP. DOBSON: Aye.

CLERK: Representative Dobson, aye. Representative Dulin?

REP. DULIN: Aye.

CLERK: Representative Dulin, aye. Representative Farmer-Butterfield?

REP. FARMER-BUTTERFIELD: Aye.

CLERK: Representative Farmer-Butterfield, aye. Representative Floyd? Representative Floyd? Representative Garrison?

REP. GARRISON: Aye.

CLERK: Representative Garrison, aye.

Representative Gill?

REP. GILL: Aye.

CLERK: Representative Gill, aye.

Representative Grange?

REP. GRANGE: Aye.

CLERK: Representative Grange, aye.

Representative Hall? Representative Hall?

Representative Hanes?

REP. HANES: Aye.

CLERK: Representative Hanes, aye.

Representative Hardister?

REP. HARDISTER: Aye.

CLERK: Representative Hardister, aye.

Representative Harrison?

REP. HARRISON: Aye.

CLERK: Representative Harrison, aye.

Representative Hastings?

REP. HASTINGS: Aye.

CLERK: Representative Hastings, aye.

Representative Howard?

REP. HOWARD: Aye.

CLERK: Representative Howard, aye.

Representative Hunter?

REP. HUNTER: Aye.

CLERK: Representative Hunter, aye.

Representative Hurley?

REP. HURLEY: Aye.

CLERK: Representative Hurley, aye.

Representative Johnson?

REP. JOHNSON: Aye.

CLERK: Representative Johnson, aye.

Representative Jones? Representative Jones?

Representative Jordan?

REP. JORDAN: Aye.

CLERK: Representative Jordan, aye.

Representative Malone?

REP. MALONE: Aye.

CLERK: Representative Malone, aye.

Representative Michaux?

REP. MICHAUX: Aye.

CLERK: Representative Michaux, aye.

Representative Moore?

REP. MOORE: Aye.

CLERK: Representative Moore, aye.

Representative Pierce?

REP. PIERCE: Aye.

CLERK: Representative Pierce, aye.

Representative Reives?

REP. REIVES: Aye.

CLERK: Representative Reives, aye.

Representative Willingham?

REP. WILLINGHAM: Aye.

CLERK: Representative Willingham, aye.

Representative Speciale?

REP. SPECIALE: Aye.

CLERK: Representative Speciale, aye.

Representative Rogers?

REP. ROGERS: Aye.

CLERK: Representative Rogers, aye.

Representative Saine?

REP. SAINE: Aye.

CLERK: Representative Saine, aye.

Representative Wray?

REP. WRAY: Aye.

CLERK: Representative Wray, aye.

Representative Yarborough?

REP. YARBOROUGH: Aye.

CLERK: Representative Yarborough, aye.

Representative Torbett?

REP. TORBETT: Aye.

CLERK: Representative Torbett, aye.

Representative Hall?

REP. HALL: Aye.

CLERK: Representative Hall, aye.

Representative Bell?

REP. BELL: Aye.

CLERK: Representative Bell, aye. Oh, Representative Lewis?

REP. LEWIS: Aye.

CLERK: Representative Lewis, aye. Representative Dollar?

REP. DOLLAR: Aye.

CLERK: Representative Dollar, aye. I think that's it.

SEN. HISE: Are there any members of the Committee that are members of the House that were not recorded in the process? Hearing none before we get into roll call of the Senate.

CLERK: Senator Bishop?

SEN. BISHOP: Aye.

CLERK: Senator Bishop, aye. Senator Blue? Senator Blue? Senator Clark?

SEN. CLARK: Aye.

CLERK: Senator Clark, aye. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: Aye.

CLERK: Senator Harrington, aye. Senator Jackson?

SEN. JACKSON: Aye.

CLERK: Senator Jackson, aye. Senator

Lee? Senator Lee, aye. Senator Lowe?

SEN. LOWE: Aye.

CLERK: Senator Lowe, aye. Senator Newton?

SEN. NEWTON: Aye.

CLERK: Senator Newton, aye. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: Aye.

CLERK: Senator Smith-Ingram, aye. Senator Van Duyn?

SEN. VAN DUYN: Aye.

CLERK: Senator Van Duyn, aye. Senator Wade?

SEN. WADE: Aye.

CLERK: Senator Wade, aye. Senator Hise?

SEN. HISE: Aye.

CLERK: Senator Hise, aye. Senator Brown?

SEN. BROWN: Aye.

CLERK: Senator Brown, aye.

SEN. HISE: Any members of the Senate who were not recorded in the roll-call vote? Hearing none. By a vote of 38 to 0 in the House, 12 to 0 in the Senate, the first criterion is adopted by the Committee. Representative Lewis, you're

represented here -- recognized to present the second criterion.

REP. LEWIS: Thank you, Mr. Chairman. If the Sergeant at Arms would distribute to the members of the Committee the criterion labeled "Contiguity." And I will display for the public on the screens this criterion. What I'll do is when they're doing the vote count, I'll pass out the next one. Okay?

Mr. Chairman, I believe members have copies. If I may be recognized to proceed?

SEN. HISE: You're recognized.

REP. LEWIS: Thank you, Mr. Chairman. Mr. Chairman, this criterion simply reads "Contiguity." Legislative districts shall be comprised of contiguous territory and contiguity by water is sufficient. This is another criterion that is similar to what was submitted to the Committees by Senator Clark and Senator Smith-Ingram. Legislative districts are required to be composed of contiguous territory, and this criterion would simply adhere to the legal requirements. Be glad to answer any questions.

SEN. HISE: Senator Clark?

SEN. CLARK: Thank you, Mr. Chairman.

Senator Clark. It does somewhat look like the criterion that Senator Smith-Ingram and I recommended. However, I do not believe it is complete enough. And it is my preference that the Chair would accept an amendment to use the complete contiguity definition as submitted to us -- as submitted by us to the Committee previously.

REP. LEWIS: Senator, with your indulgence and permission, we will ask staff to prepare an amendment that would accomplish those goals. I will ask the Chair to displace this until that can be done, and we'll move on to the -- to the next one. Would that be okay, sir?

SEN. CLARK: Thank you, sir.

SEN. HISE: Sergeant at Arms will begin to pass out the third criterion, if that's okay? Representative Lewis, you are recognized to present the Criterion Number 3.

REP. LEWIS: Thank you, Mr. Chairman. I believe members are getting copies. I'll be happy to hold if I need to. This criterion is entitled "County Groupings and Traversals." It reads, the Committee shall draw legislative districts within county groupings as required by Stephenson versus Bartlett. Within county groupings, county lines

shall not be traversed except as authorized by Stephenson I, Stephenson II, Dickson I and Dickson II. And if I may speak on the criterion, Mr. Chairman?

SEN. HISE: So recognized.

REP. LEWIS: Thank you, Mr. Chairman. Mr. Chairman, this is another element of the criterion that was contained in Senator Smith-Ingram and Senator Clark's proposed criterion. Though the words may be different, I think the practical effect is the same. The rules for the county groupings and traversals were first established in -- were first established in Stephenson I and have been affirmed in later cases.

Last week, we released the county grouping plans that, I believe, are optimal for complying with Stephenson. I explained how they were constructed. We have not received any alternative county grouping plans. As I spoke to in my opening comments, it is our intent to use the maps of county -- of optimal county groupings that were passed out last week. And with that, Mr. Chairman, I'll be happy to yield to any questions.

SEN. HISE: Any questions or comments regarding the grouping, regarding this criterion?

SEN. SMITH-INGRAM: Mr. Chair?

SEN. HISE: Senator Smith-Ingram.

SEN. SMITH-INGRAM: Thank you, Mr. Chair. I'd like clarification on what the requirements of Stephenson and Dickson are when they authorize traversing county lines, since that's not really clear from the criterion on its face.

REP. LEWIS: Thank you for that question, Senator. And, you know, it's probably evident to you and everyone in this room that I'm not an attorney, but I will do my best to explain it. It is my understanding that the traversal rule means that if you are drawing districts in a multiple-group county and you essentially draw a district into a county, that you can't draw back out of the county and go back in. Sort of, weave back and forth. That's not a legal term, but I'm trying my best to answer your question.

SEN. HISE: Follow-up?

SEN. SMITH-INGRAM: Thank you, Representative Lewis, because I'm not an attorney either. So thank you.

SEN. HISE: Any other questions or comments regarding this criterion? Okay. Hearing none. Representative Dollar?

REP. DOLLAR: Motion for adoption.

SEN. HISE: Again, the Chairman moves for the adoption of Criterion Number 3 for consideration by the Committee. Seeing no other questions or comments, I will begin with the Senate this time and ask for the Clerk to call the roll.

CLERK: Senator Bishop?

SEN. BISHOP: Aye.

CLERK: Senator Bishop, aye. Senator Blue? Senator Brown?

SEN. BROWN: Aye.

CLERK: Senator Brown, aye. Senator Clark?

SEN. CLARK: Aye.

CLERK: Senator Clark, aye. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: Aye.

CLERK: Senator Harrington, aye. Senator Jackson?

SEN. JACKSON: Aye.

CLERK: Senator Jackson, aye. Senator Lee?

SEN. LEE: Aye.

CLERK: Senator Lee, aye. Senator Lowe?

SEN. LOWE: Aye.

CLERK: Senator Lowe, aye. Senator Newton?

SEN. NEWTON: Senator Newton, aye.

Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: Aye.

CLERK: Senator Smith-Ingram, aye.

Senator Van Duyn?

SEN. VAN DUYN: Aye.

CLERK: Senator Van Duyn, aye. Senator Wade?

SEN. WADE: Aye.

CLERK: Senator Wade, aye. Senator Hise?

SEN. HISE: Aye.

CLERK: Senator Hise, aye.

SEN. HISE: Members, I do think it is different to what we have. The Sergeant at Arms are passing out the next criterion during this process. If the House Clerk will call the roll.

CLERK: Representative Jackson?

REP. JACKSON Aye.

CLERK: Representative Jackson, aye.

Representative Szoka?

REP. SZOKA: Aye.

CLERK: Representative Szoka, aye.

Representative Bell?

REP. BELL: Aye.

CLERK: Representative Bell, aye.

Representative Stevens?

REP. STEVENS: Aye.

CLERK: Representative Stevens, aye.

Representative Brawley?

REP. BRAWLEY: Aye.

CLERK: Representative Brawley, aye.

Representative Brockman?

REP. BROCKMAN: Aye.

CLERK: Representative Brockman, aye.

Representative Burr?

REP. BURR: Aye.

CLERK: Representative Burr, aye.

Representative Davis? Representative Davis?

Representative Dixon?

REP. DIXON: Aye.

CLERK: Representative Dixon, aye.

Representative Dobson?

REP. DOBSON: Aye.

CLERK: Representative Dobson, aye.

Representative Dulin?

REP. DULIN: Aye.

CLERK: Representative Dulin, aye.

Representative Farmer-Butterfield?

REP. FARMER-BUTTERFIELD: Aye.

CLERK: Representative Farmer-Butterfield, aye. Representative Floyd? Representative Floyd? Representative Garrison?

REP. GARRISON: Aye.

CLERK: Representative Garrison, aye. Representative Gill?

REP. GILL: Aye.

CLERK: Representative Gill, aye. Representative Grange?

REP. GRANGE: Aye.

CLERK: Representative Grange, aye. Representative Hall?

REP. HALL: Aye.

CLERK: Representative Hall, aye. Representative Hanes?

REP. HANES: Aye.

CLERK: Representative Hanes, aye. Representative Hardister?

REP. HARDISTER: Aye.

CLERK: Representative Hardister, aye. Representative Harrison?

REP. HARRISON: Aye.

CLERK: I'm sorry. Could you repeat that?

REP. HARRISON: Aye.

CLERK: Representative Harrison, aye.

Representative Hastings?

REP. HASTINGS: Aye.

CLERK: Representative Hastings, aye.

Representative Howard?

REP. HOWARD: Aye.

CLERK: Representative Howard, aye.

Representative Hunter?

REP. HUNTER: Aye.

CLERK: Representative Hunter, aye.

Representative Hurley?

REP. HURLEY: Aye.

CLERK: Representative Hurley, aye.

Representative Johnson?

REP. JOHNSON: Aye.

CLERK: Representative Johnson, aye.

Representative Jones? Representative Jones?

Representative Jordan?

REP. JORDAN: Aye.

CLERK: Representative Jordan, aye.

Representative Malone?

REP. MALONE: Aye.

CLERK: Representative Malone, aye.

Representative Michaux?

REP. MICHAUX: Aye.

CLERK: Representative Michaux, aye.

Representative Moore?

REP. MOORE: Aye.

CLERK: Representative Moore, aye.

Representative Pierce?

REP. PIERCE: Aye.

CLERK: Representative Pierce, aye.

Representative Reives?

REP. REIVES: Aye.

CLERK: Representative Reives, aye.

Representative Willingham?

REP. WILLINGHAM: Aye.

CLERK: Representative Willingham, aye.

Representative Speciale?

REP. SPECIALE: Aye.

CLERK: Representative Speciale, aye.

Representative Marsh -- Rogers?

REP. ROGERS: Aye.

CLERK: Representative Rogers, aye.

Representative Saine?

REP. SAINE: Aye.

CLERK: Representative Saine, aye.

Representative Torbett?

REP. TORBETT: Aye.

CLERK: Representative Torbett, aye. Representative Wray?

REP. WRAY: Aye.

CLERK: Representative Wray, aye. Representative Yarborough?

REP. YARBOROUGH: Aye.

CLERK: Representative Yarborough, aye. Representative Lewis?

REP. LEWIS: Aye.

CLERK: Representative Lewis, aye. Representative Dollar?

REP. DOLLAR: Aye.

CLERK: Representative Dollar, aye.

SEN. HISE: How many? By a vote in the Senate of 12 to 0 and the House of 38 to 0, the third presented criterion is adopted by the Committee.

Members, you should have in front of you now the fourth presented criterion for the Senate, entitled "Compactness." Representative Lewis, you're recognized to explain.

REP. LEWIS: Thank you, Mr. Chairman. Mr. Chairman, this criterion reads, "Compactness." The Committee shall make reasonable efforts to draw legislative districts in 2017 House and Senate

plans to improve the compactness of the current districts. In doing so, the committees may use a guide. The minimum Reock dispersion or Polsby-Popper perimeter scores identified by Richard H. Pildes and Richard G. Niemi in the article entitled "Expressive Harms, 'Bizarre Districts,' and Voting Rights: Evaluating Election-District Appearances After Shaw v. Reno." And to speak to that, Mr. Chairman --

SEN. HISE: You are so recognized.

REP. LEWIS: -- this criterion is also very similar to that as submitted by Senator Clark and Senator Smith-Ingram. The key difference is that the Chairs are recommending to the Committees that the Committees may use as a guide a minimum Reock and Polsby-Popper score for drawing the legislative district that appears in a law review article referenced before in my remarks.

The reason we are recommending these methods as scores as a guide is because they have been cited as relevant to judging compactness of districts. I would also point out that these were some of the criteria that have been submitted via the online portal. They were some of the criteria that were referenced in the hearings last week.

And they also are part of the criteria that outside groups have submitted to this Committee to be considered. Be happy to answer any questions.

SEN. HISE: Representative Jackson?

REP. JACKSON: Thank you, Mr. Chairman. Chairman Lewis, my understanding is that the Maptitude software will calculate about eight different types of compactness; is that correct?

REP. LEWIS: I don't know.

REP. JACKSON: Mr. Chairman, is there anybody on staff that can answer that question for me?

SEN. HISE: Do you know how many it can calculate? It appears we're going to have to get that response for you.

REP. LEWIS: Mr. Chairman, while we're getting that, may I speak to why I think the gentleman is --

SEN. HISE: Sure.

REP. LEWIS: -- asking me.

SEN. HISE: You may respond to the question.

REP. LEWIS: Representative, the reason that these two were picked is that these are the two that the Courts have -- have referred to.

Obviously, members of the Committee would be able to use any other criterion or any other compactness gauge that they saw fit in doing their own personal evaluations. But to the best of our knowledge, these are the two that the Courts have referred to.

SEN. HISE: Representative Jackson, for a follow-up?

REP. JACKSON: Thank you, Mr. Chairman. So just to follow up on that, so we would not be precluded from using the other scores available in Maptitude?

REP. LEWIS: You would not; no, sir.

SEN. HISE: Any other questions, comments? Senator Clark?

SEN. CLARK: Mr. Chair, is it possible for you to give us the Reader's Digest version of what these -- what these actually do?

REP. LEWIS: Thank you for the question, Senator. I will certainly -- I will certainly try. The perimeter compactness is commonly associated with the Polsby-Popper score. This is the area of the district compared to the area of a circle within the same perimeter of the district. Again, there's a scale established of 1.0 to 0.0. And districts that are drawn with borders that wander

in irregular ways will produce a lower compactness score when compared with a circle of the same perimeter.

The other test, the Reock, is a measure of the ratio of the district area to area. In other words, the area inside of the district itself. Also, using a circumscribing circle. I realize that is perhaps not as clear as I would like to be. I would just reiterate that these are two compactness tests that the courts have used. They are two of the ones that you have mentioned in the past. They are two of the ones that several of the independent groups that have contacted our office have encouraged us to use. And, therefore, we would recommend -- or I recommend to the Committee that we attempt to use them in drawing our districts.

SEN. HISE: Representative Michaux?

REP. MICHAUX: Yeah, Mr. Lewis, I have a semantic problem with this. It says the Committee shall make reasonable efforts to draw. And then you say in doing so the Committee may use as a guide. And my information is that there are at least eight other guides out there that can be used. And I guess my question borders on the same

thing Representative Jackson asked. Why would you limit yourself if you're going to make it may, and if you've got at least six other reasonable guidelines that you can use? In spite of the fact that it may have -- that others may have mentioned it.

REP. LEWIS: Thank you for the question, Representative. My response is simply these are the two best-known, if you will, measures of compactness. And to my understanding, these are the two that the courts have referred to. I think these are the two that are best understood. And again, this would not preclude you as a member or anyone else who chose to use other grades of compactness. We're just trying to signal, to be candid with you, that we want to try to draw more compact seats. And there has to be some measure of that. These may not be the ideal two, but these are the two that, I think, are best known. And again, these are the two that the courts have referenced.

REP. MICHAUX: May I follow up, Mr. Chair?

SEN. HISE: Follow-up.

REP. MICHAUX: Well, in the final

analysis, will your maps, or whatever you draw, make reference to which one of these -- or which -- any of those criteria were used be -- be specifically pointed out when you do it?

REP. LEWIS: Yes, sir.

SEN. HISE: Representative Dollar?

REP. DOLLAR: For a motion --

SEN. HISE: Hold on just a minute. Representative Moore would like to speak.

REP. DOLLAR: Well, then let me ask a question, because -- Chairman Lewis, isn't it the case that this is the most precise guidelines that the -- to your knowledge, that the General Assembly's ever adopted with respect to compactness?

REP. LEWIS: Thank you for the question, and the answer is yes.

REP. DOLLAR: Thank you.

SEN. HISE: Representative Moore.

REP. MOORE: Thank you, Mr. Chair. Representative Lewis, a quick -- something that came to mind. Are these two methods that you're talking about -- were they used in the map-drawing process in 2011? Or was there another -- there was a -- there was another methodology used other than

these two that you're referencing now?

REP. LEWIS: Thank you for the question, Representative. To the -- to the best of my knowledge, they were not used in 2011. To be completely transparent and to express my total understanding of this, I was not even aware that these tests were there in 2011. But I am now.

SEN. HISE: Any other questions or comments? None. Representative Dollar is recognized for a motion.

REP. DOLLAR: Mr. Chairman, I move the adoption of the criterion.

SEN. HISE: Okay. I have to hold that again. Apparently, Representative Farmer-Butterfield now has a question.

REP. FARMER-BUTTERFIELD: I had my hand up. I don't think you saw that beforehand.

SEN. HISE: I can't see through people.

REP. FARMER-BUTTERFIELD: I know that. I understand.

I just wanted to make sure I'm clear. Staff were going to give us the other -- whether or not there were eight other different ways? And I had not heard that information from staff.

SEN. HISE: At the point the question was

asked, the staff was unaware. And I said we'd have to get that question.

REP. FARMER-BUTTERFIELD: All right.

ERIKA CHURCHILL (STAFF): Representative Farmer-Butterfield. Available in Maptitude is the Reock test, the Schwartzberg test, the Perimeter test, the Polsby-Popper test, the Length-Width test, the Population Polygon test, the Minimum Convex Polygon test, the Population Circle test and the Ehrenburg test.

REP. FARMER-BUTTERFIELD: Thank you. Follow-up?

SEN. HISE: Follow-up.

REP. FARMER-BUTTERFIELD: I think that I heard earlier that if this passes with just these two, it will not preclude using the other six, or the others? Is that the case or not?

REP. LEWIS: Thank you for that question. The answer is yes, the other ones could be used. Again, we're trying to respond to requests from the public, from members who've said try to make the districts a little more compact. And so this is saying that these two may be used. But yes, you may use all of them if you want to.

SEN. HISE: Okay. Someone else?

Somebody was pointing to someone? Senator Lowe?

SEN. LOWE: Yes, I may have missed it. But one of the things that I noticed or heard was, I know we're using two approaches. There's eight possible approaches. Why is it that we're just looking at these two? I want real clarity on that.

SEN. HISE: Maybe I'm going to explain a little bit of this. Each one of these methods will yield a score. And a score of any particular district will be between, generally, zero and one. I don't think there's any, as I understand it, concave in the designs. Zero to one will be the ratio of some two numbers that are coming in. That will give you a measure of compactness. There are eight measures. There are infinite numbers of ways anyone can come up to determine what they mean when they say something is compact.

There are only two that have been used in court rulings by the Supreme Court in regards to redistricting. These are these two. We both set those as the standard we will use to measure compactness of districts. But that calculation can be done for any number of the other standards that might be in the pack or the infinite number of standards that someone else could come up with and

make an argument. Senator Smith-Ingram?

SEN. SMITH-INGRAM: Thank you, Mr. Chair. I believe, for clarification, I need to find out. Staff, Erika Churchill, just listed out -- was it about ten of those tools that are available on Maptitude?

SEN. HISE: Nine? She says the number is nine.

SEN. SMITH-INGRAM: Also included, is there an explanation in Maptitude that will give us the reliability of each of those tools and the performance as well as the range?

SEN. HISE: Reliability is probably not a factor that would apply to these in a manner. But it will give you an explanation of the calculation.

SEN. SMITH-INGRAM: Just for clarity, because there are nine different measurements. It would be nice to have the data on the reliability of each tool so you can look at each tool and their performance to be able to determine which is the better tool in terms of a higher percentage of reliability.

SEN. HISE: I think I'll take the comment. But again, I would say that reliability is not necessarily a factor that is -- this is

talking about how compact is the district? And the test will determine how compact the district is. So, Representative Jackson?

REP. JACKSON: Thank you, Mr. Chairman. It appears that we are looking at dispersion and perimeter, but we are leaving out population measures in these tests. And I was wondering, from staff, if any of the seven other tests include population measures in their scoring?

SEN. HISE: I'll let you answer the question.

MS. CHURCHILL (STAFF): Representative Jackson, we are reading from the Maptitude documentation. And it does appear that there's at least two tests, the Population Polygon test and the Population Circle test, that take into consideration district population to the approximate population of the area that is being used. We're happy to print this for the Committee if you all would like.

REP. JACKSON Follow-up, Mr. Chairman?

SEN. HISE: Follow-up.

REP. JACKSON Then I guess the question for Chairman Lewis would be, wouldn't we want to consider population as well? And why that test

would not be one of the ones that we use a score for?

REP. LEWIS: Well, thank you for that question, Representative. To be candid, I'm not familiar with the particular test that you have asked about. I realize that you're asking about a specific test that the computer program is capable of running. I would just point out that, in my mind, the population issue is the one-person-one-vote plus or minus five percent that we adopted as a criterion earlier today. And as I've said before, you would certainly have every access to run the reports or get whatever scores that you want to -- want to review.

But again, I would just point out to the members, the reason that these two are specified in here is these are the ones the Courts have written about in recent redistricting court rulings.

SEN. HISE: Follow-up?

REP. HARDISTER: Follow-up, Mr. Chairman. So is it -- is it -- is it your understanding that the Court has not written about some of these other test scores that Maptitude can also provide?

REP. LEWIS: Well, thank you for the question. And to be clear, Representative, I don't

know that they have or they have not. I'm simply stating in the cases that I reviewed, these were the two that were used.

SEN. HISE: Any other questions or comments? Hearing none, upon Representative Dollar's motion and the motion of the Chairs, we move to add the fourth criterion, Compactness, to those. Any other questions or comments? Hearing none, we'll have the Clerk call the roll of the House.

CLERK: Representative Jackson?

REP. JACKSON: No.

CLERK: Representative Szoka?

REP. SZOKA: Aye.

CLERK: Representative Stevens?

REP. STEVENS: Aye.

CLERK: Representative Bell?

REP. BELL: Aye.

CLERK: Representative Brawley?

REP. BRAWLEY: Aye.

CLERK: Representative Brockman?

REP. BROCKMAN: No.

CLERK: Representative Brockman, no. Representative Burr?

REP. BURR: Aye.

CLERK: Representative Burr, aye.
Representative Davis? Representative Davis?
Representative Dixon?
REP. DIXON: Aye.
CLERK: Representative Dixon, aye.
Representative Dobson?
REP. DOBSON: Aye.
CLERK: Representative Dobson, aye.
Representative Dulin?
REP. DULIN: Aye.
CLERK: Representative Dulin, aye.
Representative Farmer-Butterfield?
REP. FARMER-BUTTERFIELD: No.
CLERK: Representative
Farmer-Butterfield, no. Representative Floyd?
Representative Floyd? Representative Garrison?
REP. GARRISON: No.
CLERK: Representative Garrison, no.
Representative Gill?
REP. GILL: No.
CLERK: Representative Gill, no.
Representative Grange?
REP. GRANGE: Aye.
CLERK: Representative Grange, aye.
Representative Hall?

REP. HALL: Aye.

CLERK: Representative Hall, aye.

Representative Hanes?

REP. HANES: No.

CLERK: Representative Hanes, no.

Representative Hardister?

REP. HARDISTER: Aye.

CLERK: Representative Hardister, aye.

Representative Harrison?

REP. HARRISON: No.

CLERK: Representative Harrison, no.

Representative Hastings?

REP. HASTINGS: Aye.

CLERK: Representative Hastings, aye.

Representative Howard?

REP. HOWARD: Aye.

CLERK: Representative Howard, aye.

Representative Hunter?

REP. HUNTER: No.

CLERK: Representative Hunter, no.

Representative Johnson?

REP. JOHNSON: Aye.

CLERK: Representative Johnson, aye.

Representative Hurley?

REP. HURLEY: Aye.

CLERK: Representative Hurley, aye.
Representative Jones? Representative Jones?
Representative Jordan?
REP. JORDAN: Aye.
CLERK: Representative Jordan, aye.
Representative Malone?
REP. MALONE: Aye.
CLERK: Representative Malone, aye.
Representative Michaux?
REP. MICHAUX: No.
CLERK: Representative Michaux, no.
Representative Moore?
REP. MOORE: No.
CLERK: Representative Moore, no.
Representative Pierce?
REP. PIERCE: No.
CLERK: Representative Pierce, no.
Representative Reives?
REP. REIVES: No.
CLERK: Representative Reives, no.
Representative Willingham?
REP. WILLINGHAM: No.
CLERK: Representative Willingham, no.
Representative Speciale?
REP. SPECIALE: Aye.

CLERK: Representative Speciale, aye. Representative Rogers?

REP. ROGERS: Aye.

CLERK: Representative Rogers, aye. Representative Saine?

REP. SAINE: Aye.

CLERK: Representative Saine, aye. Representative Torbett?

REP. TORBETT: Aye.

CLERK: Representative Torbett, aye. Representative Wray?

REP. WRAY: No.

CLERK: Representative Wray, no. Representative Yarborough?

REP. YARBOROUGH: Aye.

CLERK: Representative Yarborough, aye. Representative Lewis?

REP. LEWIS: Aye.

CLERK: Representative Lewis, aye. Representative Dollar?

REP. DOLLAR: Aye.

CLERK: Representative Dollar, aye.

SEN. HISE: Senate Clerk will call the roll.

CLERK: Senator Bishop?

SEN. BISHOP: Aye.

CLERK: Senator Bishop, aye. Senator Brown?

SEN. BROWN: Aye.

CLERK: Senator Brown, aye. Senator Clark?

SEN. CLARK: Aye.

CLERK: Senator Clark, aye. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: Aye.

CLERK: Senator Harrington, aye. Senator Jackson?

SEN. JACKSON: Aye.

CLERK: Senator Jackson, aye. Senator Lee?

SEN. LEE: Aye.

CLERK: Senator Lee, aye. Senator Lowe?

SEN. LOWE: No.

CLERK: Senator Lowe, no. Senator Newton?

SEN. NEWTON: Aye.

CLERK: Senator Newton, aye. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: No.

CLERK: Senator Smith-Ingram, no.

Senator Van Duyn?

SEN. VAN DUYN: No.

CLERK: Senator Van Duyn, no. Senator Wade?

SEN. WADE: Aye.

CLERK: Senator Wade, aye. Senator Hise?

SEN. HISE: Aye.

CLERK: Senator Hise, aye.

SEN. HISE: Thank you, members of the Committee. By a vote of 24 to 14 in the House and 9 to 3 in the Senate, the criterion is adopted -- fourth criterion presented, Compactness, is adopted by the Committee.

I believe, members, now it is the intent to return to the second introduced criterion, Contiguity. And the members should have -- Senator Clark has passed out an amendment or, probably more accurately, a rewrite of the criterion. Senator Clark will be recognized to explain his amendments.

SEN. CLARK: Thank you, Mr. Chair. What you have before you is essentially an expansion of the initial criterion disseminated by the Committee chairs. But the problem with the explanation submitted by the Committee chairs is that it does not -- it's not expansive enough. For instance,

let me give you an example. You can be in a particular district, and although it may be connected by a land-mass, that land-mass is not navigable by car, boat -- by car or any other form transportation for the purpose of conducting commerce. So instead of saying something is contiguous, just because there's a little strip, what this particular definition would say is that it's not considered contiguous unless you can actually conduct commerce from one part of the district to another part of the district without first having to go outside of your district in through another district.

REP. LEWIS: Mr. Chairman?

SEN. HISE: Representative Lewis?

REP. LEWIS: Thank you, Mr. Chairman. First of all, I want thank Senator Clark. He has been extremely helpful in providing information for us to review. I did review the language that he proposed for quite a long time. I'm not in support of the amendment for the following reasons.

One, I'm not familiar with the commercial patterns and the layout of highways and roads all across the state. And I assume that most members on this Committee would say the same. Also, there

are elements of contiguity that can change, while geographic features themselves do not. That's why I feel it's wise to stick to contiguity as a legal requirement for adopting in this criterion. I also don't know in the amount of time that the Committee has to draw the districts, that we could develop a legal definition to match what the gentleman is attempting to do. And with that, I would ask members to vote down the amendment.

SEN. HISE: Representative Stevens?

REP. STEVENS: Thank you, Mr. Chair. Representative Lewis, in looking at some of these maps, particularly with our rocky, rocky coast, has anybody submitted an alternative map that would allow us to accomplish what he's hoping to accomplish? I mean, wouldn't we break up our optimum groups to try to do that?

REP. LEWIS: Thank you for the question. The first answer is no. To my knowledge, nobody has submitted any additional county grouping that is more optimal than the one that we passed out. I think what the gentleman's trying to do actually deals with districts within the groupings. And I just don't know that it is possible to do that, either. There are precincts that overlap and

things like that. I just don't know how to develop a legal -- I don't know how to define what the gentleman is trying to do. And therefore, I don't think we can adopt it as a criterion.

SEN. HISE: Senator Clark?

SEN. CLARK: Thank you, Mr. Chairman. You're right. I'm speaking to the areas within the clusters; not between clusters. Now, you're correct that I don't know how to solve the problem for every single district. But that's why we have a committee. Members here, they do know how to do that collectively. And there is a phrase up here. I say that we want to do this to the extent practicable. There may be circumstances in which it is not practicable. But there are many in which there are practicable solutions. I can certainly tell you how to do it within my district as it currently exists today.

And with regard to legal definition, that's why we have staff here to support us. There are a lot of things I cannot come up with the legal definition for. But with the systems of our able staff, we are more than able to accomplish that.

REP. LEWIS: Mr. Chairman?

SEN. HISE: Representative Lewis.

REP. LEWIS: Thank you, Mr. Chairman. Just to speak to Senator Clark's last point. To be clear, it's the intent of adopting the criterion that this Committee is adopting today to produce a draft map. And the draft map will be produced and distributed. Members of the Committee will be able to offer the kind of insight that Senator Clark has proposed. We also intend to hold public hearings across the state to receive feedback. And members of the public may be able to offer input and advice that gets closer to what the Senator is trying to accomplish here. I want to point out that I've spent a lot of time trying to figure out how to incorporate this language. And I simply don't know how to do it. And so, again, I would ask members to vote against the amendment.

SEN. HISE: Senator Smith-Ingram?

SEN. SMITH-INGRAM: Thank you, Mr. Chair. I guess I have a question, Representative Lewis, but first, a statement. In looking at the geographical compactness in the example based on the submitted one, it is a challenge when you're connecting counties by a body of water. For example, Pasquotank and Hyde are connected, but there's no means to traverse between them. You

would have to drive an hour around the district, going through another district, to get to your district. When you connect with a river, such as my district, you end up with counties from one point -- from the western point to the eastern point. That's a two hour and 41 minute drive out to the coast. And that makes it very problematic when you're covering that type of territory.

So my question is, in light of those examples, would you consider this to be commensurate with geographical compactness? The language of the amendment certainly promotes that for me, and I'm wondering, do you see that?

REP. LEWIS: Thank you for the question, and the short answer is, I don't see that. I do understand the lady's point about the -- the size of some of the districts that have to be drawn, but I would point out, that oftentimes, that's directly related to the physical size of the counties themselves.

We, this General Assembly -- this is getting off redistricting a bit, but this General Assembly will continue to have to address the fact that our rural areas, especially in the northeastern part of the state, are large in land

mass and smaller in population than our urban centers are. And there's just no way to get around that.

SEN. SMITH-INGRAM: Okay. For clarification follow-up --

SEN. HISE: Follow-up.

SEN. SMITH-INGRAM: So do you consider contiguity and geographic compactness commensurate with one another?

REP. LEWIS: Well, thank you for the question. I understand contiguity which, by the way, Representative Torbett gave me a breakdown on how to say the word. I really do -- I really do appreciate that. Apparently, I'm not doing a very good job. But I understand that to mean that the borders join, if you will. Compactness means that you want to draw districts that are compact. I don't know that those -- everything that we do, all of the criteria that we're going to discuss today, has got to be harmonized and used together. I don't know that these are the exact same thing, so I don't know that I would agree with that premise.

SEN. HISE: Thank you. And, Senator Smith-Ingram, we would like -- several of us would like to see the drive across our district reduced

to two and a half hours, so thanks for the comment. Representative Brawley?

REP. BRAWLEY: Thank you, Mr. Chairman. Bill Brawley, Mecklenburg County. When I read Senator Clark's amendment, and he talked about accessible for commerce, the first thought that came to mind was roads. And I'm sitting next to Chairman Torbett of Transportation who, along with myself, were two of the co-sponsors for strategic transportation investments law. And we were thinking of the number of cases where you would drive out of a House district on a road and then back into the same district, just because of the way our road network is set up and the incredible need for more roads for commerce that we have.

I had concerns of it for that reason. I would think that this might be a reasonable discussion we have when we've finished our $70 billion backlog of construction. But right now, the shortage of roads would make this much more difficult than it appears on the surface. And would agree that I would tend to have concerns about this. I believe the compactness and contiguity are being addressed and the roads -- we're not going to be able to solve that today.

Thank you, Mr. Chairman.

SEN. HISE: Thank you. Senator Clark and Senator Brown.

SEN. CLARK: Again, I would like to emphasize my definition, as written, says to the extent practicable. If it's not practicable, of course we're not going to do it. However, there are many circumstances in which it is practicable.

SEN. HISE: Senator Brown.

SEN. BROWN: Thank you, Mr. Chairman. I think the county groupings piece is the concern -- or has created concern, I think, that Senator Clark's bringing up. But that's a court ruling that I don't think there's any flexibility on, on how the groupings can be drawn. Is that correct, Representative Lewis?

REP. LEWIS: Well, certainly, sir. Thank you for the question. The county groupings are -- are required by the court, yes.

SEN. HISE: Senator Clark again.

SEN. CLARK: I need to clarify again. My statement has nothing to do with county groupings. We're talking about internal to the groupings, the actual districts themselves within a grouping.

SEN. HISE: Any other questions or

comments? Hearing none, we will take into consideration of amending the proposed criteria plan as presented by Senator Clark. We will begin with the Senate this time. The Senate Clerk will call the roll.

CLERK: Senator Bishop?

SEN. BISHOP: No.

CLERK: No. Senator Blue? Senator Brown?

SEN. BROWN: No.

CLERK: Senator Brown, no. Senator Clark?

SEN. CLARK: Aye.

CLERK: Senator Clark, aye. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: No.

CLERK: Senator Harrington, no. Senator Jackson?

SEN. JACKSON: No.

CLERK: Senator Jackson, no. Senator Lee?

SEN. LEE: No.

CLERK: Senator Lee, no. Senator Lowe?

SEN. LOWE: Aye.

CLERK: Senator Lowe, aye. Senator

Newton?

SEN. NEWTON: No.

CLERK: Senator Newton, no. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: Aye.

CLERK: Senator Smith-Ingram, aye. Senator Van Duyn?

SEN. VAN DUYN: Aye.

CLERK: Senator Van Duyn, aye. Senator Wade?

SEN. WADE: No.

CLERK: Senator Wade, no. Senator Hise?

SEN. HISE: No.

CLERK: Senator Hise, no.

SEN. HISE: The Clerk of the House will please call the roll.

CLERK: Representative Jackson?

REP. JACKSON: Yes.

CLERK: Representative Jackson, aye. Representative Szoka?

REP. SZOKA: No.

CLERK: Representative Szoka, no. Representative Stevens?

REP. STEVENS: No.

CLERK: Representative Stevens, no.

Representative Bell?

REP. BELL: No.

CLERK: Representative Bell, no.

Representative Brawley?

REP. BRAWLEY: Brawley, no.

CLERK: Representative Brawley, no.

Representative Brockman?

REP. BROCKMAN: Aye.

CLERK: Representative Brockman, aye.

Representative Burr?

REP. BURR: No.

CLERK: Representative Burr, no.

Representative Davis? Representative Davis?

Representative Dixon?

REP. DIXON: No.

CLERK: Representative Dixon, no.

Representative Dobson?

REP. DOBSON: No.

CLERK: Representative Dobson, no.

Representative Dulin?

REP. DULIN: No.

CLERK: Representative Dulin, no.

Representative Farmer-Butterfield?

REP. FARMER-BUTTERFIELD: Aye.

CLERK: Representative

Farmer-Butterfield, aye. Representative Floyd? Representative Floyd? Representative Garrison?

REP. GARRISON: Aye.

CLERK: Representative Garrison, aye.

Representative Gill?

REP. GILL: Aye.

CLERK: Representative Gill, aye.

Representative Grange?

REP. GRANGE: No.

CLERK: Representative Grange, no.

Representative Hall?

REP. HALL: No.

CLERK: Representative Hall, no.

Representative Hanes?

REP. HANES: Yes.

CLERK: Representative Hanes, aye.

Representative Hardister?

REP. HARDISTER: No.

CLERK: Representative Hardister, no.

Representative Harrison?

REP. HARRISON: Aye.

CLERK: Representative Harrison, aye.

Representative Hastings?

REP. HASTINGS: No.

CLERK: Representative Hastings, no.

Representative Howard?

REP. HOWARD: No.

CLERK: Representative Howard, no.

Representative Hunter?

REP. HUNTER: Aye.

CLERK: Representative Hunter, aye.

Representative Johnson?

REP. JOHNSON: No.

CLERK: Representative Johnson, no.

Representative Hurley?

REP. HURLEY: No.

CLERK: Representative Hurley, no.

Representative Jones? Representative Jones?

Representative Jordan?

REP. JORDAN: No.

CLERK: Representative Jordan, no.

Representative Malone?

REP. MALONE: No.

CLERK: Representative Malone, no.

Representative Michaux?

REP. MICHAUX: Aye.

CLERK: Representative Michaux, aye.

Representative Moore?

REP. MOORE: Aye.

CLERK: Representative Moore, aye.

Representative Pierce?

REP. PIERCE: Aye.

CLERK: Representative Pierce, aye.

Representative Reives?

REP. REIVES: Aye.

CLERK: Representative Reives, aye.

Representative Willingham?

REP. WILLINGHAM: Aye.

CLERK: Representative Willingham, aye.

Representative Speciale?

REP. SPECIALE: No.

CLERK: Representative Speciale, no.

Representative Rogers?

REP. ROGERS: No.

CLERK: Representative Rogers, no.

Representative Saine?

REP. SAINE: No.

CLERK: Representative Saine, no.

Representative Wray?

REP. WRAY: Aye.

CLERK: Representative Wray, aye.

Representative Yarborough?

REP. YARBOROUGH: No.

CLERK: Representative Yarborough, no.

Representative Torbett?

REP. TORBETT: No.

CLERK: Representative Torbett, no. Representative Lewis?

REP. LEWIS: No.

CLERK: Representative Lewis, no. Representative Dollar?

REP. DOLLAR: No.

CLERK: Representative Dollar, no.

SEN. HISE: By a vote of 4 in favor, 8 against in the Senate, and I believe I saw that it's 14 in favor, 24 against -- 28 against? 14 in favor, 24 against in the House. The motion to amend the second submitted criterion fails. Criterion Number 2, Contingency, is now back before the Committee.

REP. DOLLAR: Mr. Chairman?

SEN. HISE: Representative Dollar.

REP. DOLLAR: I would move the adoption of Criterion Number 2.

SEN. HISE: Motion by the Chairs for the adoption of Criterion Number 2. Is there any other questions or comments regarding the criteria? Seeing none, we will move into a vote on this process, and we will ask the Clerk of the House to call the roll.

CLERK: Representative Jackson?
REP. JACKSON: No.
CLERK: Representative Jackson, no.
Representative Szoka?
REP. SZOKA: Aye.
CLERK: Representative Szoka, aye.
Representative Stevens?
REP. STEVENS: Aye.
CLERK: Representative Stevens, aye.
Representative Bell?
REP. BELL: Aye.
CLERK: Representative Bell, aye.
Representative Brawley?
REP. BRAWLEY: Brawley, aye.
CLERK: Representative Brawley, aye.
Representative Brockman?
REP. BROCKMAN: No.
CLERK: Representative Brockman, no.
Representative Burr?
REP. BURR: Aye.
CLERK: Representative Burr, aye.
Representative Davis? Representative Davis?
Representative Dixon? Representative Dixon?
REP. DIXON: Aye.
CLERK: Representative Dixon, aye.

Representative Dobson?

REP. DOBSON: Aye.

CLERK: Representative Dobson, aye.

Representative Dulin?

REP. DULIN: Aye.

CLERK: Representative Dulin, aye.

Representative Farmer-Butterfield?

REP. FARMER-BUTTERFIELD: No.

CLERK: Representative Farmer-Butterfield, no. Representative Floyd? Representative Floyd? Representative Garrison?

REP. GARRISON: No.

CLERK: Representative Garrison, no.

Representative Gill?

REP. GILL: No.

CLERK: Representative Gill, no.

Representative Grange?

REP. GRANGE: Aye.

CLERK: Representative Grange, aye.

Representative Hall?

REP. HALL: Aye.

CLERK: Representative Hall, aye.

Representative Hanes?

REP. HANES: No.

CLERK: Representative Hanes, no.

Representative Hardister?

REP. HARDISTER: Aye.

CLERK: Representative Hardister, aye.

Representative Harrison?

REP. HARRISON: No.

CLERK: Representative Harrison, no.

Representative Hastings?

REP. HASTINGS: Aye.

CLERK: Representative Hastings, aye.

Representative Howard?

REP. HOWARD: Aye.

CLERK: Representative Howard, aye.

Representative Hunter?

REP. HUNTER: No.

CLERK: Representative Hunter, no.

Representative Johnson?

REP. JOHNSON: Aye.

CLERK: Representative Johnson, aye.

Representative Hurley?

REP. HURLEY: Aye.

CLERK: Representative Hurley, aye.

Representative Jones? Representative Jones?

Representative Jordan?

REP. JORDAN: Aye.

CLERK: Representative Jordan, aye.

Representative Malone?

REP. MALONE: Aye.

CLERK: Representative Malone, aye.

Representative Michaux?

REP. MICHAUX: No.

CLERK: Representative Michaux, no.

Representative Moore?

REP. MOORE: No.

CLERK: Representative Moore, no.

Representative Pierce?

REP. PIERCE: No.

CLERK: Representative Pierce, no.

Representative Pierce? Representative Reives, excuse me.

REP. REIVES: No.

CLERK: Representative Reives, no.

Representative Willingham?

REP. WILLINGHAM: No.

CLERK: Representative Willingham, no.

Representative Speciale?

REP. SPECIALE: Aye.

CLERK: Representative Speciale, aye.

Representative Rogers?

REP. ROGERS: Aye.

CLERK: Representative Rogers, aye.

Representative Saine?

REP. SAINE: Aye.

CLERK: Representative Saine, aye.

Representative Wray?

REP. WRAY: No.

CLERK: Representative Wray, no.

Representative Yarborough?

REP. YARBOROUGH: Yes.

CLERK: Representative Yarborough -- Yarborough, aye. Representative Torbett?

REP. TORBETT: Aye.

CLERK: Representative Torbett, aye.

Representative Lewis?

REP. LEWIS: Aye.

CLERK: Representative Lewis, aye.

Representative Dollar?

REP. DOLLAR: Aye.

CLERK: Representative Dollar, aye.

SEN. HISE: Okay. Clerk of the Senate will call out the roll.

CLERK: Senator Bishop?

SEN. BISHOP: Aye.

CLERK: Senator Bishop, aye. Senator Blue? Senator Brown?

SEN. BROWN: Aye.

CLERK: Senator Brown, aye. Senator Clark?

SEN. CLARK: No.

CLERK: Senator Clark, no. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: Aye.

CLERK: Senator Harrington, aye. Senator Jackson?

SEN. JACKSON: Aye.

CLERK: Senator Jackson, aye. Senator Lee?

SEN. LEE: Aye.

CLERK: Senator Lee, aye. Senator Lowe?

SEN. LOWE: No.

CLERK: Senator Lowe, no. Senator Newton?

SEN. NEWTON: Aye.

CLERK: Senator Newton, aye. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: No.

CLERK: Senator Smith-Ingram, no. Senator Van Duyn?

SEN. VAN DUYN: No.

CLERK: Senator Van Duyn, no. Senator Wade?

SEN. WADE: Aye.

CLERK: Senator Wade, aye. Senator Hise?

SEN. HISE: Aye.

CLERK: Senator Hise, aye.

SEN. HISE: By a vote of 24-14 in the House and a vote of 8 to 4 in the Senate, the second submitted criteria, Contiguity, is passed and is adopted by the committee. The committee will stand at ease for just a few minutes.

(Proceedings went off the record.)

SEN. HISE: Thank you, members of the committee. The next item we will consider is labeled as Number 6 in the process. As soon as I get to it.

REP. LEWIS: Mr. Chairman, may I speak briefly on 5 for just a moment?

SEN. HISE: Go ahead.

REP. LEWIS: Members, the reason that I asked the Chair to skip what is labeled Number 5 -- by the way, these numbers are so that I would not forget to get through one of them. The reason that I ask that Number 5 be split -- be not discussed at the moment and displaced, staff is trying to get a firm definition of precinct versus voting tabulation district. The Court, in its opinion,

wrote about precincts, which is why this criteria says the word "precinct," but we're trying to get a -- just get a staff understanding on if it's precinct or voting tabulation district, which is -- I know some of you are wondering why we moved past that. We're just trying to get a technical clarification, which is why I asked the chair to take up Number -- what is labeled Number 6, municipal boundaries, next. So with that, Mr. Chair, if I can speak on that.

SEN. HISE: Do all members have a copy of Number 6, municipal boundaries? Okay. Representative Lewis, you're recognized to explain.

REP. LEWIS: Thank you, Mr. Chairman. Mr. Chairman, this says that the committees may consider municipal boundaries when drawing legislative districts in the 2017 House and Senate plan. This -- and if I may speak on it, this is another criteria that comes in response to public inquiry.

At last week's committee hearing, Dianna Wynn of Wake County asked the committee to consider not dividing municipalities where possible. The chairs are proposing that consideration be made when drawing these new district lines. Would like

to state for the record that, as this is based on the 2010 census, that the municipality boundaries that would be looked at would be the 2010 boundaries as well. And with that, Mr. Chairman, I'd like to move the -- the adoption of this criteria.

SEN. HISE: Okay. Any questions or comments? Representative Jackson?

REP. JACKSON: Thank you, Mr. Chairman. Chairman Lewis, since we are bound by law to consider communities of interest, I'm wondering why the may instead of the shall is used in this criteria. That's my first question.

REP. LEWIS: Thank you for the question, Representative Jackson. The may is empowering language that says that the map drawer may and rightfully should consider municipality boundaries when they can. As you know, not all municipalities are laid out in neat design, so sometimes it may not be possible to do that. As to communities of interest, and I know you are an attorney; I am not, but, to be clear, we couldn't find a concise definition of what a community of interest is, which is why it's not one of the criteria that we have proposed as of yet.

SEN. HISE: Follow-up?

REP. JACKSON: Chairman Lewis, well, one thing, under the law, the words "may" or "should" actually have different meanings and you used "may" and "should." And so I guess the first question would be, would you consider changing "may" to "should"?

REP. LEWIS: Thank you for the question. The -- and as always, you're -- you're right. The reason -- and we talked a lot about how to present these criteria to where they made the most sense to everyone, and the word "should" is used in what I would consider to be criteria that absolutely positively must be followed, like the one-person-one-vote rule.

There are other criteria, in fact, in the letter that Senator Blue wrote to us, he called them actually secondary criteria. There are other criteria that may be considered. One of those is the municipal boundaries. So I would say that I would prefer the word "may" to stay in this, and that when the maps are drawn, that we may very well consider municipal boundaries.

REP. JACKSON: Follow-up --

SEN. HISE: Follow-up?

REP. JACKSON: If -- if I could. I'll just stay on the communities of interest. I don't think it's addressed in any of the other proposed criteria. And so I do have a question about that. I understand from -- from your previous announcement at committee and from reading the newspaper that we're going to be using the same map drawer as last time, Mr. Hofeller. And I would ask, you know, who will be helping Mr. Hofeller draw the maps to make sure that communities of interest are protected?

REP. LEWIS: Thank you for the question. Dr. Hofeller was hired at the direction of myself and Senator Hise. For the House, I will be working with him to help produce the map that will be presented to the committee and to the public. At that time, all the members of the committee certainly have access to amend the map. The members of the public who wish to comment on the map -- if you or any other member or a citizen who takes time to engage in this process thinks that certain communities should be recombined in certain ways, we will certainly be open to reviewing that at that time.

REP. JACKSON: Okay.

SEN. HISE: Any other questions, comments? Representative Michaux?

REP. MICHAUX: Yeah, Mr. Chair -- Chairman Lewis, going back to the matter of communities of interest, are there not communities of -- you say there's no legal definition that you have found, but are there not communities of interest identified in each community in this state? For instance, there's a community -- communities of interest, rural, urban, educational, whatever. There are various communities of interest throughout the state. Well, why should they not be identified in here and used?

REP. LEWIS: Thank you for the question, Representative. I don't disagree with you at all. I would simply point out that because a community of interest can be defined in any number of ways, exactly as you just did, and some of those communities of interest actually overlap, some contradict each other, perhaps, I don't know that there is a definitive way to define that. But I would point out to the committee that the criteria that I'm asking to adopt is that the committee may consider municipal boundaries when drawing the lines.

SEN. HISE: Follow-up?

REP. MICHAUX: But -- but have you not had -- even in your last drawing, did you not consider communities of interest and have they not been considered in pervious redistricting matters that were drawn up in the past?

REP. LEWIS: Thank you for the question, Representative. I know that the concept of communities of interest were discussed. I don't know to what degree that they were considered in the map drawing.

SEN. HISE: Representative Reives?

REP. REIVES: Thank you, Chair. And, Chairman Lewis, again with the committees of interest, I understand that there are -- that you haven't found concise, clear definitions, but as Representative Michaux was just stating, I think they've been referred to, even by the Supreme Court, as early as Bush v. Vera, when George Bush was governor, when they had a redistricting case based on race and unconstitutionality where they discussed that and gave several examples of things that were considered communities of interest. If we use that as part of the criteria, I mean, wouldn't we be able to refer to that and then kind

of know it when we see it when we're discussing it?

REP. LEWIS: Thank you for the question, Representative. Respectfully, I don't think communities of interest is in contradiction to this proposed criteria of municipal boundaries. If we -- if the committee wishes to try to come up with a definition and offer additional criteria, we can certainly consider that at that time, but I don't think any desire to define or include the words "communities of interest" is in opposition to the criteria that I've proposed, and I would appreciate the committee's support on.

SEN. HISE: Follow-up?

REP. REIVES: Thank you. So in light of that, and I -- I would agree with you that not -- not -- they're not necessarily in opposition to each other, would you be opposed to an amendment that includes the term "communities of interest," just in case we have a situation where the municipal lines don't necessarily recognize a community of interest?

REP. LEWIS: Representative, thank you for the question. In short, I proposed the criteria before us -- before you that I believe the committee may consider when drawing the lines. I

do not believe that there is a concise definition that everyone can agree to that defines what a community of interest in -- is.

In the examples that Representative Michaux gave earlier in his comments, he referred -- you may have an educational community, if you will. And I'm not trying to focus on Durham, but you may be talking about Duke University or North Carolina Central. That's an educational community of interest. It may be directly next to a very blue-collar type area. Those two aren't necessarily communities of interest when you're drawing the lines.

So, again, I think we're getting a little bit far from what I had hoped would be a pretty simple criteria. At this time, I would not support an amendment to this criteria for communities of interest because municipalities are defined and understood. Communities of interest aren't even agreed to in this room.

SEN. HISE: I have Representative Jordan and Representative Michaux.

REP. JORDAN: Thank you, Mr. Chairman. There was an earlier colloquy between Representative Jackson and Representative Lewis

discussing "may" and "should." Just to clarify, shouldn't that have been "may" and "shall"?

REP. LEWIS: It may should have.

REP. JORDAN: Thanks.

SEN. HISE: Representative Michaux.

REP. MICHAUX: Yeah. Mr. Lewis, to -- to the -- you have here the committees may consider municipal boundaries. You're giving them an option as to whether or not they want to consider municipal boundaries. Why not give them the option of whether or not they would want to consider communities of interest? We know what communities of interest are. We can identify communities of interest. Why can't you go ahead on -- if you going to give them a choice, what other choice do they have other than municipal boundaries, when you say they may consider municipal boundaries?

REP. LEWIS: Well, thank you for that question, Representative. Let me try to be a little clearer. One of the criteria and one of the recurring themes of public input that we've got is to try not to split municipalities. As you know, there are numerous examples throughout the state where municipalities have actually annexed into other counties. They start in one county and

continue into another county. That is not compatible with the Stephenson requirement for how counties are grouped.

So the reason it says "may" is that I, personally, believe that is important, and I think that everyone on this committee will have the chance -- if we do not consider municipal boundaries in such a way that is acceptable to the committee, they'll have a chance to weigh in and amend and attempt to change the way that is done. But, again, this is just simply trying to respond to input that we got. Will we always consider municipal boundaries? Probably not, because we won't be able to. But this is -- this is an aspirational goal.

SEN. HISE: And I think it's also important to point out that municipal boundaries, when municipalities expand or others are not bound to limit themselves to complete Census tracts. And a Census tract is the smallest layer of data we have in order which to divide districts on.

REP. MICHAUX: I understand --

SEN. HISE: Follow-up.

REP. MICHAUX: And I understand that, Mr. Chairman, but what I'm getting at is that there are

communities of interest that sometimes overshadow municipal boundaries and could be used and should be used in terms of criteria for redistricting. I mean, there's no doubt in my mind that you got within an -- within a municipal area, you've got an urban community and you've got a suburban community and you've got maybe an agrarian community all combined in one. Why -- and -- and, if it's large enough, you could have representation from all three. I mean, I'm trying to get communities of interest in there because they seem to be the salient factor in all of redistricting.

SEN. HISE: I'll just follow up. I think that was more of a comment, but I will say that, is there a specific community of interest that you are submitting?

REP. MICHAUX: I hadn't thought about it right now. All I know is that there's a difference -- there's a suburban community -- a suburban community and an agrarian community. And they are both communities of interest. One involves agrarian and the other involves suburban-type things. All these communities of interest where people have like -- with similarities are alike. Particularly in those

communities of interest.

SEN. HISE: Representative Lewis?

REP. LEWIS: Thank you, Mr. Chairman. Mr. Chairman and specifically Representative Michaux and other members, the -- it is my understanding that the communities of interest, as defined by the courts, are largely covered in what we call the Stephenson county groupings. Many of what we are talking about, what is a community of interest and what is not, is an objective and not a subjective tone or goal. It's not a definable thing. Counties, municipality, precinct lines are things that are all community-of-interest-type things that we're going to seek to preserve.

But what may be a community of interest, for me, when I draw the map that I present, you may correct and say you did not recognize that this community and this community should be joined. And I'm -- I'm communicating to you that I'll work with you at -- at that point.

At this point, I don't know how we can -- a municipality is a defined thing. All I'm saying is that the committee may consider the defined, understood, legally-recognized thing, as opposed to the abstract, objective community of interest. And

I would urge the committee to adopt this criteria.

SEN. HISE: Senator Clark?

SEN. CLARK: Thank you, Mr. Chairman. Would you allow staff to prepare an amendment to this particular item, stating to the effect that members of this General Assembly can submit definitive community of interests, if you will, so that the amendment right read something to the effect that the committees may consider municipal boundaries and committees -- communities of interest, as defined by a member of this body when drawing legislative districts?

REP. LEWIS: Well, thank you for the question, Senator Clark. And to be clear, certainly, I have no control over what amendments are sent forth.

SEN. CLARK: I would like to send forth an amendment to that effect.

REP. LEWIS: Acknowledged. With that, Mr. Chairman, perhaps we could displace this and come back to it once it can be prepared to what Senator Clark has asked for.

SEN. HISE: We will displace this to consider another Senator Clark amendment.

REP. LEWIS: And, Mr. Chairman, we can --

Mr. Chairman, perhaps now we can return to 5. I think we've got -- got that cleared up.

SEN. HISE: Okay. All members have Criteria Number 5, fewer split precincts? Representative Lewis, you're -- you're recognized to explain and debate.

REP. LEWIS: Thank you, Mr. Chairman. This -- this criteria says that the committee shall make reasonable efforts to draw legislative districts in the 2017 House and Senate plans to split fewer precincts than the current legislative redistricting plans. To elaborate, the Chair should receive input from the public, including input from William Smith of Raleigh at last week's committee meeting, urging the committees to split fewer precincts in new legislative redistricting plans. We are proposing this criteria in response to that public input.

SEN. HISE: Representative Torbett?

REP. TORBETT: Thank you, Mr. Chairman. I think this is a very good, common-sense amendment and would move for adoption of the proposed criteria.

SEN. HISE: Okay. Representative Jackson.

REP. JACKSON: Mr. Chairman, I submitted some alternative language the staff has and I believe is ready to be passed out at your direction.

SEN. HISE: Okay. I'm assuming, then, Senator Jackson has moved to amend the criteria. That's what's coming in. I think we'll have staff go ahead and pass that out. Okay. I will take this brief moment for a little personal privilege and we'll recognize the Speaker of the House.

SPEAKER MOORE: Yes. Good afternoon. I just wanted you all to join me in welcoming a special guest. Thank you. Thank you. I just wanted you all to join me in welcoming a special guest we have today. This is Cliff Rosenberger. He's the Speaker of the House in Ohio. And he's here visiting in North Carolina today on some economic development initiatives. And so I would hope you all would join me in welcoming the Speaker of Ohio with us here today.

MR. ROSENBERGER (VISITOR): Hi. Thank you. Thank you very much. I appreciate it.

SPEAKER MOORE: I told him this was the only -- we weren't in session, this is the only official meeting today. So we're doing some things

economic development related, but I wanted you all to know that he was here. And so he knows we're all here hard at work. I think they're going back into session here --

MR. ROSENBERGER (VISITOR): September. We go in, in September. So -- and about to do the very same thing you're all doing, so keep up the hard work.

So thank you all very much.

SPEAKER MOORE: Thanks.

SEN. HISE: Representative Jackson, you've sent forward your amendment; you're recognized to explain it.

REP. JACKSON: Thank you, Mr. Chairman. So my alternate language just adds a sentence to Chairman Lewis's --

REP. JORDAN: Mr. Chairman. Mr. Chairman. Over here, Jordan. Can I see a copy before we begin discussion?

SEN. HISE: You can. We're actually apparently waiting on a row to receive them. They can have mine. Does everybody got one? Everyone seen the amendment? Okay. Representative Jackson, go ahead.

REP. JACKSON: So by my reading of the

way Number 5 as -- as proposed, you know, if we just split one fewer precinct, we've accomplished that goal, and clearly we want to do more than that. We want to severely limit the number of split precincts. And so my amendment would propose that we only split precincts to achieve population balance in compliance with the equal protection criteria, so that's the plus or minus five percent, and that we explicitly state we shall not split precincts to achieve partisan advantage.

SEN. HISE: Representative Lewis?

REP. LEWIS: Thank you, Mr. Chairman. Members, I've reviewed Senator -- Senator Jackson, I apologize, the Chairman's getting to me. I've reviewed Representative Jackson's amendment, and I do not disagree with it in spirit. However, I would ask you not to support the amendment because, once the maps are drawn, the committee will have the ability to review them and to offer whatever explanation they may so choose as to why a precinct was split or not split. I think this is a noble criteria, but it's a largely unworkable one, in terms of trying to define why was this -- this precinct split where it was. So, with that, I would -- I don't think it's a workable criteria to

use, and I would ask members to vote down this amendment.

SEN. HISE: Senator Van Duyn?

SEN. VAN DUYN: Thank you, Mr. Chair. I'd just like to respond to that, because you started your presentation by saying that this was in response to public comment. And clearly what we heard from nearly everyone who made public comment -- I think there was one exception. What people were asking for was districts that represent the voters, not districts that represent political parties. And I think what Representative Jackson's amendment does is get to the heart of what they were requesting.

And so, with all due respect, I think it is the most important part of what they were asking for, is that we not split precincts for political advantage. And I think it's important that we acknowledge -- if we're going to do public comment, I think we have to acknowledge it. That doesn't mean we need to go along with it necessarily, but we need to address what they ask for and either say why we will or will not follow what they said.

And clearly they want us to move away from political -- using redistricting for political

advantage. And one of the most disruptive ways of redistricting for political advantage is slicing and dicing individual precincts. I worked as a precinct judge before I was an elected official and when you have multiple ballots within a precinct, it is extraordinarily challenging. And -- and just not fair to our voters.

REP. LEWIS: Mr. Chairman.

SEN. HISE: Representative Lewis?

REP. LEWIS: I -- I want to thank the lady for her comments. I would say that I think the public comment is important and, as elected representatives, we must take it into account and must do our best to honor what is shared with us. Let me take another stab at this. Every line that is drawn on the map that is not mandated by the Stephenson criteria or whatnot is -- in one way or the other, will have political ramifications. So if we adopt the Jackson amendment, what will happen is, with respect, some of you in here will say, "Look, you split this precinct to gain a partisan advantage." And I'll say, no, "I split it to comply with the equal population requirement." And you'll say, "No, you split it to" -- because wherever we split it, it will have political

consequences one way or the other. So it's not a realistic goal to adopt a criteria that you cannot achieve.

SEN. HISE: Representative Jackson?

REP. JACKSON: Thank you, Mr. Chairman. Just for the record, I'll note I'm covering Speaker Blue as well, so that's why I'm doing twice as much today. Chairman Lewis, I wonder, other than population balance, what other reasons would you have to split a precinct?

REP. LEWIS: Thank you for that question, Representative Jackson. We just went through or -- and are going to go back through a long conversation about municipal -- municipal boundaries. Cities don't annex along precinct lines, so that is a reason that you may split a precinct. It may be more important to keep the city as whole as you can than to worry about, per se, how the precincts fall. If I had a precinct map in here, almost literally of any county in this state, I could show you how municipalities don't follow precinct lines.

SEN. HISE: Any other questions or comments? Senator Clark?

SEN. CLARK: Thank you, Mr. Chair. I

just have a comment. I don't see a problem with us explicitly stating that we should not split precincts other than for population balance. Case in point, I belong to a two-county cluster, and on the Cumberland County side of my district, I have about -- people from about 41 precincts vote in District 21. Of those 41, 33 are split, and for the life of me, I can't understand why 33 out of 41 precincts should be split.

SEN. HISE: Any other questions or comments? Okay. None. I believe Representative Torbett had made the motion when we began -- Jackson, sorry, for the amendment. So Representative Jackson has moved to amend the submitted criteria.

UNIDENTIFIED MEMBER: Second, Mr. Chair.

SEN. HISE: Motion doesn't require a second, but as we will see no more discussion or debate, we will move into a vote. And I believe we will begin with the House as the order.

CLERK: Representative Jackson?

REP. JACKSON: Yes.

CLERK: Representative Jackson, yes. Representative Szoka?

REP. SZOKA: No.

CLERK: Representative Szoka, no.
Representative Stevens?
REP. STEVENS: No.
CLERK: Representative Stevens, no.
Representative Bell?
REP. BELL: No.
CLERK: Representative Bell, no.
Representative Brawley?
REP. BRAWLEY: No.
CLERK: Representative Brawley, no.
Representative Brockman?
REP. BROCKMAN: Yes.
CLERK: Representative Brockman, aye.
Representative Burr?
REP. BURR: No.
CLERK: Representative Burr, no.
Representative Davis? Representative Davis?
Representative Dixon?
REP. DIXON: No.
CLERK: Representative Dixon, no.
Representative Dobson?
REP. DOBSON: No.
CLERK: Representative Dobson, no.
Representative Dulin.
REP. DULIN: No.

CLERK: Representative Dulin, no. Representative Farmer-Butterfield?

REP. FARMER-BUTTERFIELD: Yes.

CLERK: Representative Farmer-Butterfield, aye. Representative Floyd? Representative Floyd? Representative Garrison?

REP. GARRISON: Yes. Aye.

CLERK: Representative Garrison, aye. Representative Gill?

REP. GILL: Aye.

CLERK: Representative Gill, aye. Representative Grange?

REP. GRANGE: No.

CLERK: Representative Grange, no. Representative Hall?

REP. HALL: No.

CLERK: Representative Hall, no. Representative Hanes?

REP. HANES: Yes.

CLERK: Representative Hanes, aye. Representative Hardister?

REP. HARDISTER: No.

CLERK: Representative Hardister, no. Representative Harrison? Representative Harrison? Representative Hastings?

REP. HASTINGS: No.

CLERK: Representative Hastings, no. Representative Howard?

REP. HOWARD: No.

CLERK: Representative Howard, no. Representative Hunter?

REP. HUNTER: Aye.

CLERK: Representative Hunter, aye. Representative Johnson?

REP. JOHNSON: No.

CLERK: Representative Johnson, no. Representative Jones? Representative Jones? Representative Jordan?

REP. JORDAN: No.

CLERK: Representative Jordan, no. Representative Malone?

REP. MALONE: No.

CLERK: Representative Malone, no. Representative Michaux?

REP. MICHAUX: Aye.

CLERK: Representative Michaux, aye. Representative Moore?

REP. MOORE: Yes.

CLERK: Representative Moore, aye. Representative Pierce?

REP. PIERCE: Yes.

CLERK: Representative Pierce, aye. Representative Reives?

REP. REIVES: Aye.

CLERK: Representative Reives, aye. Representative Willingham?

REP. WILLINGHAM: Aye.

CLERK: Representative Willingham, aye. Representative Speciale?

REP. SPECIALE: No.

CLERK: Representative Speciale, no. Representative Rogers?

REP. ROGERS: No.

CLERK: Representative Rogers, no. Representative Saine?

REP. SAINE: No.

CLERK: Representative Saine, no. Representative Wray?

REP. WRAY: Aye.

CLERK: Representative Wray, aye. Representative Yarborough?

REP. YARBOROUGH: No.

CLERK: Representative Yarborough, could you repeat that?

REP. YARBOROUGH: No.

CLERK: Representative Yarborough, no. Representative Harrison? Representative Lewis?

REP. LEWIS: No.

CLERK: No. Representative Dollar?

REP. DOLLAR: No.

CLERK: Representative Dollar, no.

REP. HURLEY: Mr. Chair, I was skipped.

CLERK: Oh, I'm sorry. Representative Hurley?

REP. HURLEY: No.

CLERK: No. Representative Torbett?

REP. TORBETT: No.

CLERK: Representative Torbett, no.

SEN. HISE: The Clerk will call the roll for the Senate?

CLERK: Senator Bishop?

SEN. BISHOP: No.

CLERK: Senator Bishop, no. Senator Blue? Senator Brown?

SEN. BROWN: No.

CLERK: Senator Brown, no. Senator Clark?

SEN. CLARK: Aye.

CLERK: Senator Clark, aye. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: No.

CLERK: Senator Harrington, no. Senator Jackson?

SEN. JACKSON: No.

CLERK: Senator Jackson, no. Senator Lee?

SEN. LEE: No.

CLERK: Senator Lee, no. Senator Lowe?

SEN. LOWE: Aye.

CLERK: Senator Lowe, aye. Senator Newton?

SEN. NEWTON: No.

CLERK: Senator Newton, no. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: Aye.

CLERK: Senator Smith-Ingram, aye. Senator Van Duyn?

SEN. VAN DUYN: Aye.

CLERK: Senator Van Duyn, aye. Senator Wade?

SEN. WADE: No.

CLERK: Senator Wade, no. Senator Hise?

SEN. HISE: No.

CLERK: Senator Hise, no.

REP. HARRISON: Mr. Chair?

SEN. HISE: Who's speaking?

REP. HARRISON: It's Representative Harrison on the back row.

SEN. HISE: Ah, affirmative. Thank you very much.

REP. HARRISON: May I be recorded as an aye, please, on the amendment?

SEN. HISE: By a vote of 13 in favor, 24 against in the House. Four in favor, eight against in the Senate, the amendment fails. The criteria estimated is back before the committee. Any other questions or comments? Senator Van Duyn?

SEN. VAN DUYN: I also have an amendment to Number 5.

SEN. HISE: Okay.

SEN. VAN DUYN: And I believe it's been prepared. Representative Lewis, I -- I think your point about --

UNIDENTIFIED MEMBER: Mr. Chair, can we hold until we get a copy of the amendment. Because I don't see it up on the screen or --

SEN. HISE: Chairs will pass out -- the Sergeant in Arms will pass out the amendments.

Senator Van Duyn, it's -- the opinion of the Chair is that this is the same amendment that

was just submitted, but it's some wording changes, but I will give you an opportunity to explain how this is different from what we just decided.

SEN. VAN DUYN: Thank you very much, Mr. Chair. Representative Lewis, I take your point that two people might disagree about whether or not a particular line is drawn for political advantage, but I -- I do think we can agree about whether a line needs to be moved in terms to meet the requirements of population distribution. And all I'm saying is that we agree that we will only split a precinct if it is necessary for -- to achieve the population requirements that we've already agreed to.

SEN. LEE: Point of order, Mr. Chairman. If I may --

SEN. HISE: Senator Lee?

SEN. LEE: It sounds like we're going in and debating the substance of what we just debated. I -- I thought the comment was, how is this different than -- than what we just voted on, as opposed to reliving the substance of what we just debated.

SEN. HISE: That is what I gave her the opportunity to explain, and Representative Lewis

wouldn't speak. So we kind of have a joint -- two committees going here, so I'm going to make sure to let him.

(Pause.)

SEN. HISE: Okay. Thank you, Senator Van Duyn. The opinion of the chair is the amendment is functionally equivalent to the previous amendment submitted and would be out of order as already considered by the committee.

SEN. SMITH-INGRAM: Mr. Chair?

SEN. HISE: Senator Smith-Ingram?

SEN. SMITH-INGRAM: I'd like to state my objection to the ruling of the Chairs. This amendment is clearly differential in that it does not expressly recite the achievement of partisan advantage.

SEN. HISE: Thank you, Senator Van Duyn. I'd -- probably would need to question under the rules if that's an appeal to the decision of the Chair.

SEN. SMITH-INGRAM: Yes.

SEN. HISE: Okay. The clerk will call the roll for the Senate.

UNIDENTIFIED MEMBER: Mr. Chairman. Mr. Chairman, would you please explain how one needs to

vote to uphold the ruling of the chair so we do not inadvertently vote the wrong way?

REP. MICHAUX: Mr. Chairman, they've been voting the wrong way already, so why not let them keep on doing it?

SEN. HISE: Thank you, members of the committee. As it was a member of the Senate to make the motion to overrule the Chair, it would be a vote of the Senate to overrule the Chair. It was specific to the Senate. Members of the Senate would vote aye to overrule the Chair, no to not overrule the Chair. Clerk will call the roll.

CLERK: Senator Bishop?

SEN. BISHOP: No.

CLERK: Senator Bishop, no. Senator Blue? Senator Brown?

SEN. BROWN: No.

CLERK: Senator Brown, no. Senator Clark?

SEN. CLARK: Aye.

CLERK: Senator Clark, aye. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: No.

CLERK: Senator Harrington, no. Senator Jackson?

SEN. JACKSON: No.

CLERK: Senator Jackson, no. Senator Lee?

SEN. LEE: No.

CLERK: Senator Lee, no. Senator Lowe?

SEN. LOWE: Aye.

CLERK: Senator Lowe, aye. Senator Newton?

SEN. NEWTON: No.

CLERK: Senator Newton, no. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: Aye.

CLERK: Senator Smith-Ingram, aye. Senator Van Duyn?

SEN. VAN DUYN: Aye.

CLERK: Senator Van Duyn, aye. Senator Wade?

SEN. WADE: No.

CLERK: Senator Wade, no. Senator Hise?

SEN. HISE: No.

CLERK: Senator Hise, no.

SEN. HISE: By a vote of 4 to 8, the motion to overrule the Chair -- by a vote of 4 to 8, the motion to overrule the Chair fails. The motion will be back before us to adopt criteria,

fewer split precincts. Representative Lewis, any other comments?

REP. LEWIS: No, sir. I move the adoption of the amendment -- the adoption of the criteria as presented.

SEN. HISE: Representative Torbett and the Chairs will move for the adoption of the amendment. We will enter into a roll call vote seeing no other questions or comments. We will --

UNIDENTIFIED MEMBER: Mr. Chairman, I don't think it's the amendment, I think it's the adoption.

SEN. HISE: You are correct. It is the adoption of the criteria, fewer precincts split. And I think this one was 5. It doesn't have a number on the screen. So we will begin with a call of the roll of the House. Thank you.

CLERK: Representative Jackson?

REP. JACKSON: No.

CLERK: Representative Jackson, no. Representative Szoka?

REP. SZOKA: Aye.

CLERK: Representative Szoka, aye. Representative Stevens?

REP. STEVENS: Aye.

CLERK: Representative Stevens, aye.
Representative Bell?
REP. BELL: Aye.
CLERK: Representative Bell, aye.
Representative Brawley?
REP. BRAWLEY: Aye.
CLERK: Representative Brawley, aye.
Representative Brockman?
REP. BROCKMAN: No.
CLERK: Representative Brockman, no.
Representative Burr?
REP. BURR: Aye.
CLERK: Representative Burr, aye.
Representative Davis? Representative Davis?
Representative Dixon?
REP. DIXON: Aye.
CLERK: Representative Dixon, aye.
Representative Dobson?
REP. DOBSON: Aye.
CLERK: Representative Dobson, aye.
Representative Dulin?
REP. DULIN: Aye.
CLERK: Representative Dulin, aye.
Representative Farmer-Butterfield?
REP. FARMER-BUTTERFIELD: No.

CLERK: Representative Farmer-Butterfield, no. Representative Floyd? Representative Floyd? Representative Garrison?

REP. GARRISON: No.

CLERK: Representative Garrison, no. Representative Gill?

REP. GILL: No.

CLERK: Representative Gill, no. Representative Grange?

REP. GRANGE: Aye.

CLERK: Representative Grange, aye. Representative Hall?

REP. HALL: Aye.

CLERK: Representative Hall, aye. Representative Hanes?

REP. HANES: No.

CLERK: Representative Hanes, no. Representative Hardister?

REP. HARDISTER: Aye.

CLERK: Representative Hardister, aye. Representative Harrison?

REP. HARRISON: No.

CLERK: Representative Harrison, no. Representative Hastings?

REP. HASTINGS: Aye.

CLERK: Representative Hastings, aye.
Representative Howard?
REP. HOWARD: Aye.
CLERK: Representative Howard, aye.
Representative Hunter?
REP. HUNTER: No.
CLERK: Representative Hunter, no.
Representative Hurley?
REP. HURLEY: Aye.
CLERK: Representative Hurley, aye.
Representative Johnson?
REP. JOHNSON: Aye.
CLERK: Representative Johnson, aye.
Representative Jones? Representative Jones?
Representative Jordan?
REP. JORDAN: Aye.
CLERK: Representative Jordan, aye.
Representative Malone?
REP. MALONE: Aye.
CLERK: Representative Malone, aye.
Representative Michaux?
REP. MICHAUX: No.
CLERK: Representative Michaux, no.
Representative Moore? Representative Moore?
REP. MOORE: Nay.

CLERK: Representative Moore, no.
Representative Pierce?
REP. PIERCE: No.
CLERK: Representative Pierce, no.
Representative Reives?
REP. REIVES: No.
CLERK: Representative Reives, no.
Representative Willingham?
REP. WILLINGHAM: No.
CLERK: Representative Willingham, no.
Representative Speciale?
REP. SPECIALE: Aye.
CLERK: Representative Speciale, aye.
Representative Rogers?
REP. ROGERS: Aye.
CLERK: Representative Rogers, aye.
Representative Saine?
REP. SAINE: Aye.
CLERK: Representative Saine, aye.
Representative Wray?
REP. WRAY: No.
CLERK: Representative Wray, no.
Representative Yarborough?
REP. YARBOROUGH: Aye.
CLERK: Representative Yarborough, aye.

Representative Torbett?

REP. TORBETT: Aye.

CLERK: Representative Torbett, aye.

Representative Lewis?

REP. LEWIS: Aye.

CLERK: Aye. Representative Dollar?

REP. DOLLAR: Aye.

CLERK: Aye. Representative Dollar, aye.

SEN. HISE: Clerk will call the roll for the Senate.

CLERK: Senator Bishop?

SEN. BISHOP: Aye.

CLERK: Senator Bishop, aye. Senator Blue? Senator Brown?

SEN. BROWN: Aye.

CLERK: Senator Brown, aye. Senator Clark?

SEN. CLARK: No.

CLERK: Senator Clark, no. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: Aye.

CLERK: Senator Harrington, aye. Senator Jackson?

SEN. JACKSON: Aye.

CLERK: Senator Jackson, aye. Senator

Lee?

SEN. LEE: Aye.

CLERK: Senator Lee, aye. Senator Lowe?

SEN. LOWE: No.

CLERK: Senator Lowe, no. Senator Newton?

SEN. NEWTON: Aye.

CLERK: Senator Newton, aye. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: No.

CLERK: Senator Smith-Ingram, no. Senator Van Duyn?

SEN. VAN DUYN: No.

CLERK: Senator Van Duyn, no. Senator Wade?

SEN. WADE: Aye.

CLERK: Senator Wade, aye. Senator Hise?

SEN. HISE: Aye.

CLERK: Senator Hise, aye.

SEN. HISE: By a vote in the House of 24 to 14 and a vote in the Senate of 8 to 4, Criteria 5, as submitted, is adopted, fewer split precincts by the committee.

Members, we will now go to -- back to proposed criteria number 6, municipal boundaries.

I will have an amendment. Before we get into it, I want to quickly state that if you have a proposed amendment for any of the criteria -- they have been submitted to everyone this morning -- I would ask that you get with staff now and have that drafted in this process so that, as we go forward in the future, we don't have to displace a criteria and can go ahead move through the time-cumbersome process. So, that being said, it was submitted by, I can't read that signature. So who submitted? Senator Clark, you're recognized to explain your amendment.

SEN. CLARK: Thank you, Mr. Chair. Committee members, what this does is exactly what Representative Lewis indicated that he'd be willing to do. It just puts it in writing. He indicated that if we came to him with concerns about communities of interest, that the committee may consider those. And that's what this particular amendment says, it says that if a member of this body comes forward with a community of interest that they can specifically categorize, that the committee may consider them.

SEN. HISE: Representative Lewis?

REP. LEWIS: Thank you, Mr. Chairman, and

thank you, Senator Clark, for sending forward the amendment. I don't believe that I can have a hard-and-fast definition of what a community of interest is. I think your -- the way you've drafted the amendment is artful and points out that what I may consider a community of interest, you may not, which means it is appropriate, once the map is drawn, to discuss amendments to the map in which you can discuss specific communities of interest. I don't believe it belongs in this criteria and would ask members to vote it down.

SEN. HISE: Other questions or comments? Seeing none, we will move into a vote on the -- Senator Clark has moved to amend the criteria, as identified. We will begin with a call of the roll of the Senate.

CLERK: Senator Bishop?

SEN. BISHOP: No.

CLERK: Senator Bishop, no. Senator Blue? Senator Brown?

SEN. BROWN: No.

CLERK: Senator Brown, no. Senator Clark?

SEN. CLARK: Aye.

CLERK: Senator Clark, aye. Senator

Daniel? Senator Harrington?

SEN. HARRINGTON: No.

CLERK: Senator Harrington, no. Senator Jackson?

SEN. JACKSON: No.

CLERK: Senator Jackson, no. Senator Lee?

SEN. LEE: No.

CLERK: Senator Lee, no. Senator Lowe?

SEN. LOWE: Aye.

CLERK: Senator Lowe, aye. Senator Newton?

SEN. NEWTON: No.

CLERK: Senator Newton, no. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: Aye.

CLERK: Senator Smith-Ingram, aye. Senator Van Duyn?

SEN. VAN DUYN: Aye.

CLERK: Senator Van Duyn, aye. Senator Wade?

SEN. WADE: No.

CLERK: Senator Wade, no. Senator Hise?

SEN. HISE: No.

CLERK: Senator Hise, no.

SEN. HISE: Call the roll of the House.

CLERK: Representative Jackson?

REP. JACKSON: Yes.

CLERK: Jackson, aye. Representative Szoka?

REP. SZOKA: No.

CLERK: Szoka, no. Representative Stevens?

REP. STEVENS: No.

CLERK: Stevens, no. Representative Bell? Representative Bell? Representative Brawley?

REP. BRAWLEY: No.

CLERK: Brawley, no. Representative Brockman?

REP. BROCKMAN: Yes.

CLERK: Brockman, aye. Representative Burr?

REP. BURR: No.

CLERK: Burr, no. Representative Davis? Davis? Representative Dixon?

REP. DIXON: No.

CLERK: Dixon, no. Representative Dobson?

REP. DOBSON: No.

CLERK: Dobson, no. Representative Dulin?

REP. DULIN: No.

CLERK: Dulin, no. Representative Farmer-Butterfield?

REP. FARMER-BUTTERFIELD: Aye.

CLERK: Farmer-Butterfield, aye. Representative Floyd? Representative Floyd? Representative Garrison?

REP. GARRISON: Aye.

CLERK: Garrison, aye. Representative Gill?

REP. GILL: Aye.

CLERK: Gill, aye. Representative Grange?

REP. GRANGE: No.

CLERK: Grange, no. Representative Hall?

REP. HALL: No.

CLERK: Hall, no. Representative Hanes?

REP. HANES: Yes.

CLERK: Hanes, aye. Representative Hardister?

REP. HARDISTER: No.

CLERK: Hardister, no. Representative Harrison?

REP. HARRISON: Aye.

CLERK: Harrison, aye. Representative Hastings?

REP. HASTINGS: No.

CLERK: Hastings, no. Representative Howard?

REP. HOWARD: No.

CLERK: Howard, no. Representative Hunter?

REP. HUNTER: Aye.

CLERK: Hunter, aye. Representative Johnson?

REP. JOHNSON: No.

CLERK: Johnson, no. Representative Jones? Representative Jordan?

REP. JORDAN: No.

CLERK: Jordan, no. Representative Malone?

REP. MALONE: No.

CLERK: Malone, no. Representative Michaux?

REP. MICHAUX: Aye.

CLERK: Michaux, aye. Representative Moore?

REP. MOORE: Yes.

CLERK: Moore, aye. Representative Pierce?

REP. PIERCE: Aye.

CLERK: Pierce, aye. Representative Reives?

REP. REIVES: Aye.

CLERK: Reives, aye. Representative Willingham?

REP. WILLINGHAM: Aye.

CLERK: Willingham, aye. Representative Speciale?

REP. SPECIALE: No.

CLERK: Speciale, no. Representative Rogers?

REP. ROGERS: No.

CLERK: Rogers, no. Representative Saine?

REP. SAINE: No.

CLERK: Saine, no. Representative Wray?

REP. WRAY: Aye.

CLERK: Wray, aye. Representative Yarborough?

REP. YARBOROUGH: No.

CLERK: Yarborough, no. Representative Torbett?

REP. TORBETT: No.

CLERK: Torbett, no. Representative Hurley?

REP. HURLEY: No.

CLERK: Hurley, no. Representative Bell?

REP. BELL: No.

CLERK: Bell, no. Representative Lewis?

REP. LEWIS: No.

CLERK: Lewis, no. Representative Dollar?

REP. DOLLAR: No.

CLERK: Dollar, no.

SEN. HISE: By a vote of 4 to 8 in the Senate and by a vote of 14 to 24 in the House, the motion fails. The Criteria Number 6, municipal boundaries, is back before the committee. Representative Dollar?

REP. DOLLAR: Motion to approve the criteria.

SEN. HISE: The chairmen have moved for the approval of the criteria. Any other comments or discussions? Seeing none. Clerk will begin with the call of the roll of the House.

CLERK: Representative Jackson?

REP. JACKSON: No.

CLERK: Representative Jackson, no. Representative Szoka?

REP. SZOKA: Aye.

CLERK: Representative Szoka, aye. Representative Stevens?

REP. STEVENS: Aye.

CLERK: Representative Stevens, aye. Representative Bell?

REP. BELL: Aye.

CLERK: Representative Bell, aye. Representative Brawley?

REP. BRAWLEY: Brawley, aye.

CLERK: Representative Brawley, aye. Representative Brockman?

REP. BROCKMAN: No.

CLERK: Representative Brockman, no. Representative Burr?

REP. BURR: Aye.

CLERK: Representative Burr, aye. Representative Davis? Representative Davis? Representative Dixon?

REP. DIXON: Aye.

CLERK: Representative Dixon, aye. Representative Dobson?

REP. DOBSON: Aye.

CLERK: Representative Dobson, aye. Representative Dulin?

REP. DULIN: Aye.

CLERK: Representative Dulin, aye. Representative Farmer-Butterfield?

REP. FARMER-BUTTERFIELD: No.

CLERK: Representative Farmer-Butterfield, no. Representative Floyd? Representative Floyd? Representative Garrison?

REP. GARRISON: No.

CLERK: Representative Garrison, no. Representative Gill?

REP. GILL: No.

CLERK: Representative Gill, no. Representative Grange?

REP. GRANGE: Aye.

CLERK: Representative Grange, aye. Representative Hall?

REP. HALL: Aye.

CLERK: Representative Hall, aye. Representative Hanes?

REP. HANES: No.

CLERK: Representative Hanes, no. Representative Hardister?

REP. HARDISTER: Aye.

CLERK: Representative Hardister, aye.
Representative Harrison?
REP. HARRISON: No.
CLERK: Representative Harrison, no.
Representative Hastings?
REP. HASTINGS: Aye.
CLERK: Representative Hastings, aye.
Representative Howard?
REP. HOWARD: Aye.
CLERK: Representative Howard, aye.
Representative Hunter?
REP. HUNTER: No.
CLERK: Representative Hunter, no.
Representative Hurley?
REP. HURLEY: Aye.
CLERK: Representative Hurley, aye.
Representative Johnson?
REP. JOHNSON: Aye.
CLERK: Representative Johnson, aye.
Representative Jones? Representative Jones?
Representative Jordan?
REP. JORDAN: Aye.
CLERK: Representative Jordan, aye.
Representative Malone?
REP. MALONE: Aye.

CLERK: Representative Malone, aye.
Representative Michaux?
REP. MICHAUX: No.
CLERK: Representative Michaux, no.
Representative Moore?
REP. MOORE: No.
CLERK: Representative Moore, no.
Representative Pierce?
REP. PIERCE: No.
CLERK: Representative Pierce, no.
Representative Reives?
REP. REIVES: No.
CLERK: Representative Reives, no.
Representative Willingham?
REP. WILLINGHAM: No.
CLERK: Representative Willingham, no.
Representative Speciale?
REP. SPECIALE: Aye.
CLERK: Representative Speciale, aye.
Representative Rogers?
REP. ROGERS: Aye.
CLERK: Representative Rogers, aye.
Representative Saine?
REP. SAINE: Aye.
CLERK: Representative Saine, aye.

Representative Wray?

REP. WRAY: No.

CLERK: Representative Wray, no.

Representative Yarborough?

REP. YARBOROUGH: Aye.

CLERK: Representative Yarborough, aye.

Representative Torbett?

REP. TORBETT: Aye.

CLERK: Representative Torbett, aye.

Representative Lewis?

REP. LEWIS: Aye.

CLERK: Representative Lewis, aye.

Representative Dollar?

REP. DOLLAR: Aye.

CLERK: Representative Dollar, aye.

SEN. HISE: Clerk, call the roll of the Senate.

CLERK: Senator Bishop?

SEN. BISHOP: Aye.

CLERK: Senator Bishop, aye. Senator Blue? Senator Brown?

SEN. BROWN: Aye.

CLERK: Senator Brown, aye. Senator Clark?

SEN. CLARK: No.

CLERK: Senator Clark, no. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: Aye.

CLERK: Senator Harrington, aye. Senator Jackson?

SEN. JACKSON: Aye.

CLERK: Senator Jackson, aye. Senator Lee?

SEN. LEE: Aye.

CLERK: Senator Lee, aye. Senator Lowe?

SEN. LOWE: No.

CLERK: Senator Lowe, no. Senator Newton?

SEN. NEWTON: Aye.

CLERK: Senator Newton, aye. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: No.

CLERK: Senator Smith-Ingram, no. Senator Van Duyn?

SEN. VAN DUYN: No.

CLERK: Senator Van Duyn, no. Senator Wade?

SEN. WADE: Aye.

CLERK: Senator Wade, aye. Senator Hise?

SEN. HISE: Aye.

CLERK: Senator Hise, aye.

SEN. HISE: By a vote of 24-14 in the House and a vote of 8 to 4 in the Senate, the proposed criteria on municipal boundaries is considered adopted by the Committee. Members should now have Criterion Number 7, incumbency protection. Representative Lewis.

REP. LEWIS: Thank you, Mr. Chairman. This criteria reads, reasonable efforts and political considerations may be used to avoid pairing incumbent members of the House or Senate with another incumbent in legislative districts drawn in 2017 House and Senate plans. The Committee may make reasonable efforts to ensure voters have a reasonable opportunity to elect non-paired incumbents of either party to a district in the 2017 House and Senate plans.

To speak on it briefly, since last week's Committee meeting, Senator Blue has written the Chairs on the subject of criteria. In his letter, he writes, "incumbency protection is not legally required in redistricting, but it may be considered as a secondary criterion after first ensurance" -- after first "ensuring", pardon me -- "compliance with federal and state law."

The Chairs do not agree with all of Senator Blue's letter, but we do agree with this statement. I'll further add that the courts have ruled that incumbency is a traditional redistricting criteria, and I will urge members to adopt this criteria. Happy to answer any questions.

SEN. HISE: Representative Jackson.

REP. JACKSON: Thank you, Mr. Chairman. I -- I don't have a question. I just have a statement, if that's okay. I -- you -- you know, this is -- the thing about redistricting that really bothers me is that the court has now ruled that the maps from 2011 were unconstitutional. At the -- at the time, the partisan divide between -- in the House was 68-52, and by the use of unconstitutional maps, the majority is now 74 to 46. So it seems just ridiculous to me that you would get to now say we get to protect the members that we were able to elect by using unconstitutional maps.

What's more is that, you know, you -- you've addressed other criteria such as municipalities and splitting precincts, but then we're going to say that in order to protect the

incumbents, we can violate these other things that we've done or -- other criteria that we've adopted. And I just don't think incumbency protection has any role in this, especially in this term. I think it's unfair that we're -- that a majority obtained by unconstitutional districts is now going to try to be protected by using criteria like redistricting, and so I would ask you to vote against this.

SEN. HISE: Mr. Chairman.

REP. LEWIS: Thank you. I would like to point out to the members that the Republican majority was earned in 2010 when the voters elected us in districts drawn by the Democrats. And that is where the balance of legislative seats shifted in those seats.

I would point out again that recognizing the residencies of incumbents is an -- is a traditional principle. What does this mean? This means that there may be two senators who live in Durham less than a mile apart from each other. We can certainly disregard their residencies, if that's what this Committee wishes to do. But I think we are selling ourselves short if we don't acknowledge, at least, that the residences of

people who have been elected in districts is a relevant criteria to consider. I would urge members to vote for this criteria.

SEN. SMITH-INGRAM: Thank you, Mr. Chair. Representative Lewis, could you provide clarification on the second sentence in this rule. More specifically, what -- what is "a reasonable opportunity to elect non-paired incumbents for either party." What does that entail?

REP. LEWIS: Thank you very much for the question, Senator. I can interpret it the way that I interpret it, if that's okay. There will be -- and, in fact, I think the press has written about, there will be pairings of incumbents that will not be able to be avoided in the drawing of this map because of other criteria. This is simply saying that the map makers may take reasonable efforts to not pair incumbents unduly.

SEN. SMITH-INGRAM: Follow-up.

SEN. HISE: Follow-up?

SEN. SMITH-INGRAM: Can you give me an example of what that looks like with the non-paired incumbents?

REP. LEWIS: Yes, ma'am. When I release the map.

SEN. HISE: Senator Van Duyn.

SEN. VAN DUYN: I'd just like to make a comment. And that is, whatever districts we draw, they should represent the voters and not elected officials. I just fundamentally believe that incumbency should not be a criteria. Traditionally, it may have been done that way, but I think we're hearing clearly from the people of North Carolina that they want that to change.

SEN. HISE: Any other questions or comments? Senator Brown.

SEN. BROWN: Thank you, Mr. Chairman. Representative Lewis, it's -- the -- the other criteria that mostly has already been adopted will address this issue pretty much anyway. Because the grouping of the counties -- that criteria alone will group existing members against each other, and there's no way around that. I think what you're talking about -- I think you used an example in Durham County, you know, where maybe there's a way that you might -- can work though that situation. But again, I think the criteria is going to group certain members against certain members, and that will be pretty much the way it is. I think the way that it's worded -- that it's when practicable.

And so --

SEN. HISE: Thanks. Representative Jackson.

REP. JACKSON: I had a question for Chairman Lewis.

SEN. HISE: Thank you.

REP. JACKSON: Chairman Lewis, so I -- the way I -- the way I see it, you have -- you have traditional redistricting criteria like federal constitutional law that is the first criteria you use, and then state constitutional law. And then you have things like this, and I -- I wonder, when you have something like incumbency protection and then you also have protecting municipal lines, how will the map drawer decide which one of those to give priority to?

REP. LEWIS: Thank you for the question, Representative Jackson. The answer is that we are here today to adopt criteria that I can use in working with the map drawer to bring a map back to this Committee and back to the public for their input; that we don't need to get into a may or shall discussion again, but you simply do the best that you can with the information that -- that you have.

SEN. HISE: Representative Dollar.

REP. DOLLAR: For a motion, but Mr. Chair, I would also observe it sounds like some people are volunteering to be not -- not -- not to be considered in that. Now, maybe that should be noted. Mr. Chairman, I would make a motion to adopt the incumbency protection criteria.

REP. LEWIS: Mr. Chairman, before we vote, may I make one point for the record?

SEN. HISE: Go ahead.

REP. LEWIS: I also want to add to my initial remarks on this criteria. Another member in here declared that -- said that our districts were declared illegal and that's what had produced the majority. I would point out that the court has ruled that 28 of the 170 districts are illegal, not all of them.

SEN. HISE: Any other questions or comments? Hearing none, Representative Dollar and the Chairman move for the adoption of the proposed criteria listed as Number 7, incumbency protection. We'll begin with a call of the roll of the Senate.

CLERK: Senator Bishop.

SEN. BISHOP: Aye.

CLERK: Senator Bishop, aye. Senator

Blue. Senator Brown.

SEN. BROWN: Aye.

CLERK: Senator Brown, aye. Senator Clark.

SEN. CLARK: No.

CLERK: Senator Clark, no. Senator Daniel. Senator Harrington.

SEN. HARRINGTON: Aye.

CLERK: Senator Harrington, aye. Senator Jackson.

SEN. JACKSON: Aye.

CLERK: Senator Jackson, aye. Senator Lee.

SEN. LEE: Lee: Aye.

CLERK: Senator Lee, aye. Senator Lowe.

SEN. LOWE: No.

CLERK: Senator Lowe, no. Senator Newton.

SEN. NEWTON: Aye.

CLERK: Senator Newton, aye. Senator Raven. Senator Smith-Ingram.

SEN. SMITH-INGRAM: No.

CLERK: Senator Smith-Ingram, no. Senator Van Duyn.

SEN. VAN DUYN: No.

CLERK: Senator Van Duyn, no. Senator Wade.

SEN. WADE: Aye.

CLERK: Senator Wade, aye. Senator Hise.

SEN. HISE: Aye.

CLERK: Senator Hise, aye.

SEN. HISE: Call the roll of the House.

CLERK: Representative Jackson.

SEN. JACKSON: No.

CLERK: Representative Jackson, no. Representative Szoka.

REP. SZOKA: Aye.

CLERK: Representative Zoka, aye. Representative Stevens.

REP. STEVENS: Aye.

CLERK: Representative Stevens, aye. Representative Bell.

REP. BELL: Aye.

CLERK: Representative Bell, aye. Representative Brawley.

REP. BRAWLEY: Aye.

CLERK: Representative Brawley, aye. Representative Brockman.

REP. BROCKMAN: No.

CLERK: Representative Brockman, no.

Representative Burr.

REP. BURR: Aye.

CLERK: Representative Burr, aye.

Representative Davis. Representative Davis.

Representative Dixon.

REP. DIXON: Aye.

CLERK: Representative Dixon, aye.

Representative Dobson.

REP. DOBSON: Aye.

CLERK: Representative Dobson, aye.

Representative Dulin.

REP. DULIN: Aye.

CLERK: Representative Dulin, aye.

Representative Farmer-Butterfield. Representative Farmer-Butterfield.

REP. FARMER-BUTTERFIELD: No.

CLERK: Representative Farmer-Butterfield, no. Representative Floyd.

Representative Floyd. Representative Garrison.

REP. GARRISON: No.

CLERK: Representative Garrison, no.

Representative Gill.

REP. GILL: No.

CLERK: Representative Gill, no.

Representative Grange.

REP. GRANGE: Aye.

CLERK: Representative Grange, aye.

Representative Hall.

REP. HALL: Aye.

CLERK: Representative Hall, aye.

Representative Hanes.

REP. HANES: No.

CLERK: Representative Hanes, no.

Representative Hardister.

REP. HARDISTER: Aye.

CLERK: Representative Hardister, aye.

Representative Harrison.

REP. HARRISON: No.

CLERK: Representative Harrison, no.

Representative Hastings.

REP. HASTINGS: Aye.

CLERK: Representative Hastings, aye.

Representative Howard.

REP. HOWARD: Aye.

CLERK: Representative Howard, aye.

Representative Hunter.

REP. HUNTER: No.

CLERK: Representative Hunter, no.

Representative Johnson.

REP. JOHNSON: Aye.

CLERK: Representative Johnson, aye.
Representative Jones. Representative Jones.
Representative Jordan. Representative Jordan.
REP. JORDAN: Aye.
CLERK: Representative Jordan, aye.
Representative Malone.
REP. MALONE: Aye.
CLERK: Representative Malone, aye.
Representative Michaux.
REP. MICHAUX: No.
CLERK: Representative Michaux, no.
Representative Moore.
REP. MOORE: No.
CLERK: Representative Moore, no.
Representative Pierce.
REP. PIERCE: No.
CLERK: Representative Pierce, no.
Representative Reives.
REP. REIVES: No.
CLERK: Representative Reives, no.
Representative Willingham.
REP. WILLINGHAM: No.
CLERK: Representative Willingham, no.
Representative Speciale.
REP. SPECIALE: Aye.

CLERK: Representative Speciale, aye.
Representative Rogers.
REP. ROGERS: Aye.
CLERK: Representative Rogers, aye.
Representative Saine.
REP. SAINE: Aye.
CLERK: Representative Saine, aye.
Representative Wray.
REP. WRAY: No.
CLERK: Representative Wray, no.
Representative Yarborough.
REP. YARBOROUGH: Aye.
CLERK: Representative Yarborough, aye.
Representative Torbett.
REP. TORBETT: Aye.
CLERK: Representative Torbett, aye.
Representative Hurley.
REP. HURLEY: Aye.
CLERK: Representative Hurley, aye.
Representative Lewis.
REP. LEWIS: Aye.
CLERK: Representative Lewis, aye.
Representative Dollar.
REP. DOLLAR: Aye.
CLERK: Representative Dollar, aye.

SEN. HISE: 8 having voted in favor in the Senate, 4 against. 24 in favor in the House and 14 against. Criteria listed as Number 7, incumbency protection, is adopted by the Committee. Next in front of me, ladies and gentlemen, we have criteria listed as Number 8, election data.

REP. LEWIS: Mr. Chairman.

SEN. HISE: Representative Lewis.

REP. LEWIS: Thank you. Mr. Chairman, this criteria reads, election data. Political consideration and election results data may be used in drawing up legislative districts in 2017 House and Senate plans. I believe this is pretty self-explanatory, and I would urge members to adopt the criteria.

SEN. CLARK: Thank you, Mr. Chair. In our previous Committee meeting, I asked that for each map that was brought forward for consideration that an efficiency gap analysis be conducted. Are we going to be able to do that?

SEN. HISE: Representative Lewis?

REP. LEWIS: Thank you for that question, Senator Clark. Let me make a few points on the efficiency gap, if I can. First of all, the article that talks about the efficiency gap, which

is entitled, I believe, "Partisan Gerrymandering and Efficiency Gap" by Stephanopoulos and McGhee, proposes the use of an efficiency gap concept that is yet to be peer-reviewed by any other legal or academic scholars. Further, I think it's important to point out that the efficiency gap itself is designed to measure election results, and it is based on past election results. It's very hard, and -- and I did read your letter closely -- I would think it would be disingenuous to try to create proxy election results in order to try to measure an efficiency gap.

Further, I think it's important to understand that if you buy into, if you will, the efficiency gap criteria, we would actually be moving away from our current system of government to a -- a European-style parliamentary system. I further believe that the use of this criteria would require the legislature to severely gerrymander in order to dictate a predetermined outcome and that drawing would require the legislature to reject Constitutionally-required redistricting criteria, such as the county-grouping formula.

I say all that to say that I do not believe that the efficiency gap; one, can be

applied prospectively as it has been written about; two, I reject the argument that an efficiency gap test is a necessary or needed thing. I do not believe that anyone's vote is wasted, which is the premise that the efficiency gap operates on.

So with that said, you could certainly request, once the maps were drawn, any type of report that you wanted to do, but it would not -- it is not contemplated by me that an efficiency gap would be run on the map that is initially presented to this Committee.

SEN. HISE: Senator Clark?

SEN. CLARK: Thank you, Mr. Chair. First of all, efficiency gaps can be calculated prospectively. There are a lot of articles out there regarding the efficiency gap. And secondly, the capability to do so does exist. And then also, with regard to the notion of the wasted votes, that's not -- it's not implying that an individual's vote is wasted. What is being indicated is that the distribution of those votes through gerrymandering devalues the votes of the citizens, and that is something we should not be doing. So if we're not going to use methods such as the efficiency gap, what method are we going to

use to ensure partisan symmetry? And then what would we do with this political -- political data that you plan on collecting?

REP. LEWIS: Thank you for the question. The criteria says that election results may be used in drawing. We are not going to ensure the outcome of anything one way or the other.

SEN. CLARK: Mr. Chair?

SEN. HISE: A follow-up, I'm assuming?

SEN. CLARK: I'm still not clear on that response. You're going to collect the political data. What specifically would the Committee do with it?

REP. LEWIS: The -- thank you for the question. The answer is, the Committee could look at the political data as evidence to how, perhaps, votes have been cast in the past. It is important though, Senator -- you and I have severe disagreements on very few things, but the efficiency gap is one of them. I would encourage anyone who is listening to this who is interested in it to review it and to review the 2016 election for the General Assembly for the House, and you will find out that, based on the article that is written, there is no efficiency gap under the plans

that have been struck down. So I have a real concern and I'm not sure -- again, a test which purely analyzes past election results to determine if there are wasted votes or if there is an efficiency issue, can be done prospectively.

SEN. HISE: Senator Clark.

SEN. CLARK: I guess I disagree with you on the results of using the efficiency gap analysis as any member should desire. I can provide you with my calculations that I have done myself using Microsoft Excel and -- and their -- they tell a different story, and, as a matter of fact, I had the process vetted by the UNC School of Government, and I'd be more than happy to distribute that and discuss it with anyone that's willing to review that with me.

And also, back to the wasted votes analysis, like I said, that's not an indication that an individual has wasted their vote by exercising their constitutional right. That speaks of the fact that the votes are being distributed in a way that benefit the majority party and if you -- I'm sure you read, when you read Stephanopoulos' material, that you saw that, for the most part, any particular plan that had an efficiency gap

exceeding 8 percent, they fell about 1.5 percent outside of the mean and that was a rarity. As a matter of fact, I think only about 12 percent of the legislative plans over the last 50 years had efficiency gaps that high.

SEN. HISE: Senator Smith-Ingram.

SEN. SMITH-INGRAM: Thank you, Mr. Chair. Chair Lewis, would you be able to provide a representative list of three to four items entailed with political considerations and election results data?

REP. LEWIS: Mr. Chairman, I apologize, and Senator, I didn't understand your question.

SEN. SMITH-INGRAM: Okay. So I'm asking for examples. What would be some examples of the political considerations that are going to utilized, as well as, can you give me a list of three to four items or considerations that will fall under using elections results data?

REP. LEWIS: May I give you ten?

SEN. SMITH-INGRAM: Sure.

REP. LEWIS: Thank you. The 2010 US Senate race, the 2012 race for President, the 2012 race for Governor, the 2012 race for Lieutenant Governor, the 2016 race for US Senate, 2016 race

for President, 2016 race for US Senate, 2016 race for Governor, 2016 race for Lieutenant Governor and 2016 race for Attorney General.

SEN. SMITH-INGRAM: Thank you. Follow up. Thank you, Mr. Chair. That answers my questions as it relates to the election results data. Can you provide a representative list of what is considered under political considerations? Can you define that or give me the parameters of what those items could include?

REP. LEWIS: Well, ma'am, political considerations simply are historical representations of past voting performance.

SEN. HISE: Follow-up?

SEN. SMITH-INGRAM: Does the leadership have a goal of maintaining the current partisan advantage in the House and the Senate? Is that considered political consideration?

REP. LEWIS: Representative [sic], thank you for the question. The -- the leadership has no such goal.

SEN. SMITH-INGRAM: Last follow-up.

SEN. HISE: Final follow-up.

SEN. SMITH-INGRAM: So for clarification on what you just said, Chair Lewis, partisan

advantage is not going to fall under the category of political considerations.

REP. LEWIS: Well, ma'am, I'm -- again, I'm trying to think about how to answer your question differently than I did before. Again, the entire process of where lines are drawn, every result from where a line is drawn will be an inherently political thing. I am saying that redistricting in itself is an inherently political process. It is right and relevant to review past performance in drawing districts, so I -- I'm sorry if I'm not answering your question. I'm trying to understand it as best I can.

SEN. HISE: Senator Clark.

SEN. CLARK: Thank you, Mr. Chair. You indicated part of the political data that would be evaluated would be the past elections, for the most part; you identify quite a few. Now, you said previously that they could provide no indication of what might happen in the future. Otherwise, they couldn't be used prospectively as we would do with the efficiency gap calculations. So if you're not going to use those results prospectively, and you -- for what reason, you just want to take a look at them and see what happened in the past, I

don't see how that can add value to anything if you don't anticipate that they can inform you about what might happen in the future.

REP. LEWIS: Senator, thank you for the question. Again, I think the efficiency gap is -- seeks to somehow create some kind of proportional -- proportionate representation thing, and unless we're going to get to the point where we have Prime Minister Moore and Lord Berger, I don't see what -- that's relevant at this point.

SEN. HISE: Follow up.

SEN. CLARK: First of all, efficiency gaps deals with single-member districts, which is what do have in the United States of America. So back to my other point, if we can't use --

REP. LEWIS: Excuse me, sir. I believe the efficiency gap is a cumulative thing. That's what the article says, which is how you apply it to a state plan, which is how you and I both just agreed that most state plans in the US fall underneath it, including the 2016 plan in which the House of Representatives of this state was elected.

SEN. CLARK: Okay. So clearly we're not going to agree on the efficiency gap, so back to the other point.

SEN. HISE: Follow-up.

SEN. CLARK: Sorry, Mr. Chair. Follow up. Okay. You indicated that you were going to look at election data, so that -- still these other questions that I have. If you're not going to look at the election data for the purpose of determining prospectively what might happen and just want to see what happened in the past, what good does looking to see what happened in the past do us, if we're not going to use it for what might happen in the future?

REP. LEWIS: I believe that the consideration of political data in terms of election results is an established districting criteria, and it's one that I propose that this committee use in drawing the map.

SEN. HISE: Representative Dollar.

REP. DOLLAR: Mr. Chairman, I move the adoption of the election data criteria.

SEN. HISE: Any other questions or comments? Seeing none, Clerk will begin with the call of the roll of the House.

CLERK: Representative Jackson.

REP. JACKSON: No.

CLERK: Representative Jackson, no.

Representative Szoka.

REP. SZOKA: Aye.

CLERK: Representative Szoka, aye.

Representative Stevens.

REP. STEVENS: Aye.

CLERK: Representative Stevens, aye.

Representative Bell.

REP. BELL: Aye.

CLERK: Representative Bell, aye.

Representative Brawley.

REP. BRAWLEY: Aye.

CLERK: Representative Brawley, aye.

Representative Brockman.

REP. BROCKMAN: No.

CLERK: Representative Brockman, no.

Representative Burr.

REP. BURR: Aye.

CLERK: Representative Burr, aye.

Representative Davis. Representative Davis.

Representative Dixon.

REP. DIXON: Aye.

CLERK: Representative Dixon, aye.

Representative Dobson.

REP. DOBSON: Aye.

CLERK: Representative Dobson, aye.

Representative Dulin.

REP. DULIN: Aye.

CLERK: Representative Dulin, aye.

Representative Farmer-Butterfield.

REP. FARMER-BUTTERFIELD: No.

CLERK: Representative Farmer-Butterfield, no. Representative Floyd.

Representative Floyd. Representative Garrison.

REP. GARRISON: No.

CLERK: Representative Garrison, no.

Representative Gill.

REP. GILL: No.

CLERK: Representative Gill, no.

Representative Grange.

REP. GRANGE: Aye.

CLERK: Representative Grange, aye.

Representative Hall.

REP. HALL: Aye.

CLERK: Representative Hall, aye.

Representative Hanes.

REP. HANES: No.

CLERK: Representative Hanes, could you please repeat that?

REP. HANES: No.

CLERK: Representative Hanes, no.

Representative Hardister.

REP. HARDISTER: Yes.

CLERK: Representative Hardister, aye.

Representative Harrison.

REP. HARRISON: No.

CLERK: Representative Harrison, no.

Representative Hastings.

REP. HASTINGS: Aye.

CLERK: Representative Hastings, aye.

Representative Howard.

REP. HOWARD: Aye.

CLERK: Representative Howard, aye.

Representative Hunter.

REP. HUNTER: No.

CLERK: Representative Hunter, no.

Representative Hurley.

REP. HURLEY: Aye.

CLERK: Representative Hurley, aye.

Representative Johnson.

REP. JOHNSON: Aye.

CLERK: Representative Johnson, aye.

Representative Jones. Representative Jones.

Representative Jordan.

REP. JORDAN: Aye.

CLERK: Representative Jordan, aye.

Representative Malone.

REP. MALONE: Aye.

CLERK: Representative Malone, aye.

Representative Michaux.

REP. MICHAUX: No.

CLERK: Representative Michaux, no.

Representative Moore. Representative Moore.

Representative Pierce.

REP. PIERCE: No.

CLERK: Representative Pierce, no.

Representative Reives.

REP. REIVES: No.

CLERK: Representative Reives, no.

Representative Reives, no. Representative Willingham.

REP. WILLINGHAM: No.

CLERK: Representative Willingham, no.

Representative Speciale.

REP. SPECIALE: Aye.

CLERK: Representative Speciale, aye.

Representative Rogers.

REP. ROGERS: Aye.

CLERK: Representative Rogers, aye.

Representative Saine.

REP. SAINE: Aye.

CLERK: Representative Saine, aye. Representative Wray.

REP. WRAY: No.

CLERK: Representative Saine, no. Wray, no. Representative Yarborough.

REP. YARBOROUGH: Aye.

CLERK: Representative Yarborough, aye. Representative Torbett.

REP. TORBETT: Aye.

CLERK: Representative Torbett, aye. Representative Lewis.

REP. LEWIS: Aye.

CLERK: Representative Lewis, aye. Representative Dollar.

REP. DOLLAR: Aye.

CLERK: Representative Dollar, aye.

SEN. HISE: Committee clerk, call the roll of the Senate members.

CLERK: Senator Bishop.

SEN. BISHOP: Aye.

CLERK: Senator Bishop, aye. Senator Blue. Senator Brown.

SEN. BROWN: Aye.

CLERK: Senator Brown, aye. Senator Clark.

SEN. CLARK: No.

CLERK: Senator Clark, no. Senator Daniel. Senator Harrington.

SEN. HARRINGTON: Aye.

CLERK: Senator Harrington, aye. Senator Jackson.

SEN. JACKSON: Aye.

CLERK: Senator Jackson, aye. Senator Lee.

SEN. LEE: Aye.

CLERK: Senator Lee, aye. Senator Lowe.

SEN. LOWE: No.

CLERK: Senator Lowe, no. Senator Newton.

SEN. NEWTON: Aye.

CLERK: Senator Newton, aye. Senator Rabon. Senator Smith-Ingram.

SEN. SMITH-INGRAM: No.

CLERK: Senator Smith-Ingram, no. Senator Van Duyn.

SEN. VAN DUYN: No.

CLERK: Senator Van Duyn, no. Senator Wade.

SEN. WADE: Aye.

CLERK: Senator Wade, aye. Senator Hise.

SEN. HISE: Aye.

CLERK: Senator Hise, aye.

SEN. HISE: By a vote of 24 to 13 in the House and 8 to 4 in the Senate, Criteria Number 8, election data is adopted by the criteria [sic]. Members, you will have in front of you now Criteria Number 9. This is Number 9, no consideration of racial data.

REP. LEWIS: Mr. Chairman?

SEN. HISE: Representative Lewis.

REP. LEWIS: I propose the following criteria that is No Consideration of Racial Data. Data identifying the race of individuals or voters shall not be used in drawing of legislative districts in 2017 House and Senate plans. In 2011, 40 counties in this state were under the preclearance standard, under Section 5 of the Voting Rights Act. In the intervening time, that preclearance from the Justice Department has been lifted by the U.S. Supreme Court. It will not be incumbent upon this General Assembly to seek preclearance for these plans.

In drawing the current legislative districts, the General Assembly conducted an unprecedented effort to reach out to interested

parties, receive public input, receive expert testimony and hear from members of this body about evidence relevant for drawing districts under the Voting Rights Act. Despite the voluminous record that was established by the General Assembly during the 2011 redistricting process, the three-judge panel in the Covington case said that this did not constitute substantial evidence that would justify using race to draw districts in compliance with the requirements of the VRA.

Therefore, we do not believe it is appropriate, given the Court's order, in this case for these committees to consider race when drawing districts. Be happy to answer any questions.

SEN. HISE: Representative Michaux.

REP. MICHAUX: Yeah. Mr. Chairman, you indicated that the Section 4 of the Voting Rights Act was stricken down. It was in effect when this -- when this redistricting was done initially. It is not now. But the redistricting that you did when it was in effect, the decision of the Court came out that it was racial gerrymandering, after the provision was stricken down. Is that correct? After the provision in the -- in the Voting Rights Act had been stricken, the decision that the -- you

did racial gerrymandering in 2011. Is that correct?

REP. LEWIS: If I understood your question, then chronologically, I believe Section 5 of the Voting Rights Act was stricken down --

REP. MICHAUX: No, no, no. It was Section 4, but go ahead. 4 was stricken, which made 5 ineffective. Now, go ahead.

REP. LEWIS: And the decision that this Committee is here to react to was issued after that time, yes.

REP. MICHAUX: Further question.

SEN. HISE: Follow-up.

REP. MICHAUX: So the decision of the three-panel court in the Covington case indicated that it was racial gerrymandering involved that caused them to declare the districts unconstitutional. Is that correct?

REP. LEWIS: It's my understanding the wording they used was "improper use of race." I don't believe they used the words racial gerrymandering.

REP. MICHAUX: Well, they -- did they use the words "racial demographic"?

REP. LEWIS: I don't recall, sir. I

don't have it before me.

REP. MICHAUX: Well, I have it before me right here, and what I --

REP. LEWIS: Then you should have just stated that. It would have saved a little time.

REP. MICHAUX: Do you understand that by not using race, you're defeating your own purpose? Because if the districts were declared unconstitutional because of race, if you don't use race to correct it, how are you going to show the Court that they still are not unconstitutional?

REP. LEWIS: We believe that the court order illustrates that we did not have sufficient evidence to consider race in the drawing of districts. I'm not aware of any additional information that has been submitted by any member of this Committee or anyone else since this decision has come out. Therefore, it is my recommendation that race not be a consideration in drawing of these districts.

REP. MICHAUX: Another question.

SEN. HISE: Follow-up.

REP. MICHAUX: Would you agree that the decision that came down in the Covington case indicated that race was the predominant factor as

their reason for calling the districts unconstitutional because of racial -- racial demographics? If you want to put it that way.

REP. LEWIS: Sir, I've explained to you my understanding of what the court order is. And I am here today advocating that no race be considered in drawing the districts. That is my understanding of the court order. There's no other way I can answer your question.

REP. MICHAUX: Another question.

REP. LEWIS: Probably the same answer.

REP. MICHAUX: How are you going to prove to the Court that you did not violate their order in terms of racial gerrymandering?

REP. LEWIS: It's my understanding that the order speaks for itself in that the evidence did not justify the use of race in drawing districts. Therefore, I'm recommending to this Committee that race not be a criteria in drawing the 2017 House and Senate plans.

REP. MICHAUX: Mr. Chairman, I just have a statement I want to make.

SEN. HISE: Comment.

REP. MICHAUX: Racial demogratic -- demographic data can also be useful, because it can

signify whether race was a predominant factor motivating the legislature's decision. That comes directly from the Covington case.

You have been charged. What the Court told you was that racial disparity, racial demographics played a major role in the redistricting that you did. You were ordered. You are now ordered to correct that. In order to show that you have corrected that, you cannot escape the fact that race has to be in there somewhere. There's no way you can do it, Mr. Lewis. I don't care how you cut it.

REP. LEWIS: Race --

REP. MICHAUX: You've got -- you've got to tell the Court, we came in and we went back and used racial demographics from one place or another place to correct the mistakes that we made in the past.

REP. LEWIS: Sir, what I will tell the Court is that the Committee adopted a criteria I hope that excluded the consideration of race in drawing the maps.

REP. MICHAUX: But may I follow -- I just -- I'm -- I'm -- the -- you excluded race. You are still saying you excluded race. You are

still using race as a factor, even by saying you excluded race. So you've got to consider it somewhere down the line in order to make the fact that you excluded it relevant.

To you, it may be a play on words. But there's a distinction there that you ought to understand. That -- in other words, the Court says if we go back to the way it was, where race was not a predominant factor, then race still has to play. Because there are people out there who are the -- are of a racial composure that have to be considered in doing this. If not, you're still short-changing race. You're still short-changing a group of people by not considering them. And that's where your big problem is. If you don't consider us -- if you don't consider me, whether you say it or not, you are still considering race.

REP. LEWIS: Mr. Chairman, I think the gentleman is making a series of statements I certainly don't intend to respond to, a series of statements that I don't agree with.

SEN. HISE: Representative Farmer-Butterfield.

REP. FARMER-BUTTERFIELD: Thank you, Mr. Chair. I wanted to ask staff to tell us how this

criteria relates to the obligation to comply with Section 2 of the Voting Rights Act?

SEN. HISE: Questions are directed to the Chairman of the Committee. Representative Lewis, would you like to respond, or would you like to have staff -- staff tends not to respond to intent, further-going. But I will let them see what statements they may want to make.

REP. FARMER-BUTTERFIELD: I think I need a legal opinion, that's all. Thank you.

MS. CHURCHILL (STAFF): Representative Farmer-Butterfield, I think we would need some time to reflect upon that. But generally, I think what you are trying to ask about is Section 2 of the Voting Rights Act of 1965. And, generally, that burden is placed on the voter or the person bringing the suit. It would not be placed on the legislature enacting the plan.

SEN. HISE: Representative Jackson.

REP. JACKSON: Thank you, Mr. Chairman. I'll just -- I'm going to just read from the conclusion of the Court. Because that's not the way the Court wrote it in the Covington opinion. Court said that Section 2 of the Voting Rights Act continues to play an important role in

redistricting. And legislatures must undertake a specific -- specific -- a district-specific analysis to identify and cure potential Section 2 violations. So the Court, at least, has put that requirement on us.

Further, the Court said, our decision today should in no way be read to imply that majority-black districts are no longer needed in the state of North Carolina. And I just -- I don't -- don't see this criteria as matching up with what the Court concluded in the Covington case. And so I would encourage members to vote against this criteria.

SEN. HISE: Yeah. Senator Smith-Ingram.

SEN. SMITH-INGRAM: Thank you, Mr. Chair. Chair Lewis, if this particular criterion passes, then what metric is going to be used to ensure that the new districts to not abridge or deny voters of color?

REP. LEWIS: Ma'am, what I can tell you is, I believe, in 2011, this General Assembly sought out and received input from every source that was willing to work with us in expert testimony and did its best, at that time, to comply with the instructions and advice that we received.

That being said, the Covington court, it's my understanding, has said that we did not have a sufficient amount of data in order to draw the districts as they were drawn. No one, to my knowledge, has submitted additional data for this Committee to review. Therefore, this criteria would propose that race would not be a consideration in the drawing of the maps.

SEN. SMITH-INGRAM: Follow-up.

SEN. HISE: Follow-up.

SEN. SMITH-INGRAM: Is there a metric that can be used to ensure that voters of color are not disenfranchised or that their rights are not abridged?

REP. LEWIS: Ma'am, thank you for the question. Again, I would refocus this conversation on the criteria that the Chairs will take back and execute the undertaking of the first map. If there is additional data that you or other members of the Committee would like to see reviewed, if there are additional maps, if there are other things that you would like us to consider, once it's done, then we will certainly be glad to do that. Again, we will not be using race in the drawing of the additional.

SEN. HISE: Representative Dollar.

REP. DOLLAR: Mr. Chairman, I move the adoption of the criteria.

SEN. HISE: Representative Dollar has moved the adoption of the proposed Criteria Number 9, No Consideration of Racial Data. Any other comments or questions?

REP. LEWIS: Mr. Chairman, there is one additional comment, please?

SEN. HISE: You are so recognized.

REP. LEWIS: Just wanted to respond to my friend from Wake, Representative Jackson. We do not believe, in light of the Covington opinion, that there is substantial evidence in the record to justify the use of race in drawing districts. Given the Court's order in this case, we believe the only way to comply with the legal requirements regarding the drawing of districts is not to consider race in that process.

SEN. HISE: Okay. Now back to Senator Lowe.

SEN. LOWE: Yes, I do have a statement.

SEN. HISE: Recognized for a comment.

SEN. LOWE: Thank you, sir. And that is, we live in the South. When in the South has race not been a factor? Because what I'm hearing

doesn't really add up.

REP. LEWIS: Mr. Chairman, I'd point out that the gentleman said that was a statement. And I certainly took him at his word that that was a statement.

SEN. HISE: Any other comments or questions? Seeing none, we will begin, then, for consideration of this, the roll call of the Senate members.

CLERK: Senator Bishop?

SEN. BISHOP: Aye.

CLERK: Senator Bishop, aye. Senator Blue? Senator Brown?

SEN. BROWN: Aye.

CLERK: Senator Brown, aye. Senator Clark?

SEN. CLARK: No.

CLERK: Senator Clark, no. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: Aye.

CLERK: Senator Harrington, aye. Senator Jackson?

SEN. JACKSON: Aye.

CLERK: Senator Jackson, aye. Senator Lee?

SEN. LEE: Aye.

CLERK: Senator Lee, aye. Senator Lowe.

SEN. LOWE: No.

CLERK: Senator Lowe, no. Senator Newton?

SEN. NEWTON: Aye.

CLERK: Senator Newton, aye. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: No.

CLERK: Senator Smith-Ingram, no. Senator Van Duyn?

SEN. VAN DUYN: No.

CLERK: Senator Van Duyn, no. Senator Wade?

SEN. WADE: Aye.

CLERK: Senator Wade, aye. Senator Hise?

SEN. HISE: Aye.

CLERK: Senator Hise, aye.

SEN. HISE: Committee Clerk, call the members of the House.

CLERK: Representative Jackson?

REP. JACKSON: No.

CLERK: Representative Jackson, no. Representative Szoka?

REP. SZOKA: Aye.

CLERK: Representative Szoka, aye.
Representative Stevens?
REP. STEVENS: Aye.
CLERK: Representative Stevens, aye.
Representative Bell?
REP. BELL: Aye.
CLERK: Representative Bell, aye.
Representative Brawley?
REP. BRAWLEY: Aye.
CLERK: Representative Brawley, aye.
Representative Brockman?
REP. BROCKMAN: No.
CLERK: Representative Brockman, no.
Representative Burr?
REP. BURR: Aye.
CLERK: Representative Burr, aye.
Representative Davis? Representative Davis?
Representative Dixon?
REP. DIXON: Aye.
CLERK: Representative Dixon, aye.
Representative Dobson?
REP. DOBSON: Aye.
CLERK: Representative Dobson, aye.
Representative Dulin?
REP. DULIN: Aye.

CLERK: Representative Dulin, aye. Representative Farmer-Butterfield?

REP. FARMER-BUTTERFIELD: No.

CLERK: Representative Farmer-Butterfield, no. Representative Floyd? Representative Floyd? Representative Garrison?

REP. GARRISON: No.

CLERK: Representative Garrison, no. Representative Gill?

REP. GILL: No.

CLERK: Representative Gill, no. Representative Grange?

REP. GRANGE: Aye.

CLERK: Representative Grange, aye. Representative Hall?

REP. HALL: Aye.

CLERK: Representative Hall, aye. Representative Hanes?

REP. HANES: No.

CLERK: Representative Hanes, no. Representative Hardister?

REP. HARDISTER: Aye.

CLERK: Representative Hardister, aye. Representative Harrison?

REP. HARRISON: No.

CLERK: Representative Harrison, no. Representative Hastings?

REP. HASTINGS: Aye.

CLERK: Representative Hastings, aye. Representative Howard?

REP. HOWARD: Aye.

CLERK: Representative Howard, aye. Representative Hunter?

REP. HUNTER: No.

CLERK: Representative Hunter, no. Representative Hurley?

REP. HURLEY: Aye.

CLERK: Representative Hurley, aye. Representative Johnson?

REP. JOHNSON: Aye.

CLERK: Representative Johnson, aye. Representative Jones? Representative Jones? Representative Jordan?

REP. JORDAN: Aye.

CLERK: Representative Jordan, aye. Representative Malone?

REP. MALONE: Aye.

CLERK: Representative Malone, aye. Representative Michaux?

REP. MICHAUX: No.

CLERK: Representative Michaux, no. Representative Moore? Representative Moore? Representative Pierce?

REP. PIERCE: No.

CLERK: Representative Pierce, no. Representative Reives?

REP. REIVES: No.

CLERK: Representative Reives, no. Representative Willingham?

REP. WILLINGHAM: No.

CLERK: Representative Reives, no. Representative Speciale?

REP. SPECIALE: Aye.

CLERK: Representative Speciale, aye. Representative Rogers?

REP. ROGERS: Aye.

CLERK: Representative Rogers, aye. Representative Saine?

REP. SAINE: Aye.

CLERK: Representative Saine, aye. Representative Wray?

REP. WRAY: No.

CLERK: Representative Wray, no. Representative Yarborough?

REP. YARBOROUGH: Aye.

CLERK: Representative Yarborough, aye. Representative Torbett?

REP. TORBETT: Aye.

CLERK: Representative Torbett, aye. Representative Lewis?

REP. LEWIS: Aye.

CLERK: Representative Lewis, aye. Representative Dollar?

REP. DOLLAR: Aye.

CLERK: Representative Dollar, aye.

SEN. HISE: By a vote of 8 in favor, 4 against and 24 in -- in the Senate and 24 in favor and 13 against in the House, Criteria Number 9, No Consideration of Racial Data is adopted by the Committee.

Members, this exhausts the recommendations of criteria put forward by the Chairmen in this process. We'll now open up if members of the Committee have a specific criteria they would like to introduce. Senator Clark?

SEN. CLARK: Thank you, Mr. Chairman. I'd like to send forth an amendment for consideration.

SEN. HISE: Suspend while the members of -- while it's passed out.

(Proceedings went off the record.)

SEN. HISE: Do all members of the Committee have a copy? If we do, I recognize Senator Clark.

SEN. CLARK: Thank you, Mr. Chairman. Representative Lewis, when we were doing the redistricting for the congressional seats in 2016 --

SEN. HISE: Yeah, let me --

UNIDENTIFIED MEMBER: Mr. Chairman, I don't -- I don't think I have that. I have --

SEN. HISE: I believe I have Committee members who did not receive --

UNIDENTIFIED MEMBER: What does it say? Is --

SEN. CLARK: Title is Partisan Advantage.

SEN. HISE: A -- Senator Clark called number 10, Partisan Advantage.

SEN. CLARK: Okay. When we were doing the 2016 congressional redistricting process, it was stated by Mr. Lewis here that one of the express purposes was to maintain the partisan advantage. I guess you could say this is a renouncement criteria, if you will. And it states that maintaining or establishing a partisan

advantage for any party shall not, emphasize not, be a criterion for the construction or approval of House and Senate district plans.

SEN. HISE: We'll start with Representative Lewis, then I'll get back.

REP. LEWIS: Thank you, Mr. Chairman. Mr. Chairman, I would say that the nine criteria that have been extensively debated by the Committee are the committee -- are the criteria that the Chairs recommend. And I would not advocate for passage of this tenth one.

SEN. HISE: Representative Speciale.

REP. SPECIALE: Isn't this what we essentially already discussed and already decided not to approve? I mean --

SEN. HISE: It is [inaudible] that this is a substantial difference, but it is a similar topic. So any other questions or comments? Senator Van Duyn?

SEN. VAN DUYN: I'd just like to be on record in saying I think this is the most important criteria, given what we heard in public comment.

SEN. HISE: Any other questions or comments? Hearing none, Senator Clark has moved for the adoption of the criteria listed as Number

10, Partisan Advantage. The -- I believe we were at the House. Clerk of the House Committee will call the roll.

CLERK: Representative Jackson?

REP. JACKSON: Yes.

CLERK: Representative Jackson, yes. Representative Szoka?

REP. SZOKA: No.

CLERK: Representative Szoka, no. Representative Stevens?

REP. STEVENS: No.

CLERK: Representative Stevens, no. Representative Bell?

REP. BELL: No.

CLERK: Representative Bell, no. Representative Brawley?

REP. BRAWLEY: No.

CLERK: Representative Brawley, no. Representative Brockman?

REP. BROCKMAN: Yes.

CLERK: Representative Brockman, yes. Representative Burr?

REP. BURR: No.

CLERK: Representative Burr, no. Representative Davis? Representative Davis?

Representative Davis? Representative Dixon?

REP. DIXON: No.

CLERK: Representative Dixon, no.

Representative Dobson?

REP. DOBSON: Representative Dobson, no.

Representative Dulin?

REP. DULIN: No.

CLERK: Representative Dulin, no.

Representative Farmer-Butterfield? Representative Farmer-Butterfield, yes. Representative Floyd? Representative Floyd? Representative Garrison?

REP. GARRISON: Yes.

CLERK: Representative Garrison, yes.

Representative Gill?

REP. GILL: Yes.

CLERK: Representative Gill, yes.

Representative Grange?

REP. GRANGE: No.

CLERK: Representative Grange, no.

Representative Hall?

REP. HALL: No.

CLERK: Representative Hall, no.

Representative Hanes?

REP. HANES: Yes.

CLERK: Representative Hanes, yes.

Representative Hardister?

REP. HARDISTER: No.

CLERK: Representative Hardister, no.

Representative Harrison?

REP. HARRISON: Yes.

CLERK: Representative Harrison, yes.

Representative Hastings?

REP. HASTINGS: No.

CLERK: Representative Hastings, no.

Representative Howard?

REP. HOWARD: No.

CLERK: Representative Howard, no.

Representative Hunter?

REP. HUNTER: Yes.

CLERK: Representative Hunter, yes.

Representative Hurley? Representative Hurley, no.

Representative Johnson?

REP. JOHNSON: No.

CLERK: Representative Johnson, no.

Representative Jones? Representative Jones?

Representative Jordan?

REP. JORDAN: No.

CLERK: Representative Jordan, no.

Representative Malone?

REP. MALONE: No.

CLERK: Representative Malone, no. Representative Michaux?

REP. MICHAUX: Yes.

CLERK: Representative Michaux, yes. Representative Moore? Representative Moore? Representative Pierce?

REP. PIERCE: Yes.

CLERK: Representative Pierce, yes. Representative Reives?

REP. REIVES: Yes.

CLERK: Representative Reives, yes. Representative Willingham? Representative Willingham? Representative Willingham? Representative Speciale?

REP. SPECIALE: No.

CLERK: Representative Speciale, no. Representative Rogers?

REP. ROGERS: No.

CLERK: Representative Rogers, no. Representative Saine?

REP. SAINE: No.

CLERK: Representative Saine, no. Representative Wray?

REP. WRAY: Aye.

CLERK: Representative Wray, yes.

Representative Yarborough?

REP. YARBOROUGH: No.

CLERK: Representative Yarborough, no.

Representative Torbett?

REP. TORBETT: No.

CLERK: Representative Torbett, no.

Representative Lewis?

REP. LEWIS: No.

CLERK: Representative Lewis, no.

Representative Dollar?

REP. DOLLAR: No.

CLERK: Representative Dollar, no.

SEN. HISE: Committee Clerk for the Senate will call the roll of the Senate members.

CLERK: Senator Bishop?

SEN. BISHOP: No.

CLERK: Senator Bishop, no. Senator Blue? Senator Brown?

SEN. BROWN: No.

CLERK: Senator Brown, no. Senator Clark?

SEN. CLARK: Aye.

CLERK: Senator Clark, aye. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: No.

CLERK: Senator Harrington, no. Senator Jackson?

SEN. JACKSON: No.

CLERK: Senator Jackson, no. Senator Lee?

SEN. LEE: No.

CLERK: Senator Lee, no. Senator Lowe?

SEN. LOWE: Yes.

CLERK: Senator Lowe, yes. Senator Newton?

SEN. NEWTON: No.

CLERK: Senator Newton, no. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: Aye.

CLERK: Senator Smith-Ingram, aye. Senator Van Duyn?

SEN. VAN DUYN: Aye.

CLERK: Senator Van Duyn, aye. Senator Wade?

SEN. WADE: No.

CLERK: Senator Wade, no. Senator Hise?

SEN. HISE: No.

CLERK: Senator Hise, no.

SEN. HISE: By a vote of 13 in favor, 24 opposed in the House, and a vote of 4 in favor, 8

opposed in the Senate, the proposed criteria fails. Any other criteria? Senator Smith-Ingram?

SEN. SMITH-INGRAM: Yes, Mr. Chairman. I wish to send forward an additional criterion.

SEN. HISE: Okay. This is criteria titled, Total Black Voting Age Population.

SEN. SMITH-INGRAM: Yes, it is, thank you, Mr. Chair.

SEN. HISE: Sergeant-at-Arms will disperse. And make sure we get that second row back there, Representative Jordan.

(Proceedings went off the record.)

SEN. HISE: Members, before moving into that, I will say we've actually had some comments from those listening online that it is, at times, hard to hear members. So we'll ask you to please speak directly into your microphones. I also have been somewhat remiss in reminding members to please identify yourself and your district when speaking. That would have helped the court reporter if I'd have said that a lot earlier in this process. But I can correct it now. And hopefully we'll be able to deal with those issues.

If everyone has a copy now of the proposed criteria which, for record-keeping

purposes right now, I'll identify as 10-A, Total Black Voting Age Population. Senator Smith-Ingram will be recognized to explain.

SEN. SMITH-INGRAM: Thank you, Mr. Chair. The proposed criteria sets forth the explanation and the reason why we're here today. In the Covington case, the U.S. Supreme Court deemed that the 28 districts that were found unconstitutional were packed with African-Americans. So in order to obviate that and reduce the cost, because we're now at $5.4 million that the North Carolina General Assembly has spent in redistricting, that to add this portion to the criteria would prevent us having to come back here again for the same reason at an additional cost to our taxpayers.

So in order to promote fiduciary responsibility and commitment, the 28 districts that were deemed unconstitutional shall not have a total black voting age population higher than that which existed in those enacted legislative districts, in effect, in 2010, except for when it is naturally occurring, which may be the case in some of our demographic areas across the state.

SEN. HISE: Senator Smith-Ingram, just let me ask a question for clarification before we

begin. When you read your amendment, you said the Covington case shall not have a total black population. As I have the amendment in front of me and signed, it says shall have.

SEN. SMITH-INGRAM: It should be shall not. I'm sorry. So it goes with none. It starts out with none, and then there's shall.

SEN. HISE: Okay. I was just confused, because it was written -- read different than what I have. So it should be that none of the nine districts shall have a voting age population higher than that which existed in those enacted districts that were, in effect, in 2010.

SEN. SMITH-INGRAM: Yes. For clarification, Mr. Chair, it's none of the nine Senate and 19 House districts deemed as unconstitutional. So it's the 28 districts that were deemed unconstitutional. Okay. Representative Lewis?

REP. LEWIS: Thank you, Mr. Chairman. I want to speak briefly to the comment that was made. I understand that through the use of Twitter, the NC Senate Democrats have been tweeting out a graphic entitled NC General Assembly Redistricting Litigation Costs. I want to point out that that's

in error. It's inaccurate. And certainly the tweet should stop and the figure that was quoted is wrong.

I also would point out, regarding Amendment 10A, that we have established that we will not use race in the drawing of these lines. This amendment, 10A, would, in effect, establish a mechanical criteria for the drawing of districts that uses race. It's in conflict with criteria that says we will not use race. I would urge members to vote it down.

SEN. HISE: Senator Clark.

SEN. CLARK: Thank you, Mr. Chair. Senator Clark, Senate District 21. The court order which essentially brought us back here said that we should justify any black voter age population in excess of 50 percent. How are we going to know whether or not we met that requirement by not exceeding 50 percent?

SEN. HISE: Representative Dollar.

REP. DOLLAR: Thank you, Mr. Chair. Members of the Committee, based on the comments Senator Smith-Ingram mentioned, I would just read to you verbatim, Page 3, Footnote 1 of the Covington decision as written by the Court, states

as follows, "In reaching this conclusion, we make no finding that the General Assembly acted in bad faith or with the discriminatory intent in drawing the challenged districts which were precleared by the Justice Department pursuant to Section 5 of the VRA, nor do we consider the challenged districts involved any impermissible packing of minority voters. As plaintiffs acknowledged, they bring no such claim."

SEN. HISE: Any other questions or comments? Senator Clark?

SEN. CLARK: I don't think I -- excuse me. Senator Clark, Senate District 21. I don't think I've had my question answered. In the three-judge panel, they indicated that we should have no districts with a black-voting-age -- black-voting-age population in excess of 50 percent. How do we make sure we achieve that objective?

SEN. HISE: I assumed the question was rhetorical. But I think the response given is that was not what they said. Representative Michaux.

REP. MICHAUX: He should've little bit further into that footnote -- in the footnote.

SEN. HISE: Recognized for a comment.

REP. MICHAUX: Yes, I'm sorry. Representative Michaux. The footnote of the comment Representative Dollar made, it said -- it certainly said that. But it also says, nor do we consider whether the challenged districts -- whether the challenged districts involved any impermissible packing. They didn't rule out any impermissible packing. It just says they didn't consider it in this decision. And that was not a -- that was a footnote in the decision. And --

SEN. HISE: Representative Dollar.

REP. DOLLAR: That's not what the footnote reads here. And I would also point out to the gentleman that what is -- is noted here, in the record, is as plaintiffs acknowledge, they bring no such claim. No such claim was brought in the case to start with.

SEN. HISE: Senator Brown.

SEN. BROWN: Thank you, Mr. Chairman. Harry Brown, District 6. Senator Smith-Ingram's provision, or criteria, mentions that it's the nine Senate districts and 19 House districts. But those districts, in the new maps, no longer exist. So I don't know how they are relevant in this particular case. Because the new maps, those districts are no

longer relevant any longer.

SEN. HISE: Any other questions, comments?

SEN. SMITH-INGRAM: Mr. Chair, clarification.

SEN. HISE: Yeah.

SEN. SMITH-INGRAM: I am not aware that there are any maps. Are there maps that Senator Brown that we don't? Because how can you draw maps without the criteria being voted on?

SEN. BROWN: I'll follow. I should have been more specific. With the new county groupings, that is impossible.

SEN. HISE: And I'm assuming we can get a copy of the 2010 map, as well the 2011 maps, if the Senator needs those. Senator Smith-Ingram has moved for the adoption of the criteria that I am labeling as 10A for here, Total Black Voting Age Population. Seeing no other comments or questions, we will begin with a roll call of the Senate.

CLERK: Senator Bishop?

SEN. BISHOP: No.

CLERK: Senator Bishop, no. Senator Blue? Senator Brown?

SEN. BROWN: No.

CLERK: Senator Brown, no. Senator Clark?

SEN. CLARK: Aye.

CLERK: Senator Clark, aye. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: No.

CLERK: Senator Harrington, no. Senator Jackson?

SEN. JACKSON: No.

CLERK: Senator Jackson, no. Senator Lee? Senator Lee, no. Senator Lowe?

SEN. LOWE: Yes.

CLERK: Senator Lowe, yes. Senator Newton? Senator Newton, no. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: Yes.

CLERK: Senator Smith-Ingram, yes. Senator Van Duyn?

SEN. VAN DUYN: Yes.

CLERK: Senator Van Duyn, yes. Senator Wade?

SEN. WADE: No.

CLERK: Senator Wade, no. Senator Hise?

SEN. HISE: No.

CLERK: Senator Hise, no.

SEN. HISE: Committee Clerk will call the members of the House.

CLERK: Representative Jackson?

REP. JACKSON: Yes.

CLERK: Representative Jackson, yes. Representative Szoka?

REP. SZOKA: No.

CLERK: Representative Szoka, no. Representative Stevens?

REP. STEVENS: No.

CLERK: Representative Stevens, no. Representative Bell?

REP. BELL: No.

CLERK: Representative Bell, no. Representative Brawley?

REP. BRAWLEY: No.

CLERK: Representative Brawley, no. Representative Brockman?

REP. BROCKMAN: Yes.

CLERK: Representative Brockman, yes. Representative Burr?

REP. BURR: No.

CLERK: Representative Burr, no. Representative Davis? Representative Dixon?

REP. DIXON: No.

CLERK: Representative Dixon, no. Representative Dobson?

REP. DIXON: No.

CLERK: Representative Dobson, no. Representative Dulin?

REP. DOBSON: No.

CLERK: Representative Dulin, no. Representative Farmer-Butterfield? Representative Farmer-Butterfield, yes. Representative Floyd? Representative Garrison?

REP. DULIN: Yes.

CLERK: Representative Garrison, yes. Representative Gill?

REP. GILL: Yes.

CLERK: Representative Gill, yes. Representative Grange?

REP. GRANGE: No.

CLERK: Representative Grange, no. Representative Hall?

REP. HALL: No.

CLERK: Representative Hall, no. Representative Hanes?

REP. HANES: Yes.

CLERK: Representative Hanes, yes. Representative Hardister?

REP. HARDISTER: No.

CLERK: Representative Hardister, no.

Representative Harrison?

REP. HARRISON: Yes.

CLERK: Representative Harrison, yes.

Representative Hastings?

REP. HASTINGS: No.

CLERK: Representative Hastings, no.

Representative Howard?

REP. HOWARD: No.

CLERK: Representative Howard, no.

Representative Hunter?

REP. HUNTER: Yes.

CLERK: Representative Hunter, yes.

Representative Hurley?

REP. HURLEY: No.

CLERK: Representative Hurley, no.

Representative Johnson?

REP. JOHNSON: No.

CLERK: Representative Johnson, no.

Representative Jones? Representative Jordan?

Representative Jordan, no. Representative Malone?

REP. MALONE: No.

CLERK: Representative Malone, no.

Representative Michaux?

REP. MICHAUX: Aye.

CLERK: Representative Michaux, aye.

Representative Moore? Representative Pierce?

REP. PIERCE: Aye.

CLERK: Representative Pierce, aye.

Representative Reives?

REP. REIVES: Aye.

CLERK: Representative Reives, aye.

Representative Willingham?

REP. WILLINGHAM: Aye.

CLERK: Representative Willingham, aye.

Representative Speciale?

REP. SPECIALE: No.

CLERK: Representative Speciale, no.

Representative Rogers?

REP. ROGERS: No.

CLERK: Representative Rogers, no.

Representative Saine?

REP. SAINE: No.

CLERK: Representative Saine, no.

Representative Wray?

REP. WRAY: Aye.

CLERK: Representative Wray, aye.

Representative Yarborough?

REP. YARBOROUGH: No.

CLERK: Representative Yarborough, no. Representative Torbett?

REP. TORBETT: No.

CLERK: Representative Torbett, no. Representative Lewis?

REP. LEWIS: No.

CLERK: Representative Lewis, no. Representative Dollar?

REP. DOLLAR: No.

CLERK: Representative Dollar, no.

SEN. HISE: By a vote of 4 in favor, 8 opposed in the Senate, and a vote of 13 in favor, 24 opposed in the House, the proposed criteria fails. Members, I have no other proposed criteria in front of --

SEN. SMITH-INGRAM: Mr. Chair?

SEN. HISE: Yes?

SEN. SMITH-INGRAM: Just to clarify the record, thank you, I would like to make a statement. I was in error. I was off by $600,000. It is not 5.4 million that has been spent. Since 2011, it's actually 4.8 million. But to our hard-working North Carolinians who send us here for good governance, that's still a heck of a lot of money.

SEN. HISE: Any other business to come before the Committee? Representative Jackson.

REP. JACKSON: I handed out some criteria as well, Mr. Chairman. That has been -- it has been handed out to all the members.

SEN. HISE: Okay.

(Proceedings went off the record.)

REP. JACKSON: It did, Mr. Chairman. And I understand that some of these may have been considered in part of the other ones. And I'd be happy to take the time to divide these up into six individual things and then have the Chair rule and appeal. But it just seems like, to me, it might be more time efficient if we just voted on these six together. And so I'd move adoption without further comment.

SEN. HISE: Okay. We have adoption request without comment. I will give the opportunity. Seeing none, we will begin the process of adopting the six criteria listed here. We will begin with a those in favor vote. Those opposed to adoption vote no. We will begin with a roll call of the House. Committee Clerk, call the roll.

CLERK: Representative Jackson?

REP. JACKSON: Yes.

CLERK: Representative Jackson, yes.

Representative Szoka?

REP. SZOKA: No.

CLERK: Representative Szoka, no.

Representative Stevens?

REP. STEVENS: No.

CLERK: Representative Stevens, no.

Representative Bell?

REP. HALL: No.

CLERK: Representative Bell, no.

Representative Brawley?

REP. BRAWLEY: No.

CLERK: Representative Brawley, no.

Representative Brockman?

REP. BROCKMAN: Yes.

CLERK: Representative Brockman, yes.

Representative Burr?

REP. BURR: No.

CLERK: Representative Davis?

Representative Dixon?

REP. DIXON: No.

CLERK: Representative Dixon, no.

Representative Dobson?

REP. DOBSON: No.

CLERK: Representative Dobson, no. Representative Dulin?

REP. DULIN: No.

CLERK: Representative Dulin, no. Representative Farmer-Butterfield?

REP. FARMER-BUTTERFIELD: Aye.

CLERK: Representative Farmer-Butterfield, yes. Representative Floyd? Representative Garrison?

REP. GARRISON: Yes.

CLERK: Representative Garrison, yes. Representative Gill? Representative Gill, yes. Representative Grange?

REP. GRANGE: No.

CLERK: Representative Grange, no. Representative Hall?

REP. HALL: No.

CLERK: Representative Hall, no. Representative Hanes?

REP. HANES: Yes.

CLERK: Representative Hanes, yes. Representative Hardister?

REP. HARDISTER: No.

CLERK: Representative Hardister, no. Representative Harrison?

REP. HARRISON: Aye.

CLERK: Representative Harrison, yes. Representative Hastings?

REP. HASTINGS: No.

CLERK: Representative Hastings, no. Representative Howard? Representative Howard, no. Representative Hunter? Representative Hunter, yes. Representative Hurley? Representative Hurley, no. Representative Johnson? Representative Johnson, no. Representative Jones? Representative Jordan? Representative Jordan, no. Representative Malone?

REP. MALONE: No.

CLERK: Representative Malone, no. Representative Michaux.

REP. MICHAUX: Yes.

CLERK: Representative Michaux, yes. Representative Moore? Representative Pierce?

REP. PIERCE: Yes.

CLERK: Representative Pierce, yes. Representative Reives?

REP. REIVES: Yes.

CLERK: Representative Reives, yes. Representative Willingham?

REP. WILLINGHAM: Yes.

CLERK: Representative Willingham, yes.

Representative Speciale?

REP. SPECIALE: No.

CLERK: Representative Speciale, no.

Representative Rogers?

REP. ROGERS: No.

CLERK: Representative Rogers, no.

Representative Saine?

REP. SAINE: No.

CLERK: Representative Saine, no.

Representative Wray?

REP. WRAY: Aye.

CLERK: Representative Wray, yes.

Representative Yarborough?

REP. YARBOROUGH: No.

CLERK: Representative Yarborough, no.

Representative Torbett?

REP. TORBETT: No.

CLERK: Representative Torbett, no.

Representative Lewis?

REP. LEWIS: No.

CLERK: Representative Lewis, no.

Representative Dollar?

REP. DOLLAR: No.

CLERK: Representative Dollar, no.

SEN. HISE: Committee Clerk, call the

roll of the Senate members.

CLERK: Senator Bishop?

SEN. BISHOP: No.

CLERK: Senator Bishop, no. Senator Blue? Senator Brown?

SEN. BROWN: No.

CLERK: Senator Brown, no. Senator Clark?

SEN. CLARK: Aye.

CLERK: Senator Clark, aye. Senator Daniel? Senator Harrington?

SEN. HARRINGTON: No.

CLERK: Senator Harrington, no. Senator Jackson?

SEN. JACKSON: No.

CLERK: Senator Jackson, no. Senator Lee? Senator Lee, no. Senator Lowe?

SEN. LEE: Yes.

CLERK: Senator Lowe, yes. Senator Newton? Senator Newton, no. Senator Rabon? Senator Smith-Ingram?

SEN. SMITH-INGRAM: Aye.

CLERK: Senator Smith-Ingram, aye. Senator Van Duyn?

SEN. VAN DUYN: Aye.

CLERK: Senator Van Duyn, aye. Senator Wade?

SEN. WADE: No.

CLERK: Senator Wade, no. Senator Hise?

SEN. HISE: No.

CLERK: Senator Hise, no.

SEN. HISE: By a vote of 13 in favor, 24 opposed in the House, 4 in favor, 8 opposed in the Senate, the six proposed criteria are rejected by the Committee. Senator Clark?

SEN. CLARK: Thank you. Senator Clark, Senate District 21. I just wanted to make one comment before we depart here. I did submit to the Committee a list of about 14 criteria. I'm not asking that we go over those one by one. Most of them have been covered during the course of this debate. I just wanted to let it know -- be known for the record that they have been submitted.

SEN. HISE: Those are clearly part of the record so -- any other matters to come before the Committee? I will announce, then, for members that -- first, just to recap, the Committee adopted nine criteria for redistricting. Those will be compiled, and we will put that list available on the website. And that will be given to the drawer

of the map to make sure those designs for the Committee follow these criteria.

(Proceedings went off the record.)

SEN. HISE: Members of the press, just to let you know, if you're doing interviews, they will be up here, where we will have the Court Reporter available for that process. Thanks for coming in. Representative Torbett.

REP. TORBETT: Is there any information or intelligence you can give us on further activity of this Committee at this time?

SEN. HISE: We were talking about that we will obviously in session on the 18th. We anticipate the meetings to be on the 21st, 22nd, 23rd time frame that's coming in. So members have that, but I would also say keep watch on the website, as well as your e-mails. There may be things released from the Committee in that interim. Seeing no other items come before the Committee, having exhausted our business, this Committee will stand adjourned.

(End of proceedings.)

STATE OF NORTH CAROLINA

COUNTY OF GRANVILLE

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings held on August 10, 2017, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 26th day of August, 2017.

Robbie W. Worley

Corrected #1:

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTICE OF PUBLIC HEARING
2017-2018 SESSION

The **House Select Committee on Redistricting** will hold a **Public Hearing.**

DAY & DATE: Tuesday, August 22, 2017
TIME: **4:00 PM**
LOCATION: **643 LOB**

The views of interested parties will be heard concerning:

NOTE: An additional site has been added for public comment in Beaufort County, NC

Public hearings will be held at the following sites at 4 PM on August 22 regarding proposed legislative maps. Rules for public comment are posted on the committee's website here: http://www.ncleg.net/documentsites/committees/house2017-183/8-22-2017/Rules%20of%20Public%20Comment%202017.final.pdf

August 22, 2017
Redistricting Public Hearing Sites

Originating Site
Raleigh, NC
NCGA – 643 LOB

Central Piedmont Community College
Charlotte, NC
1112 Charlottetowne Ave
Hall Bldg
Rooms 215/216
Seats 45-55

Fayetteville Technical Community College
Fayetteville, NC
2817 Fort Bragg Road
GCB (General Classroom Bldg)
Room 108
Seats 66

Caldwell Community College
Hudson, NC
2855 Hickory Boulevard
Bldg B
Room 104
Seats 75

Guilford Technical Community College
Jamestown Campus
601 East Main Street
Medline Campus Center
Room 360
Seats 25-30

Halifax Community College
Weldon, NC
100 College Road
Bldg 100
Room 108
Seats 125

Beaufort County Community College
Washington, NC
5337 US Hwy 264 East
Building 9
Room #935
Seats 59

Respectfully,
Representative David R. Lewis, Senior Chair
Representative Nelson Dollar, Chair

I hereby certify this notice was filed by the committee assistant at the following offices at 2:56 PM on Thursday, August 17, 2017.

___ Principal Clerk
___ Reading Clerk – House Chamber

Hse Redistrictla (Committee Assistant)

Public Hearings on Redistricting | Core Messages

Background

In August 2016, a three-judge panel ruled that 28 of the 170 N.C. House and Senate districts were drawn to segregate and weaken the power of African-American voters; they were illegal "racial gerrymanders." Republican lawmakers appealed to the U.S. Supreme Court, but it agreed with the panel. On August 1, 2017, that panel gave legislators a new deadline: present redrawn district maps to the judges by September 1 for use in the 2018 legislative election.

Public Hearing Testimony – 3 minutes

Legislators will release preliminary maps soon and hold a public hearing at 4 PM on August 22 in several locations to receive comments. Here are 4 themes to emphasize at public hearings (or through comments submitted online). Share the themes or concerns most important to you, politely, in your own words. You only have 3 minutes – about 1 page, double-spaced.

A Sham Redistricting Process Is Insulting.

Legislative leaders continue to stall and avoid fixing their unconstitutional maps. Federal judges have rebuked them for not "taking seriously" the urgency of correcting their illegal maps. Republican lawmakers say they are serious, but they have:

(1) hired the same consultant (Thomas Hofeller) who drew the current illegal maps. He is nationally known for rigging maps to help his Republican clients.

(2) declared they will not consider the race of voters, as if that would stop them from drawing biased maps. In fact, that approach ignores the directive of the courts to examine whether black voters have a fair chance to elect candidates of their choice in the new districts. *(Do legislators want the court to reject the new maps in order to continue stalling?)*

(3) declared they will consider past election outcomes and the ability of their party to win elections in the districts. They admit they will draw districts for partisan advantage.

(4) refused to reveal the new maps Hofeller has already drawn, which would give North Carolinians time to provide informed input during public hearings. This process is a charade.

Any Maps from an Illegal Legislature Are Suspect.

How can the public trust legislators elected from illegal districts to draw fair maps, especially when they use the same mapmaker and highly partisan goals?

(1) N.C. lawmakers have used unlawful gerrymandering to win elections in 2012, 2014 and 2016; they then passed countless laws in an essentially illegitimate General Assembly.

(2) The illegal maps have protected legislators from being held accountable by voters. About 90% of state legislators now have safe seats, with no or little partisan competition.

(3) General Assembly leaders have spent $4.8 million of taxpayers' money to defend their maps in court, but they keep losing. In short, they are an illegal legislature.

Racial Gerrymandering Is White Supremacy.

Racial gerrymandering is used to promote racial divisions and give white elites political power.

(1) In the 19th century, Democrats used racial gerrymandering to destroy the fusion

coalition of black Republicans and white Populists. It was coupled with Klan violence, anti-black propaganda, and Jim Crow laws such as the literacy test to restore white supremacy.

(2) In 2011, N.C. Republicans purposefully used racial gerrymandering to undermine the new fusion coalition that elected Barack Obama and many progressive state legislators. They drew new district maps with zigzagging boundary lines to pack black voters into a small number of districts and separate them from white allies who had helped elect coalition candidates.

(3) Those 2011 district lines split more than twice as many precincts as any maps ever drawn by N.C. Democrats. Black voters were 50% more likely than whites to live in the split precincts, which made political organizing more difficult. This is computerized apartheid.

(4) Republic lawmakers coupled racial gerrymandering with a comprehensive anti-voter law that targeted African Americans, as the court said, "with almost surgical precision."

(5) Racial gerrymandering has reduced political competition and accountability; it has produced rigged elections that hurt all North Carolinians except the wealthy, white, mostly male power brokers.

(6) Like the Klan violence of yesterday and today, racial gerrymandering must be ended in order to fulfill the N.C. Constitution's edict that government serve "the good of the whole."

North Carolinians Demand Reform

North Carolinians are tired of gerrymandering and the politicians who practice it.

(1) A new poll shows that four out of five North Carolina voters (80%) say it's not fair for politicians to draw their own districts. That includes 85% of Democrats, 74% of Republicans, 80% of independents – as well as 70% of Trump supporters and 80% of African Americans.

(2) The redistricting process must be open, avoid racial or partisan gerrymandering, and allow voters to pick their political representatives, not the other way around.

(3) We should research the practices used in other states and adopt principles that encourage deep community involvement. Fair redistricting should follow these basic principles:

- Race is Key: Map drawers must ensure that it is possible for black voters to elect their candidates of choice, as required by the Voting Rights Act.
- "One person, one vote:" Districts must be very equal in population and obey other laws.
- Geographic Compactness: Map drawers must create compact districts, without odd tentacles. Districts must not skip over areas or join two areas at just one point.
- Count Incarcerated Persons as residents of their pre-incarceration home or family residence for purposes of redistricting.
- No Favoritism: Map drawers must not use the addresses of current lawmakers, or the party affiliation or voting history of voters, or other data to help a party or politician.
- Respect Communities of Interest: Map drawers must avoid dividing a communities with similar cultural, ethnic and economic interests; a local government district; etc.
- Respect County Boundaries: Maps should make every effort to keep counties whole.
- Evaluate Fairness: Before it is approved, a map must be evaluated for overall racial bias and partisan competitiveness, using tools recognized by courts to measure fairness.

The Newly Drawn Congressional Districts of North Carolina

I rise in support of this most recent North Carolina Legislative redistricted Map Plan by the joint redistricting committee, as mandated by the courts, and as submitted to by the General Assembly.

I am Rev (Dr) Adeniyi Ojutiku, representing the interest of over 3,000 registered Black Republicans Of Wake County and members of the African-American Faith-Based Organization of the Carolinas.

I have resided in Raleigh, NC for about 28 years. I am a US citizen, a legal immigrant from Nigeria. Hence my worldview of self is racially neutral. I empathize with the very many here tonight, who are not so privileged, but see everything through the spectacles of race.

I will like to submit that no redistricted Map plan, whether led by Republicans or Democrats had been able to adequately fix the issues confronting Blacks and minorities: Only fair and equitable legislations, as well as sound policies that carry everybody along can.

Possible gerrymandering by either party may have in the past being a strategy to manipulate an enforcement of inclusion or exclusion of minority groups (as accused), it should not be a guiding principle for any legislative redistricting plan. This is because gerrymandering employs and exploits our crudest instincts of racial prejudices.

If as in an effort in good faith, we support the redistricting plan put forth by this General Assembly because it conforms with the stipulated criteria mandated by the courts, given to the joint committee for redistricting.

The newly designed districts respect the principle of contiguity, with all parts of each district being connected.

These new districts are also more compact than the current ones, with the maps splitting but fewer Precincts.

In addition, these maps strictly follow the Whole County provision as allowed by law.

Whole City and Town boundaries are respected throughout the maps, to the maximum possible extent

We believe these maps comply with the Voting Rights Act, as well as all existing and relevant court precedents, especially as these districts comply with the Democratic ideal of "one man, one vote", containing roughly equal population sizes, based on the 2010 census.

Thus, these new maps are fair, legal, and follow both the letter and the spirit of the law, as understood today.

We hope the courts will respects the constitutional role that the legislature has in drafting district lines, as the drawing of legislative districts is the constitutional responsibility of the elected branches of government: Hence, we respectfully request that the courts refrain from changing redistricting laws and standards.

We are pleased that the General Assembly has drawn these maps, without recourse to racial data, biases or prejudices.

However in conclusion, we demand that each Political Party recognizes the need for racial inclusion in nominating candidates for all elections, so that every racial group feels a keen sense of belonging and an enduring need for sincere contributions to making ours a great State. Thank you.

NORTH CAROLINA GENERAL ASSEMBLY
JOINT SELECT COMMITTEE ON REDISTRICTING

TRANSCRIPT OF THE PROCEEDINGS
PUBLIC HEARING - RALEIGH SITE

In Raleigh, North Carolina
Tuesday, August 22, 2017
Reported by Robbie W. Worley

Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070

REP. LEWIS: The public hearing on redistricting is called to order. I'd like to begin by welcoming all of you that are here. Like to ask your indulgence. We do have remote sites that are hooked up. I've been asked by the technical staff to please ask our members to be as quiet as they can. It aids in the other locations being able to hear what's being said and aids us in being able to hear what's being said at the other locations. I'd like to recognize the House and Senate Sergeant at Arms that we have located throughout the state and thank them for their help in making today a success.

In a moment, I'm going to recognize the Sergeant at Arms and the members that are present at Raleigh. We're then going to go to each remote site as a test and ask the presiding chair at each remote site to please introduce the members and Sergeant at Arms that are at your site as well. So with that in Raleigh, for the House Sergeant at Arms we have Garland Shepheard, Reggie Sills, Marvin Lee, Terry McCraw and Thomas Terry. For the Senate, we have Larry Hancock, Charles Marsalis and Becky Myrick. I'd also would point out that our court reporter is here, Robbie Worley of Raleigh,

and we appreciate her continued dedicated service. Again, I welcome everyone to this public hearing on redistricting.

I am Representative David Lewis, the Senior Chairman of the House Select Committee on Redistricting. With me today are Chairman Senator Ralph Hise of the Senate Redistricting Committee and also Chairman Representative Nelson Dollar of the House Committee. With me in Raleigh are Representatives Jackson, Dixon, Farmer-Butterfield, Garrison, Gill, Grange, Davis, Howard, Hunter, Hurley, Michaux, Malone, Willingham, Wray and also Senators Blue, Lee, Newton, Harrington, Gunn and McKissick.

At the Raleigh site, did I miss any member of the committee? The Chair would also point out there are several members who are here who are not members of the committee. We certainly welcome them and thank them for their attendance. We're going to go now to Beaufort Community College -- to Beaufort Community College. I'd like for the Chair to introduce himself and the members that are there with him at this time.

SEN. BROWN: Thank you. Hi, my name's Harry Brown. I'm in the Senate. I represent

District 6, which is Onslow and Jones County. Mike Speciale in the House. Mike -- sorry, now I have to get it right. Mike -- Mike, you represent the Beaufort and --

REP. SPECIALE: Craven County.

SEN. BROWN: -- Craven and Pamlico County. Then Norm Sanderson, who's in the Senate, he represents District 3 -- 2, which is Carteret, Craven and Pamlico County. Our Sergeant at Arms on the House side is Bill Bass, Jim Moran and Jim Hamilton from the Senate. Thank you, Mr. Chairman.

REP. LEWIS: Thank you, Senator Brown. Next, we'd like to go to Halifax Community College. Would the chairman at Halifax Community College recognize themselves and their members and their support staff, please?

REP. J. BELL: Thank you, Mr. Chairman. I'm Representative John Bell. Oh, thank you, Mr. Chairman. Representative John Bell, Halifax Community College. With us today is Sergeant at Arms from the House, Bill Moore and Doug Harris, Sergeant at Arms from the Senate, Tom Burroughs and Frances Patterson. We also have in attendance Representative Bobbie Richardson and staff from Senator Angela Bryant's office. Thank you, Mr.

Chairman.

REP. LEWIS: Thank you, Representative Bell. We'd now like to test and introduce our Fayetteville site. Fayetteville Community College -- Fayetteville Technical Community College, I guess it would be. If the chairman there could introduce themselves and members.

REP. SZOKA: All right. Mr. Chairman, I'm here. This is Representative John Szoka. My co-chair is Senator Brent Jackson. Other representatives here --

REP. LEWIS: Representative Szoka, if you could hold just a minute. We're having trouble with Fayetteville. Let's try it again.

REP. SZOKA: Is this better?

REP. LEWIS: Yes, sir.

REP. SZOKA: All right. Thank you, Mr. Chair. My name is Representative John Szoka. The co-chair here is Senator Brent Jackson. Representatives in attendance are Representative Billy Richardson, Representative Floyd, Representative Lucas and Representative Pierce. Our House Sergeant at Arms are Jonas Cherry and David Leighton and our Senate Sergeant at Arms are Giles Jeffreys and Terry Edmondson. Thank you.

REP. LEWIS: Thank you. I'm going to go now to the Guilford County Community College, our site at Guilford County. If the chairman there could identify themselves and their members.

REP. STEVENS: Hi. We can't hear you yet. Can you hear me yet?

REP. LEWIS: Yes, ma'am. We can hear you.

REP. STEVENS: Representative Sarah Stevens. I'm chairing this committee along with Senator Trudy Wade. Our Sergeant at Arms from the House side are Warren Hawkins and Malachi McCullough. And we have Hal Roach from the Senate. In addition, we have two other members present. We have Representative Evelyn Terry and Senator Gladys Robinson. Did I leave anyone out? Yep, we're good.

REP. LEWIS: Thank you, ma'am. We'll now go to Central Piedmont Community College in Charlotte. If the presiding chairman could sign in and introduce himself and -- or herself and the members that are present.

REP. TORBETT: Good evening, Chairman Lewis. John Torbett, member of North Carolina House District 8. With us tonight is Senator

Waddell, Representative Dulin, Secretary -- Secretary -- Senator Bishop, Representative Cunningham, Representative Carney, Representative Bell and Representative Pittman. Our Sergeant at Arms from the House side, Joe Crook, Russell Salisbury. For the Senate, Linda Matthews and Billy Fritscher. We're ready to go.

REP. LEWIS: Thank you, Representative Torbett. And Caldwell Community College. If we could sign in to Caldwell Community College.

SEN. DANIEL: Thank you. I'm Senator Warren Daniel. With me from the list of the delegations tonight are Representative Jonathan Jordan from Watauga County, Representative Hugh Blackwell from Burke County and Representative Destin Hall from Caldwell County. Sergeants at Arms, if you would raise your hands. Here from the House, is Bill Riley, Barry Moore, Terry Barnhardt and John Enloe. And we also have Officer Kane from the General Assembly Police in Raleigh.

REP. LEWIS: Very good. We welcome you all. Ladies and gentlemen, today's hearing is an effort on the part of the two committees to hear public comments on the proposed 2017 House and Senate plans to comply with the court's order in

Covington versus the State of North Carolina. Besides this location here Raleigh in Room 643 of the Legislative Office Buildings, we have identified and recognized six satellite locations. They are Central Piedmont Community College in Charlotte, Fayetteville Technical Community College in Fayetteville, Caldwell Community College in Hudson, Guilford Technical Community College in Jamestown, the Halifax Community College in Weldon and Beaufort Community College in -- in Washington.

I'd like to remind members of the public that we are also accepting comment online at the General Assembly website and via physical e-mail as well as anyone. We are accepting comment in those forms if there is someone who would like to offer input but was not able to be here today. Members of the committee do have and will have ability to review and view the submitted written comments. Now that the introductions and the sound checks are out of the way, I'd like to thank the members of the public for being here today and for participating in the democratic process.

As you may be aware, the General Assembly has a deadline of September 1st for approving new districts. The committee released maps over the

weekend for review. Those maps are online. I'm also told that there are hard copies at each site. Our hearing tonight is so that we can hear from you and your input on the districts themselves. You should have noticed an opportunity to sign up with the Sergeant at Arms as you walked in the room.

The Chair will also pause and point out that there are members of the public that are in Room 544, which is also in the Legislative Office Building, who are able to hear what is being said in here. Many of those have signed up to speak, and we will certainly have staff coordinating back and forth to welcome them into this room when it's their turn to speak.

Each speaker, when recognized, will have three minutes to speak. The Sergeant at Arms will have a yellow card that he will flash when your three minutes are nearing a close. He will -- he or she will hold up a red card when your time has expired. You may comment on whatever aspects of the map you would like to. This is a free country, and this is an open hearing.

It is helpful if your comments focus on the maps that have been presented or alternative ideas you have for complying with the court order.

I want to emphasize that the committee has adopted criteria after its first meeting and that criteria has been public for weeks now. Those criteria are equal population, congruity, abiding by the mandatory county groupings, trying to keep towns, cities and precincts whole where possible, incumbency protection, consideration of election data, and drawing districts without regards to race or ethnicity.

What we'd like to hear from the public, specifically, is how to better meet our goals in complying with those criteria. Addressing comments towards a specific House or Senate district and referencing a specific criteria that could be better met would help this committee and its work. Reading off prepared talking points or sending form e-mails is also an accepted way to go on record. However, when those comments stray from the objective of the day, which is to comply with the court order to redraw the maps, they may not be the most constructive help. You are, of course, free to do so anyway. With that -- do we have the printed copies?

FEMALE SPEAKER: We're working on that.

REP. LEWIS: Do we have Raleigh?

FEMALE SPEAKER: Yes.

REP. LEWIS: So with that, we're going to move now to -- what? Did you want to say anything, Senator Hise?

SEN. HISE: Briefly.

REP. LEWIS: I'd like to recognize Senator Hise, the Chairman of the Senate Redistricting Committee, for some comments.

SEN. HISE: Thank you, Mr. Chairman. Just a moment to clear up any confusion. We do have -- one of the interest groups in the state has been sending out information today that there were public hearings today and tomorrow, and listed sites for tomorrow hearing. Today is the only hearings for this committee, only public hearings for this committee. Therein, I just wanted to make sure to clear up that confusion.

REP. LEWIS: All we're going to do in an effort to try to facilitate moving around and getting as many people to speak in as timely a fashion as possible, we're going to start in Raleigh. And then we're going to go to Jamestown and then to Caldwell, based on the list I have. In Raleigh -- and the Chair will apologize if there are names that are mispronounced. The Chair would

ask, when you speak, if you would please pronounce your name, so that the court reporter could record it. The Chair is going to call three names at a time in Raleigh, and then move to the next location where we will take two at that location.

So the first three in Raleigh -- the Chair, again, apologizes for any mispronunciations -- Tawana Revels or Nevels, I apologize for the handwriting -- Eva F. Lee and Julie Tomkovic, if you would please approach the microphone in the rear. You see our Sergeant at Arms is standing there. He will help you speak.

We can turn the camera now from the Chair to the public. And to prepare, in Jamestown, the first two are Janice Siebert and Allen Megginson. So if the Chairman there could prepare for that. But again, Tawana Revels or Nevels, I apologize if I misspoken the name, we welcome you. And you have -- if you would, please state your name, and then you have three minutes.

MS. LEE: My name is Eva F. Lee. Ladies and gentlemen of the Joint Committee and everyone at all the satellite locations and on live stream, I come to you today as a mom. I'm a Raleigh resident, who was, on March 21st of this year, hit

head on while parked in the carpool lane at West Millbrook Middle School on Strickland, a school that has been passed over for rebuilding many times. A school where my son's art teacher has a budget of roughly $300 for 150 students and 180 school days. A school with a building that occasionally smells like swamp gas when it is hot. The carpool lane would be moved off Strickland if the school was rebuilt.

The North Carolina General Assembly controls our state. I am greatly disheartened, even embarrassed, by the label that North Carolina is no longer a democracy. Politicians should not select their voters. You used the same consultant whose work was well-known and ruled unconstitutional. How is this different? This committee is reflective of the supermajority created by the gerrymandering. It feels like a sham. I think it is time in clear view of Charlottesville to call this process what it is; it feels like computerized apartheid. We do not want to be remembered as the folks who did their best Jim Crow impersonation to disenfranchise minorities, and continue to disenfranchise with judicial gerrymandering. Do not give the label of

racists to your children.

This committee, or rather the supermajority in control, needs to listen to the hearts and souls of the generations who fought for liberty and justice for all and not be remembered as the epitome of evil. Don't act like Nazis. I'm Jewish; I can say that. Stop gerrymandering now. Let me be clear; gerrymandering is white supremacy. We deserve reparations for the last seven years of litigation. Give us automatic voter registration at age 18 as a reparation. We deserve reparations for the past seven years. Thank you.

REP. LEWIS: As the next speaker is coming up, we will welcome you. The Chair would -- the Chair would again remind the people, the members and the people that are present to please be quiet so that the comments can be heard. Would you please state your name? And you have three minutes.

MS. TOMKOVIC: Hi, my name is Julie Tomkovic, and I wish these maps were a little bit more detailed so I could address them specifically. But my comments are going to be about the value of balanced and competitive districts. If competition is good for business and for consumers, then it

should be equally good for government and for citizens. Gerrymandered districts hurt North Carolina citizens of all political stripes, because they stack the decks so heavily in favor of one party or another. But there is no true competition of ideas, values and candidates in the general election. This pushes the more competition to primaries, where candidates are encouraged to become more and more extreme in order to interest a smaller pool of voters.

As we all know, extremists can certainly win elections. They just don't govern well. For example, a small group of extremists can -- can hijack a legislature and make them vote for ridiculous things, like if we can use what bathroom, as well as serious things, like who can sue for discrimination and who cannot. I vote for balanced, competitive districts, that -- to produce the best government. And I hope that you will also vote for balanced, competitive districts as well.

REP. LEWIS: Thank you. Thank you. Is Tawana Revels or Nevels here? Not seeing that person, the Chair would like to enter for the record. The Chair was handed public comment on redistricting core messages to share. This is

produced and handed out by Democracy North Carolina. The Chair wants to make this a part of the permanent record of this committee. And copies will be provided to all of the members. Now, going to go to the Jamestown site.

REP. STEVENS: Thank you, Mr. Chair. Can you hear us?

REP. LEWIS: We can.

REP. STEVENS: Okay. It's Representative Stevens. I just wanted to let you know that we had three more legislative members to join us. Senator Lowe, I believe he stepped out already again for a moment. We have Representative Pricey Harrison, and Representative Cecil Brockman. Wanted to let you know that we are ready for our other speakers. Take the floor.

MS. SIEBERT: Thanks. I'm Janice Siebert, a mother in Guilford County since 2006. What's the cost of gerrymandering? The cost is so many of us are lacking representation on the ballot. My representative and senator do not listen to me, because they don't have to. They listen only to those who vote for them and to their big money donors. They do not represent my positions, my vote does not count in my district,

because it is structured to keep the current party in power.

What is the cost of gerrymandering? The cost of laws passed that benefit so few. Laws that hurt our state in the long run. Laws that damage our environment. Laws that limit public educations. Laws that limit full access to the polls. Laws that transfer control of local government to the people to Raleigh. Laws that limit access to healthcare for thousands of North Carolinians. They've passed these laws, because they can. Because they have gerrymandered the same districts, they guarantee their power in Raleigh.

What is the cost of gerrymandering? The cost of defending the unconstitutional districts and the unconstitutional laws that the General Assembly has passed. It is our tax dollars that pay the attorneys, our tax dollars that could be better spent on something else. That should be spent on anything else that would benefit the people in North Carolina. We do not see that the current process and the current maps hold any promise to be any different from the past. We are tired of paying for gerrymandering.

MR. BEGGINS: Good day. My name is Alan

Megginson. I live in Winston-Salem, and I'd first like to thank you for holding these hearings regarding the creation of fair, bipartisan election maps for our state, and for all of the citizens that have come out today to voice their concerns. Thank you as well. My biggest fear, quite frankly, is that the comments made here today from across the state will fall on deaf ears, and the citizens of this great state would once again go unheard.

I'm here today because the issue of fair voting maps is one that concerns me as a citizen. This issue concerns me not for my own individualized impact, but for the thousands of North Carolina citizens whose voices are muted through rigged and unfair elections. I look at these proposed -- proposed maps, and I see little to no changes of the way they rigged their system for one side. I see no bipartisan effort to create fair maps that hear the voices of each and every citizen in this state. Instead, I see districts like my own that are whittled out with small slivers of the community set aside for the minority party, as if this somehow creates the illusion that these maps are fair.

There are many solutions to this issue

that would result in fair elections in this state. I've heard suggestions of different districting by ZIP codes. I've heard of districting by county. Population setting the number of representatives and senators. In fact, most of the suggestions I have heard have been far more plausible and fair than what you have presented to the citizens as your fix. I use that pun intentionally as all you have done with these maps is continue to fix the system.

Clearly these maps represent the level of concern our Assembly members have for their constituents. This is not myth, this is fact. Across the state, our citizens are dealing with issues for solutions that either get been dismissed or being ignored, simply because it doesn't fit the agenda. This needs to stop. If you want to be an assembly member and represent the people of this state in a manner that is beneficial for all citizens, if you cannot or will not do so, then expunge and get out of the way to allow someone else to create fair election maps so that you might be released of your burdens.

In closing, our state's motto is esse quam videri, to be rather than to seem. However,

the current state of affairs in the General Assembly, perhaps along with new maps, we adopt new order. [Inaudible] democracy laws. Thank you.

REP. LEWIS: We're now going to move to the Caldwell site, and then followed by the Washington site. I think it may actually go smoother if we do three from each site. So if the Chairman can hear me, we're going to do three from each site. We're going to go to Caldwell. We're going to do Todd Scott, Debra Moore, and Pastor Keith or Keit. And then we're going to Washington, and we're going to do Raynor James, Hal James and Carl Mischka. So we'll go to the Caldwell site next.

MR. SCOTT: Good afternoon. My name is Todd Scott. I'm the first vice-president of Statesville NAACP branch. In August of 2016, a three-judge panel ruled that 28 of 170 North Carolina House and Senate districts were drawn in the second rate and weakened the power of the African-American voters. They were illegal racial gerrymanders. The public and lawmakers appeal to the U.S. Supreme Court, but it agreed with the panel.

On August the 1st, 2017, that panel gave

legislators a new deadline. Present new district, redraw district maps to the judges by September 1st for the use of 2018 legislative elections. This is all a sham. All these maps we got is a sham. This is like going to school on the first day of school and your teacher tell you, we having the end of the year test today, end of discussion.

Legislative leaders continue to stall and avoid fixing their unconstitutional maps. Federal judges have rebuked them for not taking it seriously. [Inaudible] of correcting their legal matters, the public lawmakers say they are serious, but they have hired the same consultant, Thomas Hofeller, who drew the current legal maps. He is nationally known for rigging maps to help his Republican clients. Declared that he would -- that they will not consider the race of the voters, as if that would stop them from drawing bias maps. In fact, that approach ignored the directive of the courts to say, well, the black voters have a fairer chance to elect candidates of their choice in their districts.

They have declared they want to see the past election outcomes and the ability of their party to win elections in the district. They admit

they redraw the districts for partisan advantage. They have refused to review -- reveal the new map Hofeller has already drawn, which would give North Carolinians time to provide informed input through a public hearing. We should have been in a bigger area than we are today, but who found out about this? They didn't want everybody to know about it. How can the public trust legislators elected from illegal districts to draw fair maps, especially when they use the same mapmaker and highly partisan voters.

North Carolina lawmakers have used unlawful gerrymandering to win elections in 2012, 2014, and 2016. Then in the past, [unintelligible] illegitimate General Assembly. The legal maps are protecting legislators from being held accountable by voters. About 90 percent of us think legislators now have seats with no or little vote partisan competition. General Senate -- General Assembly leaders have spent $4.8 million of taxpayers' monies to defend their maps in court. And they got beat every time. I would like to leave this to all the legislators, Matthew 25:40; "The king will reply, truly I tell you, whatever you did for one of the least of these brothers and

sisters of mine, you did it for me." You did it to me.

MS. MOORE: Hi. My name is Debra Moore. I'm with the Statesville branch of the NAACP. North Carolinians demands -- demand reform. North Carolinians are tired of gerrymandering and politicians --

MALE SPEAKER: Can we get a mic for the speaker? This is ridiculous. Get her a mic so we can hear her.

MS. MOORE: A new poll shows that four out of five voters, so 80 percent, say that it is not fair for politicians to draw their own districts. That includes 85 percent of the democracy -- Democrats, 74 percent of the Republicans, 80 percent of the independents as well as 70 percent of [inaudible] --

REP. LEWIS: Ms. Moore?

MS. MOORE: -- and 80 percent of African Americans.

REP. LEWIS: Ms. Moore?

MS. MOORE: [Inaudible.]

REP. LEWIS: Ms. Moore. We're going to add -- we're going to add a minute to your time. If you could, please speak a little bit closer to

the mic and perhaps a little bit slower. There's a -- there's a delay --

MS. MOORE: The redistricting practice must be open. Avoid racial and constant -- gerrymandering allows [inaudible] pick their own political representatives, not the other way around. We should research practices in other states that adopt principles that encourage deep community involvement. Fair redistricting should follow these basic principles. [Inaudible] is the key. Map drawers must ensure that it is possible for black voters to elect their own candidate of choice as declared by voting acts rights. One person, one vote must be equal population and obey all the laws.

Map drawers must create compact districts without [inaudible]. Districts must be -- not be stacked and joined into one -- and joined into one block of current lawmakers. Voting district or voters of the data [inaudible]. Respect communities of interest. Map drawers must avoid dividing the community's assembly [inaudible] effort and local government districts. Respect boundaries. Maps must show effort to keep counties whole. Before it is approved, a map must equal and

override basics. We need the children to recognize that important message of fairness.

SEN. DANIEL: We do not bring equipment with us. This equipment is provided for us. I apologize for any inconvenience. This is the best that we have at this point.

REP. LEWIS: If we're not able to get order at the Caldwell site, we're going to move to another site. We're going to move to the Washington site -- Washington site. The Chair regrets that a person lost their opportunity to speak because of the actions of the folks there. We're moving to the Washington site.

MR. KEITH: I'll be very brief about this.

REP. LEWIS: We're moving to the Washington site.

MR. KEITH: How many city limits were [inaudible] --

REP. LEWIS: We don't seem to have any control in Raleigh, either.

MR. KEITH: Now, anytime you divide a city limit, you're going to have two different state senators representing you. The city is collecting taxes. The state's collecting taxes and

the county's collecting taxes. Any time you set [inaudible], the city [inaudible], you've done the same exact thing as moving an unwanted relative into your house to share it with them because you're going to have to come to a consensus on all these different issues.

That's basically all I got to say. But anytime you divide a city limit or encroach on a city limit to meet your quota, that's where the problem comes in. But it is not fair for residents to live in a municipality anywhere and have you voting for this district on one side and this district on the other and pay taxes to that city and that county. If all these could be -- all these municipalities need to be under one city's district. That's all I've got to say, and thank you very much.

REP. LEWIS: Is it possible to go to the Washington site now? (Pause.) Is this the Washington site? The Chairman there could please recognize Raynor James, Hal James and Carl -- Carl Mischka.

CHAIRMAN BROWN: Raynor James and Hal James and Carl --

CHAIRMAN MISCHKA: Mischka.

MS. JAMES: I'm Raynor James. Ladies and gentleman of the legislature, I come from a different perspective, but no [inaudible] approval. I, too, although I'm a constitutional conservative, speak in this?

SEN. BROWN: You may. You're fine. You're fine.

MS. JAMES: Although I'm a constitutional conservative, I, too, dislike having communities divided, if it's a city or county, whatever. I think that we should be able to try harder to keep them contiguous. There is another concern I have that is much stronger than that. Yes, Republicans do have control. The Republican platform is very, very well aligned with my platform; however, there is only a small percentage of people in the legislature, ladies and gentlemen, who truly adhere to that platform.

Some of those are being put into districts that are not hospitable to them and that is an absolute tragedy. Larry Pittman, Cabarrus County, is one of those examples. Cabarrus County will have three different districts in it. We will be with another conservative Republican. There is someone who's less conservative right next door.

One of the conservatives will go. This is not good.

There are Republicans all around the state that are writing resolutions that they will not support Republicans just because they have an R after their name if that Republican does not record his support for the Republican platform. Please don't make the mistake you appear to be headed for. Please take corrective action and make this right.

MR. JAMES: I'm Hal James. I live at 305 [unintelligible] in Craven County. I belong to the Coastal Carolina Taxpayers Association, an organization that advocates minimum government and maximum freedom, the preservation of free enterprise in the United States Constitution. We have two champions of, air quote, the General Assembly. The districts are reorganized by these new district maps in such a way as to separate them from their base supporters. They're stacked -- they're hooked as District 1 surrender the [inaudible]. Districts 82 and maybe a part of 83, unless your [inaudible] both of these gentlemen have been very supportive of our cause.

I selected five bills that had been considered by the present legislature to help

determine the support of our cause by members of the General Assembly. They are, one, the [inaudible] bill, House Bill 746, two, the national [inaudible] North Carolina [inaudible] constitutional regulation of concealed weapons, HB145, the actually get rid of common core bill, HB417, the bill to exempt ocular surgery from the certificate of need bill or HB344, and the marine fisheries regulation bill, the HB867. That wasn't a random selection. At the beginning of the session those were the -- the issues that we wanted addressed by this assembly. Due to Pittman has not been able to vote on any of these bills, but he's tried hard.

Representative Pittman has been a primary sponsor on three of the four bills and the fifth bill, marine fisheries regulation, he do not want passed. Representative Pittman has strongly supported our position. Please reject these proposed district maps until these deficiencies are corrected. Thank you.

MR. MISCHKA: My name is Carl Mischka. I'm the chairman of the Third District GOP and a past chairman of Craven County GOP. I'd like to defer my time to my vice-chair. Is that possible?

He's on your list to a point that we'll never get to and -- and he has some very constructive redistricting comments to make.

REP. LEWIS: What's the name, Mr. Mischka?

MR. MISCHKA: [Inaudible.]

MR. JAMES: Oh, I think we will get to him eventually. We're going to go through this whole list so --

MR. MISCHKA: If you're going to do that, thank you.

REP. LEWIS: We're going to now go to the Charlotte site and the first three speakers, Jacob Hunt, Sarah Fellman and Henry Martinat. Go to the Charlotte site and recognize those three speakers, please.

MR. HUNT: Good afternoon. My name is Jacob Hunt. I'm a resident of Huntersville, North Carolina. I must admit that I am not adept at the complex demographics of our state to know whether the new districts are gerrymandered or not. Perhaps -- perhaps if it fixes the racial gerrymandering, well, then, if so, that is a victory indeed, but seeing that it was made primarily by one political party, I'm still

skeptical of its innovation.

So I'm here to call upon the General Assembly of North Carolina to end political gerrymandering, which undermines our democracy. After the election in 2016, Governor Cooper narrowly won by just 0.2 percent. Now, in a politically blind system, this would naturally be coupled with a near 50-50 split among the parties in the General Assembly. Yet Republicans hold a two-thirds majority in both chambers. Clearly something is awry.

I recognize that political gerrymandering is not illegal, but that does not mean it's right. The process greatly diminishes the voice of the people and undermines our will.

I am generally annoyed when the government is compared to a business, because they serve two wholly different purposes. However, there are some similarities. When a business has an inferior or unpopular product, the consumers can reject it. It's now up to the business to improve the product, give the consumers what they want or face the effects of the free market. When voting districts are designed by the legislatures, they do not have to face the consequences of unpopular

policy. This, of course, leads them to pursue policy that serves not the collective good, but rather the good of the few.

I understand that when the Democrats controlled the General Assembly they too drew districts along politically favorable lines, but how many times must we repeat the same mistakes? How hyper-partisan must we become before this cycle is finally broken?

So again, on the general -- I call upon the General Assembly to uphold democracy and allow voters to choose their policymakers, not allow policymakers to choose their voters. Thank you.

MS. FELLMAN: Good afternoon. My name is Sarah Fellman. I'm from Charlotte. I'm a proud 2014 graduate of Providence High. Go Panthers.

And I'm here today to talk about racial and partisan gerrymandering. As we all know, the courts declared many of our legislative districts unconstitutional racial gerrymandered. Now you, members of the Joint Redistricting Committee, are tasked with remedying this violation of the Constitution.

But what do good districts look like? First of all, good districts must follow the court

directive to consider race to ensure that minority voters have a fair chance to elect candidates of their choice. In the court case the State actually argued that it considered race in the 2011 redistricting process to comply with the Voting Rights Act that mandates that minority voters should have this opportunity. However, the State could not prove that it used race for such benevolent reasons, and instead the Court ruled that the use of race unconstitutionally violated minority voters' rights.

Fortunately this is your opportunity to make amends and truly empower minority voices. So how are you doing? Well, the other day Representative Lewis tweeted that race was not considered in the drawing of the new proposed maps, but not considering race is not enough. The Court was very clear that race should be considered in the drawing of legislative maps, but that it should be used to empower minority voters, not silence their voices by shoving them into as few districts as possible. But empowering minority voters to have the opportunity to elect candidates goes beyond a just consideration of race. In a state like North Carolina where race -- where voting is

racially polarized and where, as you are well aware, upwards of 90 percent of black voters consistently support Democrats, only a legislative map drawn without partisan bias can be an appropriate remedy to an unconstitutional racial gerrymander.

But instead, as Representative Lewis has admitted and as newly-released voting data show, these maps were drawn with an aim to cement the Republican majority in Raleigh, even if Democrats overwhelmingly win the popular vote. The problem is that in North Carolina partisanship is racism. Partisan bias in districting prevents minority voters and those that agree with them from having their voices heard in Raleigh in proportion to their vote share. Concentrating Democrats, often synonymous with minorities, into a small number of districts is wrong whether it's for Republicans' advantage, whites' advantage or both. And with that, I urge you, members of the redistricting committee, to do the right thing by creating new maps that ensure that minority voices are heard in Raleigh and that let voters choose their politicians without stacking the deck against one political party before a single ballot is cast.

REP. LEWIS: I believe we had one more in Charlotte.

MR. MARTINAT: If you look on your map and look at the Southwest up to Pineville, around -- down to Pineville up to Huntersville, Cornelius, that's my district. My name's Henry Martinat, and I'm a taxpayer in Mecklenburg County. I pay a daggone lot of taxes and I'm a property owner. And I have to drive up 77 all the time and it's really -- takes about an hour and a half to two hours to get to get to down here to go all the way up there. Now, that district represents Pineville, Charlotte, Davidson, Huntersville --

REP. LEWIS: Mr. Martinat, if you could possibly speak into the microphone so the rest of us could hear you.

MR. MARTINET: I'm sorry. Davidson, Huntersville, Cornelius, Pineville and Charlotte, okay? So how does this -- how does this one senator represent all of these distinct municipalities, you know, faithfully and effectively?

It's my -- it's my -- I'm -- I'm saying that any senator, Democrat or Republican, can't effectively represent the way -- this district the

way it's drawn. So it's -- it's going to be a problem for whoever has to represent this particular district, and I think it should be redrawn. That's all I have to say.

REP. LEWIS: Thank you. We're going to now move to the Fayetteville location, and after Fayetteville we'll go to Weldon. In Fayetteville, Bobbie R. Shaffer, Jerry Reinoehl and Minister -- apologize, Eronomy, I believe, is the last name. So Representative Szoka or Senator Jackson.

MS. SHAFFER: My name is Bobbie Shaffer. I'm -- and I am a citizen -- I'm a citizen of the United States, and I wasn't planning on coming here today. I been -- I watch the political arena on TV, on the paper -- in the paper and stuff, but today when I saw this map of existing North Carolina senate district, it reminded me of when my little kids were small and they were coloring and I would look and I'd say, you're coloring out of the line. Looked like whoever drew this map was certainly coloring out of the line and -- and the proposed district is not a whole lot better.

But I just have one thing to say, that God said that a house divided could not stand, and it seems like we're getting more divided as the

days go by. And it -- to me, my answer is, it's greed. It's not wanting to help the fellow person that's less privileged than you are. I built my life on helping people that's less fortunate than I am, and I -- I guarantee you, you people that don't do that is missing a blessing.

I just wanted to see the ones that drew these maps. If you need any help I'll be glad to help you. 'Cause I think I can do a better job and I do have the people at heart and not my next run to see if I'm going to be re-elected. And, you know, that aggravates me when the politicians is always saying, I can't do this because -- oh, no, I can't do that because I might not get elected next year. Well, who do you think you're up there for, yourself? You're up there for us. You're working for us and -- and we expect you to work for everybody's betterment, not for just Republicans or Democrats.

I never liked that anyway. I like to -- people to work together for the good of everybody and I hope that y'all will do better next time. Thank you.

MR. REINOEHL: Mr. Chairman, good afternoon. My name is Jerry Reinoehl. 516

Deerpath Drive, Fayetteville, North Carolina.

I support the House redistricting plan for Cumberland County, my county of residence, for the following reasons. First, the number of split VTD's between two or more districts in Cumberland County under the current 2011 plan will be reduced from 31 of the 77 precincts to six of the 77 precincts for the proposed plan. The plan confines the splits between only two House districts, while the current plan includes several VTD's split between three House districts. The boundaries of House District 43, my district, is tightened up considerably to look more like an ink spot rather than ink splatter.

I believe the benefit of these changes to Cumberland County will result in the following. First, fewer ballot types may be -- reduce the cost of elections. Secondly, it will reduce opportunities for poll workers to make errors in selecting the current ballot. It should result in fewer spoiled ballots and more accurate contest results, with more voters using the correct ballot type. Next, it may provide better constituent representative with a tight voting district boundaries. And finally, it will benefit

candidates for the House of Representatives by reducing the number of precincts and perhaps enticing additional citizens to run for elections, because it would also reduce, then, the cost of campaigning -- a competitive campaign. And with the fewer number of precincts it will enable better get-out-to-vote campaigns in terms of knocking doors and doing other things. Thank you.

MINISTER ERONOMY: By the name of God, the beneficent and the merciful, the all-wise, true and living God, I give you all the greetings of As-salamu alaikum, which is heard around the world. That's my introduction when I go the North Carolina state legislature for the past 35 years, with deans for Fayetteville State University to see my team, which is Marvin Lucas and the Legislative Black Caucus. I have been going before Marvin Lucas went up there.

Greetings, everyone. Fayetteville has a solution for the rest of the country. We must realize who we are. The other lady before, like myself, we see Fayetteville as a shining light on the hill. Others see it differently.

Now, God says in scripture, "The devil's strategy is secretive meetings." Secretive

meetings. The secret meeting that took place last weekend, I saw Angela, from the Legislative Black Caucus, on television, and she was jumping up and down. As spokeperson for Legislative Black Caucus, where are the maps? They should have given those maps to her and the Legislative Black Caucus and rest of the Democrats especially, last Friday.

Now, here we are in Fayetteville. We have great growth and development. We have the baseball stadium's coming. We have Fort Bragg, the largest military base in the world and the second Pentagon in the world. More generals and officers than any other place in America except Washington D.C. Pentagon. Part of my work includes that.

Now, in terms of, where do we go from here, let's look the history. The Fayetteville Observer used to have monument on the front of the paper, a picture of the Market House, or the slave house. As part of my work with Clinton Harris, a lot of y'all know him around the state, we forced the Fayetteville Observer to take that picture off. That was about 20 years ago.

So, really, we're out front. Thank you. We're really out front. The other thing I was -- the other thing we want [inaudible] in, I think

it's Harnett County, come out and be seen and be heard. He's one of our good friends. We are glad that -- we are very elated to see our Legislative Black Caucus, Marvin Lucas, Garland Pierce and, yes, Billy Richardson finally showed up. We are not going to mention the other one, though.

Okay. Now, clearly understand this is the 150th of Fayetteville University's anniversary, the second oldest university in the state. We want everybody in the country to come to our celebration. My time has run out, but I want to thank you for the American experience, which is the greatest country in the world, and we are going to show the rest of the country how to follow Fayetteville. Thank you very much.

REP. LEWIS: Thank you. And we're now going to go to Weldon with Marques Thompson, William Hodge and Kim Eng Koo. And then we will be returning to Raleigh with M. Eisenberg, Tony Quartararo, Gina Cruz, in that order. So we will go to Weldon now. Or we could just stay in Fayetteville. Ladies and gentlemen, I apologize. We're doing the best we can to coordinate with the off-site switch.

MR. THOMPSON: [Inaudible] North Carolina

that many other southern states don't have. And so when we have a good process we get good results for our democracy. So in order to have good results from a democracy, we need fair maps. Fair maps -- it's key to that.

So let's look at the process that went into making these maps. We have -- the maps were drawn by someone that was known for rigging systems across the nation. This -- the process of making these maps were -- was -- said that they would discount or not consider race, which was the whole reason why the -- the maps were unconstitutional in the first place. But yet they would consider who won in the past and that would be a consideration for drawing the maps. And the last thing is that -- talking about this process of drawing these fair maps, we just got the maps just recently. I mean, we've known about this process for a while. These were just given to us Friday and today and the -- a lot of the data, we still don't have.

So it's been a bad process. And when you have bad processes, you get bad results, right? So we already had a legislature that was elected by unconstitutional districts, so that's a bad process. Well, we're trying to get that process

fixed. And in order to do that, we -- we need due processes, and so I urge this legislature to do this for democracy. We're not talking about left or right here. We -- want the best results for North Carolina. And that means the best process in our democracy. So let's go back to the drawing board, get someone that everyone can agree on as a fair arbiter and let's draw these maps so we can get this competitive advantage that only democracy gives us.

MR. HODGE: My name is William Hodge, and I'm a 35-year Halifax County native. I didn't understand the need for a statewide public hearing on voter suppression issues, especially because we didn't have the appropriate data to study before we could come make our comments. I have some general comments today, but I will agree with the last speaker, bad process.

The topic is not new. The nation's Supreme Court and our state court have ruled often about the use of racism, unacceptable parameter for establishing voter districts. The legislature has purposely dragged their feet for three state election cycles where racist -- where race was used as an illegal factor in establishing voting

districts. This resulted in a Republican, veto-proof control of state government. And that's never a good situation.

Why is race an issue in 2017? In 2012, nationwide, only 16 percent of African-Americans were registered Republicans and only six percent voted for the Republican presidential candidate. This small percentage is shrinking daily, especially after the last two weeks of news from Charlottesville, Virginia. Race is an issue, especially in northeastern North Carolina. According to the 2013 Census data, neighboring Bertie County had the highest percentage of blacks population in North Carolina, 62 percent. Halifax County's 53 percent was the fifth-highest.

Seven counties in North Carolina were above 50 percent black population, all Halifax County neighbors. Contrarily, 34 mostly western counties have black populations under 10 percent and 23 of these counties were under five percent. The Republicans used their legislative powers to diminish the majority/minority voting black population in eastern North Carolina by assigning black voters into as few voting districts as possible.

From my perspective, other critical issues have been left unattended by the General Assembly. Eastern North Carolina has a history of underfunding and unperforming public education, a majority government responsibility. This has resulted in unacceptable academic performance in public schools in eastern Northern -- North Carolina. Six of the -- six of the bottom nine academic deficiency school districts are in Halifax and neighboring counties.

Without sufficiently-funded education, the area has been unable to recruit employees to represent textile jobs. Halifax County's seven percent June unemployment rate was the fourth highest in the state. Neighboring counties experienced five highest jobless rates. North Carolina lawmakers' recklessly gerrymandering practices has led to cost litigation and put our state in the national spotlight.

Our legislators must enact House Bill 200, which will establish a nonpartisan redistricting process. The bill has overwhelming public -- public support with both red and blue legislative support. Thank you.

DR. KOO: My name is Kim Eng Koo, and I'm

a retired neurosurgeon. I live in Rocky Mount, North Carolina, in Nash County and I'm a member of the Rocky Mount Racial Justice Group.

Last year, the redistricting plans had been judged to illegal and legal and guilty of racial gerrymandering by the highest legal structure of the land, the US Supreme Court. You are tasked to redraw new district maps for public review by September the 1st in preparation for the 2018 elections.

First, I want to point out that releasing the maps and information on the redrawn district maps so late and so last-minute on the day before public hearings is an act of disrespect to all the people of this state. We need time to study and respond to them. You're not giving us our due. This last-minute release maneuver smacks of dishonesty and secrecy, a lack of openness, which is a disgraceful act for public officials, paid for with public dollars.

Second, when I look at the new maps, I'm amazed by the contortions and variegated shapes of many areas. It looks like a collage and a distortion of reality. It's so twisted. It takes a lot of work and conscious thought to come up with

such a map. The persons or persons involved must have some direct purpose for coming up with such a contorted picture. And not to mention getting paid with millions of our tax money add insult to injury, indeed. It represents to me a combination of the attempt by the current party in power to hold onto their power at the expense of electoral freedom and it is all racist and divisist.

The North Carolina legislature has already acquired quite a bit of notoriety for its electoral shenanigans. Some examples we have encountered at the last elections include limited early voting times, changing voting places to be less accessible to people of color and poor people, photo ID requirement and decreasing the number of places where new and unregistered voters can sign up. The electoral freedom of poor people and people of color keeps getting narrower and more hemmed in. Now you're dictating to us where to vote with this new map. Of course, it also impacts on who is running for that district, so we have few choices, less voices and no power.

Do you not think that this will -- that we will just allow this without a fight. This country is already -- already is in uproar over the

many racist and divisive moves by the central government. Already both black and white people of conscience are standing firm and standing together to beat this reactionary tide, like the event in Charlottesville and the recent events here to remove icons of oppression.

I respectfully submit that you redraw your redistricting map to reflect the diversity of our people here and to not target minority people, people of color or poor people. It will go far to reflect decency and some moral integrity among you guys.

REP. LEWIS: Thank you. We're now going to move to the Raleigh site here, and we're going to increase the number of each speakers at each site to four before we move to the next speaker coming in, in the interest of the time that it's going. I will also take this opportunity to remind people that kind of the midpoint at 6:30 will be -- we will be closing the sign-up list. So if you have not yet signed up, you would need to do so by that time period, if you wish to speak. We'll begin with M, period, Eisenberg -- is how he signed up and you're recognized for three minutes.

MR. EISENBERG: My name is Michael

Eisenberg. I live in Raleigh, North Carolina. I had no intention of speaking today.

I have been to every one of these meetings and listened to the public issue very thoughtful and intelligent suggestions on this matter. I have listened to Representative Lewis tell us time after time how he wants to listen to the public and work with Democrats and abide by the decisions of the Court. After reading the N&O this morning regarding the political data rebuild on the maps, I knew I must speak out.

Representative Lewis was either not listening or he was lying when he made the above comments. These maps are -- these maps are as bad or worse than the ones we -- that were drawn in 2011. Probably not as bad in regards to race, but I'll defer my opinion on that until I hear Reverend Barber's comments. In regards to partisanship and the spirit of public opinion and listening to the citizens, please, our 50-50 state is now more -- is now going to be more gerrymandered than before.

The Republicans showed in the meeting to decide the -- the Republicans showed in the meeting to decide the criteria that they had no interest in working with Democrats when they voted unanimously

to turn down sensible amendments they offered. You have once again showed your true colors. You do not care about the vast majority of the people in North Carolina. You don't care about their well-being, because if you did, you would -- you would be for the health of the state's environment and the health of the people, but you said no to Medicaid expansion and yes to an 18-month moratorium on new projects.

You don't care about the children or you would not be attempting to destroy the public education that serve -- served the state so well. You don't care about women because you have continuously attempted to pass laws that would take away their healthcare. You don't care about the people of color because you have passed voter-suppression laws. You don't care about the poor or you would not have eliminated the income tax credit for the working poor.

But you do care about the wealthy because you did take away -- you did eliminate the estate tax for 223 families. We do know who you care about as you continuously work to cut taxes for -- that favor the wealthy and businesses by lowering the rate to the lowest in the South. You care

about the wealthiest and the businesses as -- as you have continuously brought about deregulation.

They are the winners with the maps were drawn. The people have called for fair maps and you've turned your backs on them. Your -- your ideas are morally bankrupt and the -- and the people confirmed that by electing Roy Cooper for governor.

I was taught you don't hate the player, you hate the game. In this game, you must hate both, as the game was rigged and it's not rigged in the favor of the people. I heard a 19-year-old at one of these meetings eloquently tell you that when his age group takes over this body, that tactics like these will never take place again.

I will leave you the words of my father, who so eloquently said to me when I was a young man and had guided me through my life. One word for me and you do exactly as you please. So all I can is I hope that if you do not redraw these maps, the courts take these maps and throw them in the dustbin where they belong and appoint a special council to redraw the maps. Shame on you.

REP. LEWIS: Thank you. A few things that -- for the other sites that we believe will

help with this transition between sites. We've been asked to change the order. So after the three more speakers in Raleigh, we'll go to Central Piedmont, then to Caldwell, then Guilford Tech, then Halifax, then Beaufort, then Fayetteville Tech. We've also, when making a change been asked to reference them by the community college. So we hope that with the technical issues that we'll address them. Given that, we'll move on to our second speaker here in Raleigh. Tony Quartararo.

MR. QUARTARARO: Hi, my name is Tony Quartararo. When my family and I moved to North Carolina 11 years ago, we fell in love with a place we believed was the heart of the New South, a place of progress, where people valued education, the planet, civil rights, racial and social justice and a collaborative open exchange of thoughts for the good of all the people. Sadly, we subsequently feared that we moved to the Tar Heel version of the Hatfields and the McCoys. Why? Because of what one grandfather did to another grandfather 40 years ago, one political party felt entitled, because they can, to crush the very soul of North Carolina and return to the ways of the Old South with its implicit and if not explicit white supremacy.

In the December special session, this fear was confirmed as I watched the supermajority immorally and unethically getting even and more for their grandfathers as they used phrases such as "it's constitutional, it's legal and it's what you did before." But I never heard -- I never heard "this will help the people; this will make our state better."

I'm disgusted with both parties. North Carolina has devolved to a Lord of the Flies scenario with the supermajority picking on the weak and marginalized. I'm disgusted with gerrymandering and voter suppression that allows an illegal and immorally skewed supermajority to exist which steamrolls anyone and anything that stands in the way of their special interest supporters. Whatever happened to the idea of public service for the public good?

I am sure many of you remember the movie Karate Kid. In the competition at the end of the movie, the evil sensei tells the students to deliver an illegal strike that injures the kid. When the kid meets the bully in the finals, the sensei once again tells his student, the bully, to unethically attack the kid's damaged leg.

Ultimately, the kid wins against the bullies.

Even now, in the North Carolina legislature, there's also a sensei and his two henchmen who have created these God-forsaken, immoral and unethical maps. And the people in this room know who they are. But the people of North Carolina, especially the poor and the people of color, are like The Karate Kid. They will overcome illegal, unethical and immoral legislative behavior which continues even today, since these maps will only have Confederate racism 17 percent of the districts.

The committee's choice is simple. Do what is right, moral and ethical for all of North Carolina's people. Create full and equitable voting districts or face the inevitable turning of the tide and the historical ignominy. The choice is yours. Do not be a Tar Heel version of the disgrace who sits in the White House and always remember. All political power comes from the people.

REP. LEWIS: Gina Cruz. You're recognized for a time not to exceed three minutes.

MS. CRUZ: Hello. My name is Gina Cruz. I am the North Carolina state director for

Progressive Turnout Project. I'm also a concerned North Carolinian who lives here in Raleigh.

Progressive Turnout Project has been working tirelessly to fight for fair maps for myself and my fellow North Carolinians. We deserve fair voting maps that are drawn by a nonpartisan redistricting commission. We deserve maps that are drawn without the use of any partisan voter data. We deserve maps that comply with the Voting Rights Act. We deserve maps that don't protect incumbents who won based on maps that were ruled racially gerrymandered. We deserve access to the map-drawing process.

We deserve ample time to both review the maps and plan to attend these public comment periods. Four days is not sufficient time for new maps to be reviewed. It cuts the public out of the process. Holding these meetings at 4:00 p.m. on a Tuesday afternoon is unfair to the working class families that you represent. Look at how many people are here and across the state with four days' notice. Had we had ample time, we would have filled 20 more rooms at least.

We deserve representatives who actually represent North Carolinians. This committee needs

to do better.

REP. LEWIS: Melva Fager Okun? You're recognized for a time not to exceed three minutes.

MS. OKUN: Good evening and thank you so much for this opportunity to comment. My name is Melva Fager Okun, and I've lived in Carrboro for over 40 years. During that time, I've regularly walked these halls, speaking to senators and representatives about environmental and health protections. These include making our schools, restaurants and bars and hospitals tobacco-free, of which I am very proud. I never thought someday I'd return to ask for protection of the vote.

We desperately need new, fair and legal voting districts. I've waited a year for new maps and instead got them the day before this public hearing. That immediately tells me how much you value the public's input.

I wondered how a group with leaders from 28 illegally-drawn voting districts could possibly be charged with drawing the new maps. And I was shocked to hear that the same company that drew the illegal maps was rehired to draw the new maps. Your actions are stunning and memorial -- memorable. You are creating and solidifying your

legacy.

I am currently reading a book about the fight for the right to vote by African-American leaders returning from World War II. The top leaders, such as Medgar Evers, ruled that they risk their lives in doing so and too many were murdered fighting for this right. Instead of denying the right to vote, you are engaged in something also horrific. You've worked tirelessly to make people's votes meaningless while also making it harder to vote. This is your legacy. You are the equivalent of white supremacists.

But I, and millions of North Carolinians, are paying attention. Some of us are here today to let you know we will do everything we can to stop you from your ill-intended deeds. We see this as a vital issue, the keystone to a democracy. I expect this will finally be decided by the courts. I attended the -- the judicial hearing a few weeks ago of the US District Court where this issue of the voting maps was discussed. I applaud the courts for their action.

I conclude my comments by saying I've heard the former US Attorney General Eric Holder state that North Carolina is the worst state in the

nation, the worst, regarding gerrymandering. That may be okay for the current leadership of the General Assembly and the officials from the 28 officially -- illegally-drawn voting districts, but it's not okay for the people of the state.

I am not worn down. I am not discouraged. In my work for public health protections that you all benefit from, I learned the basic truths. Where the greatest need is, the greatest -- hello? Where the greatest need is found -- where the greatest need is, the greatest cure can be found. That is my hope for you, me, your families, your grandchildren -- is that one day soon, we will have the most fair and just voting districts for the good of the whole. May it be so. Let's go.

REP. LEWIS: Thank you. We will now move for four speakers to the Central Piedmont site. After four speakers, we will move to the Caldwell Site.

MS. GARCIA: Thank you for allowing me to speak. My name is Tricia Garcia. I live in Mecklenburg County, and I lived here for 28 years. I'm in a room with a max capacity of 70 people for the largest population center of the state. This

public-forum platform is decreasing public input because of its inefficiency. Having microphones not muted at all of the sites while people are speaking, including the Chair of the whole committee's mic not muted, is very frustrating for people who want to listen and actually get input. But I do thank you for the opportunity to -- to speak.

We appreciate the committee's work to produce maps to improve upon the current map, but there is a long way to go, as we've heard a lot of people say. Real public participation requires time. Citizens have had only three days to look at the House map and two days for the Senate and just a day for the data. This severely limits the amount of time and has denied voters the real chance to have their say.

Some of the committee's nine criteria such as more compactness and less precinct splitting were welcome improvements, while others have no place in drawing fair districts. For some criteria, the committee gave us yardsticks without numbers on them, making it impossible to measure the fairness. For example, the criteria called for splitting fewer precincts, but no data was provided

on how or when to split a precinct.

So what about the maps? The committee made the right choice in adopting county groupings that conform to the North Carolina Constitution, producing a map that improves on the current one, even if that does not itself guarantee that the districts also comply. We also see some progress on compactness, with some better average scores than previous Senate maps. The House districts are less squiggly, but the new maps apparently don't score any better on all of the measures. This suggests that we are still falling short of fair districts. The promise to split fewer precincts came without a target, but we're glad to see that the new maps split far fewer precincts. The House map still splits 49, but there are a lot less than 394 split precincts in 2011.

The committee attempted to avoid pitting incumbents against each other. This criteria simply has no place in a fair process. Elections should be to protect voters' ability to have their say, not protect incumbents. We haven't been able to assess how the use of political considerations in election results affected the maps, but misuse -- I guess my time's up. Sorry.

MS. BLEIWEIS: When I run for state legislature, I'm going to mandate that every microphone be lowered a foot. That's going to be the new law.

My name is Barbara Bleiweis. I am the -- my name is Barbara Bleiweis. I am the Fair Elections Chair for the League of Women Voters of Charlotte, Mecklenburg. The League was formed in 1920 that secured -- it was part of a movement that secured the right to vote for women. The 100th anniversary of that movement is coming soon and yet we still continue to fight for fair elections. I represent one of over 2,000 chapters of the League throughout the US and one of 18 here in North Carolina. We educate voters on election processes and issues, including gerrymandering and how it rigs elections.

Today, our fight continues to end gerrymandering and to reform the redistricting process to create fair maps. Our position on gerrymandering is well-documented and indeed, to a large extent, has been validated by the Supreme Court on June 5th, when they upheld the lower Court's ruling that the existing district maps violated the constitutional rights of North

Carolina voters. And at that time, new maps were ordered and due September 1st.

Since that time, the League has watched legislators and -- continue to manipulate the process, and we were appalled. We received notice on 17 August to have public comments on 22 August on maps that we got on 19 and 20 August, using and -- creating maps that use criteria that -- then that the net effect of it is disenfranchisement of groups of voters using partisanship as a veiled cover for race. The decision to limit time for response, as well as limiting room for seating, only underscores the fact that you might have no interest in what we have to say [inaudible].

The effort to be transparent is disingenuous. It erodes public trust in you and undermines the democratic process. These hearings lack the authenticity that we need and the accountability that we demand of elected officials.

This isn't about Republican. It's not about Democrat. It's not about retribution for what happened in the past. It is about integrity and fairness to the voters, to we the people.

The good news is, you have a chance to fix this. So on behalf of the League of Women

Voters, we ask you, find a way to make maps fair. Find a way that it will respect voter laws and ensure that all our votes will count. Thank you.

MR. READY: Are we still working? Hi, I'm Dan Ready. I'm a relative newcomer to North Carolina. Hi, I'm Dan Ready. I'm a relative newcomer to the state. I've only been here about eight years, but I have grandchildren who are going to grow up here and that brings me to this process -- this arcane process of redistricting our state.

Also, I was raised to have -- to believe that democracy is something sacred. I've never in my life, since the time I was eligible to vote, missed an election. The only time I -- my vote might not have been counted was when I was on active duty, and I don't think my absentee ballot got back on time. That's why I'm so appalled at what I've seen in the last few years to try to steal the right to vote from people, their sacred right to vote, simply because they might not vote the right way.

And this redistricting process -- I'm not naive -- I know has always been a partisan process. But there are certain lines you don't cross. There

are certain extremes you go to. And other people have spoken eloquently already to this process that we're going through now. And the excuse obviously is that we're under the gun because the Court said something has to happen by September 1st. But we're under the gun on this process because of the previous actions of the legislature. And you have a responsibility to something other than political power. And I wish you would recognize it.

However, the bottom line at this point is, I don't think there's any way to have a proper prospect -- process, excuse me, in the limited time between now and September 1st. So rather than speak to a committee of the legislature who has failed in their responsibilities and now doesn't have time to properly execute them and clearly doesn't respect this sacred thing called democracy, I'd like to speak directly to the courts involved. Please, see these maps for what they are.

I personally think one of the political branches, the legislature, should conduct this process. But the legislature, through its own actions, has made this impossible through their negligence, through their lack of taking the responsibilities to us citizens seriously. And so

I would implore the Court. See the maps for what they are. Throw them out. This is one time when I think we would all be better served, regardless of our political stripe, by the courts writing the district. This is one time we need the courts to draw the districts and take our legislature out because they have proven that they deserve to be taken out of the process this time.

Please, I hope to God the courts will throw these maps out and give us a map that is true to that sacred ideal of democracy that we should all believe in. Thank you so much.

REP. LEWIS: I have that it is three speakers, and we're doing four speakers at Central Piedmont. Next on the list in Central Piedmont I have David Taylor for the fourth speaker.

MR. TAYLOR: Good afternoon. My name is David Taylor. I'm a resident here in Charlotte.

So many -- so many speakers before me have spoken so more eloquently than I'm able to, including Mr. Ready. I would remind the people assembled that the state constitution guarantees that our power is derived from the people and is instituted solely for the good of the whole. I'm sorry. If you can't hear -- our constitution

guarantees that the power is derived from the people and is instituted solely for the good of the whole, but over the last four years, most of our discourse has been about health -- about bathrooms, monuments and campus speech codes rather than about healthcare, schools, roads and jobs.

Most of this is due to the partisan nature of our politics where 80 percent of districts of this state are safely held by one party or the other with no chance for competition. This puts the hands -- the power in the hands of the most extreme members of either party and pretty much disenfranchises 75 percent of our voters because they don't participate in the primary process and don't have a legitimate choice in the general election.

Please, please, let's try to end the partisanship in our state's politics. It's destroying the state. Thank you.

REP. LEWIS: We will now move to Caldwell for four speakers. First speaker I have on the list is Cotton Johnson. If we could transfer to the Caldwell site.

MR. JOHNSON: I'm Cotton Johnson. I'm a Republican. I was the [inaudible] since 1905. I

later moved on to become the youngest state [inaudible] special assistant for governor in the history of the state and that record has not been broken. I've examined the districts, at least our district, and I give an opinion that our district is not gerrymandered whatsoever. Other districts may. I have not addressed them. [Inaudible] the Raleigh News & Observer, which is a [inaudible] that it's not favorable to the Republican Party at all. However, [inaudible] the detail or [inaudible] the process [inaudible] in talking about the districts here I said [inaudible] Burke County more than anything else. I think another thing that indicates that our district was not gerrymandered is that Senator [inaudible] Randleman and Wilkes. Senator [inaudible] have never indicated that she understands the needs of our district. During the course of her time, Caldwell is 64th per capita income. Watauga is 49th. Ashe is 60th. Allegheny is 73rd. She wants to dismiss all this and vote with the high-income districts. She also wants to talk about tax issues and middle class tax reduction which is a lie. She supported a bill in the legislature last session that resulted in [inaudible] a year to get a $19,000 tax

reduction. [Inaudible] I rest my case. That's all the time I get. I'll give it to someone else.

MS. HUFFMAN: Good evening. My name is Sarah Huffman, and I live in Hickory. I'm under -- I can be under many umbrellas and I'm not going to take up a lot of time. I was in the League of Women Voters for 38 years. I proudly served on the Board of Hickory [inaudible]. So I'm here today to make it very brief.

I want to address the General Assembly with a few facts. There's a recent poll, very recent, shows that four out of five North Carolinian voters, that is 80 percent, say there's say it's not fair for politicians to draw their own districts. The poll includes 85 percent Democrats, 74 percent Republicans and 80 percent of Independents. The redistricting process must be open over racial or partisan gerrymandering and allow voters to pick their own political representatives and not the other way around.

Now, do you -- in these new maps, you could still pick the same consultant, Thomas Hofeller who drew the current illegal maps and how on earth can you expect to come out with a new map that is representative of every voter in North

Carolina? These new maps -- now I've had a short time, very, very short time to study them -- only corrects about 10 percent.

What's happened to the other 90 percent? Well, we need to redo them. The General Assembly leaders have spent $8,000,000 of -- of taxpayers' money to defend their maps in court, and they keep losing. I want to end my little speech by saying, stop wasting our money and get a nonpartisan committee to draw new maps. Thank you.

MS. MORETZ: I'm Mary Moretz, and I am from Boone. That is in Watauga County for those of you who might not know. Hearing what Russians or other alien nations might do -- might do to cause Americans to lose faith in our election process pales in comparison to what we have done to ourselves. How are we to have a legitimate democracy, when the Constitution is willfully manipulated to take away the principle of one person, one vote via gerrymandering?

Both parties are guilty. I'm old so I know it's both parties. Oh, how you must congratulate yourselves or have a letter, maybe. You have manipulated the system. It is only a matter of time until the present minority party

will exchange places with the majority party and play the payback game. And perhaps with a vengeance.

Let's end that now, let's resolve to pass a North Carolina constitutional amendment that reforms the process of redistricting, so that it's fair for all citizens now and in the future. In order to accomplish such a change, what we need are legislators who are statesmen and not politicians. What we need are legislators who believe that equality and democracy are more important than party.

What we need are legislators who rise above the petty of gotcha, and rise to the challenge of integrity, honesty and fairness. What we need are legislators who reflect the moral code upon which our nation was built. And not politicians who are full of themselves for their clever exploitation. Yes, Democrats, I am giving you a tongue lashing. And, yes, Republicans I am giving you a tongue lashing, too. Don't make me have to come to Raleigh.

You call me an unconstitutional liar when I talk government to my high school students. I told them that, indeed, America is the shining the

city on the hill that models for all nations and all peoples. That our democracy harbors all people of all races, colors, and creeds through its practice of one person, one vote. You have made a mockery of our ideals.

I'm calling on you now to repent and clean up your act. I'd like to suggest a [inaudible] for redistricting. One, in accordance with the Constitution of the United States, each district shall have populations, equal populations. Two, the creation of each district shall protect the rights -- the ethnic voting rights in accordance of Shaw versus Reno. Three, districts shall be compact. Four, districts shall follow established political boundaries such as cities and counties. Thank you, the overwriting concept of promoting one person, one vote should and must be our mission. Thank you.

REP. LEWIS: Waiting for the fourth speaker, Caldwell. I have --

MS. WENGERD: [Inaudible] Hi, my name is Carolyn Wengerd. My name is Carolyn Wengerd. I'm a student of mathematics. I'm also a teacher of mathematics. Okay. And when I came in today I got handed these pretty maps. Somebody had to use

eight crayons to color them. Now, if you know anything about mathematics it should not take eight crayons, it should take far fewer. And there's no data behind this. I -- I look at these and see the big picture, but without data they're meaningless.

Now, one person I heard say, that some they came out today, that's nice. I was looking for a [inaudible]; I couldn't find any. But I really would wish you guys would come into the 21st century. There's software out there, unbiased software. We don't need a biased consultant, Republican or Democrat. Software does this no matter what your state, no matter what county you're in. Finish your games [inaudible]. Thank you.

REP. LEWIS: Thank you. I will remind all sites that these outbursts of applause will not be tolerated and are unhelpful when transitioning between sites and only serve to slow down the process. We are now going to move onto the Guilford Tech site, for four speakers.

REP. STEVENS: Thank you, Mr. Chair. Representative Stevens, here again. We've had one more representative join to us. Representative [inaudible] joins this facility, I wanted to

announce that. We are prepared with our four speakers. We have Michael Owens, Derick Smith, Betsy Price and Chanelle James. We are ready.

MR. OWENS: I'd like to start by thanking the General Assembly for holding this forum. I don't envy the work you have ahead of you. My name is Michael Owens. I am honored to serve as the vice-chair for the Forsyth County Republican Party.

I'd also like to take a moment in time to thank the General Assembly for the work they've done in the last few years. They repaid roughly $3 billion to the federal government a year ahead of schedule. With increase in teacher pay more than once and then established a rainy-day fund with hundreds of millions of dollars, to be used in the event of an emergency or natural disaster. They've done all of this while lowering personal and business income taxes for building North Carolina to one of the best states in the country to do business.

In regards to the maps, whatever the outcome of this process, there's going to be a lawsuit. You can take race into account, there is going to be a lawsuit. You cannot take race into account, there is going to be a lawsuit. I know it

and you know it.

To accentuate that, there is someone in the room with me today, who assumed for sake of the voter ID, I doubt it's a coincidence that they are here today. I wonder if those -- those organizations were included at all in this process. If not, why not? If for no other reason than to have them at least partially accountable for the outcome. And I'll leave with this so those in the minority party who have talked so much about gerrymandering. I wonder if you considered your district's gerrymander when you were, in fact, the majority party for well over a century. Thank you.

REP. STEVENS: Here, here, go ahead.

MR. SMITH: Good afternoon, North Carolina. My name is Derick Smith. I am the political actions chair for the Greensboro Chapter of the NAACP. I'm also the political action chair for the state congress of Chapters of the NAACP. And I stand here with my president, Rev. Cardes Brown, from the Greensboro Chapter of the NAACP.

And I want to get right off the bat to this whole deal about Mr. Thomas Hofeller. Let's think about these cases that we've had to deal with, here in North Carolina. The list is long;

Dickson versus Rucho, City of Greensboro versus Guilford County Board of Elections, Senator Wade. We've had to deal with the Harris-Cooper case. The -- the list is -- is quite long and of course the famous Covington case with Supreme Court. Ruled nine to zero, even with Clarence Thomas on board, ruling these are unconstitutionally constituted districts. Yet somehow, in their infinite wisdom, this General Assembly believes that it must continue to pay Thomas Hofeller to continue to do this to the taxpayers of the state of North Carolina.

So the message that they are sending is, either they like what he's doing and they're -- or they're just are rewarding incompetence. I believe they like what he's doing, because they can maintain power to keep the system all locked up in the legal process, while they maintain power. So, number one, Thomas Hofeller got to go.

Number two, let's talk about race. One of the criteria that the General Assembly believes that it needs to show [inaudible] is that it needs to take race completely off the table. As though there is no equal protection clause, as though there is no Voting Rights Act Section 2. 'Cause

they got in trouble with race by packing black votes into specific districts to maintain their power illegally. Now they just want to do away with it. Don't even consider race, as though the Voting Rights Act doesn't apply. We're not going to let them do it.

And the third thing I want to talk about is don't let this General Assembly hoodwink you into believing that incumbency is about incumbents. First of all, it is, in the fact that's what they are trying to protect, which is not in the interest of anybody in the state of North Carolina. It's only in the interest of people who are incumbents. But here's the issue, the incumbency that there's -- that they're protecting is illegal. It's been illegal since all these courts have ruled that's illegal. So what they are trying to protect --

REP. LEWIS: One minute, okay. Time is up.

MR. SMITH: Oh, time is up. But you know what they are trying to protect. Don't let them do it, North Carolina.

REP. STEVENS: Betsy Price and then Chanelle James.

MS. PRICE: Hello, my name is Betsy Price. I stand here tired. I'm tired of it being [inaudible] or seeing it on the news, a new law passed that I disagree with. I'm tired of a legislature of Raleigh that passes laws that discriminate. And I'm tired of them passing them in the middle of the night. And I'm tired of a legislature that fights our governor and Attorney General at every turn. These, I believe, are the results of gerrymandering.

And I'm also confused. Confused that the Republicans in Raleigh chose the same guy to redraw the maps that were drawn wrong the first time. And confused that they used my tax money to do it, $50,000. And I'm also confused why the ruling party gets to choose to redraw the maps. That rule needs to go.

So I propose to the good people of North Carolina that we appoint an independent council, chosen by the people to draw these maps. Use ZIP codes to draw them, so that people that live together, work together and play together, can choose who they to represent them.

Gerrymanders sounds a lot like jerry-rigged to me. First it was lizards, then

snakes, I wonder what creature lurks out there this time. So I say no to the new maps, draw them and make them fair.

MS. JAMES: Hello, my name is Chanelle Beverly James, and I am a citizen of Greensboro. I'm also a Plaintiff in the Covington case, that federal lawsuit in which three-judge court invalidated 28 states -- state House and state districts as unconstitutional racial, gender -- gerrymanders.

I'm here today to discuss my concerns about the criteria this committee is using to draw its proposed maps. First, your criteria is flawed because three of the committee's criteria use the 2011 plans as a starting point for measuring success. But these plans have been ruled unconstitutional racial gerrymanders. The proper benchmark to use would be the last constitutional plans, those that came before 2011 plans. Instead, the committee is officially tying its current maps to the unconstitutional maps, perhaps its criteria on compactness, split precinct and incumbency protection.

On election data, the committee's decision to allow drawing maps based on political

consideration is simply a repeat of the process that followed to ensure partisan advantages when you re-draw -- re-drew congressional districts in 2016. This use of political power is improper. Data on incumbents' addresses and past election terms should be used only to ensure that the districts do not unruly favor any party or individual, while complying with federal laws not to ensure partisan outcomes. We believe this improper use of political data likely exposes the legislature for liability for partisan gerrymandering, just as with the [inaudible] plans.

Second, with respect to compactness, it seems funny to us, even having had the maps for such a small amount of time, that the legislature has -- prioritizing incumbency protection over the facts. The North Carolina Supreme Court has explained that compliance with the state constitutional whole county provision requires that districts must be compact. Incumbency protection, while perhaps an acceptable consideration, if applied evenly to incumbents of both parties, should not supersede requirements of the state constitution. That's your failure to establish criteria that are openly [inaudible] state

constitutional criteria, above other criteria is [inaudible] problematic.

Finally, this committee's decision to altogether equal or race is a problem and it defies the directional support. The use of race in redistricting is not an all-or-nothing approach. Issues of race are a nuance and not just in redistricting. The law reflects is explained at length by the Covington Court and is reiterated by this committee on some of your members, although they were ignored. This Court has instructed the General Assembly that a one-size-fits-all racial classification violates the Constitution and hurts voters like me.

REP. LEWIS: Thank you. Having had four speakers, we'll move to the Halifax Community College site that's coming in and for four speakers.

REP. J. BELL: Thank you, Mr. Chairman. We had Speaker Number 4, Janet Hoy, and Speaker Number 5, Richard Siat, withdraw their names. We'll start with Speaker Number 6, Edith Braginton, and then move to Speakers Number 7, 8 and 9.

MS. BRAGINTON: Thank you. My name is, Edith Braginton, and I live in Halifax. This is

the first time that I have ever felt moved to come to any kind of a meeting like this. And it is because I feel the maps, the gerrymandered maps, are so bad. It is very important that people speak up when they see these things.

I think the maps should be free from partisan politics, first of all. I think that they should comply with the Civil Rights Act. I think that the maps should be fair. Gerrymandering hurts all of us. We have to get rid of it now. I understand that politicians currently in power would like to stay in power. I understand that politicians want to win. You don't have to be scared. All you have to do is represent all of us. You can win if you represent all of us. Gerrymandering equals voter suppression. Don't do that.

REP. J. BELL: Mr. Chairman, we also had, for the record, Senator Smith-Ingram join us.

MS. CLAYTON: I'm Eva Clayton, the former member of Congress. I speak today because I want to be on record so I'll be clear that the right to vote is the most precious right we have as an American. And indeed, redistricting is one way to deny that. I, for one, know the value of

redistricting was part of the challenge that indeed created the two congressional districts in North Carolina. This is no more than a sham.

If the process is flawed, the product is flawed. And to the extent that this hearing is being called at the last minute, very limited information, to the extent we use the same system that created the illegal system in the very beginning. The audacity to think that the system would be so naive to think that you could do this to Americans.

We are just coming from the whole celebration of the accident of Charlottesville. Indeed, we understand what it is to be American or not to be American pushing on statutes. Well, the statute that created the civil rights law is essential to being in America, so North Carolinian delegates or members of the Senate, General Assembly or the House, to the extent that you say that all Americans, indeed, should be free, all Americans are equal -- to the extent that you say that and believe that, this redistricting plan has, indeed, to be redrawn. Thank you.

MS. ROSS-HOLMES: Good afternoon. My name is Carolyn Ross-Holmes, and I'm a resident of

Weldon. My message to all of the legislators assembled: candidates must be electing by all of the diverse groups that are located in jurisdictions. Gerrymanding is not necessary when candidates campaign and learn the people for which you represent in all shades and beliefs abide by the law.

I agree with many of the comments made earlier by my fellow citizens in this room. It's all about the process, such as -- including paying attention to the crowd in your respective rooms to gain insight of those assembled here and noticing what they agree to or not. So in the spirit of ensuring our vote is not suppressed neither shall our show of support for comments made that I think would be helpful in your report of public feelings using -- by using sign language. I think that's what we've been reduced to do. This is another example of how one must seek and gain understanding of the people you are elected to serve. Thank you.

MR. HERTZENRATER: I don't know how the -- how the rooms are set up in other places here. My name is Warren Hertzenrater. I'm the pastor of Jackson Baptist Church. I don't know how the other rooms are set up in other places; it

appears that people are talking to a crowd of people. Here we speak to a camera, a wall and three guys in suits. And I've certainly spoken to three guys in suits before when we have low attendance on a Sunday, but I prefer to speak to a crowd, and there's a crowd here. So I'm going to turn around and get a timer going so hopefully I won't go over the three minutes.

I -- I wonder, I'm not asking for a vote, but how well we're able to hear what's going on in other places. I've struggled to hear the comments going on and -- and it seems to me that people who have prepared things to say are being disrespected by the fact that their words get jumbled and -- and -- and messed up so that people across the state, in what's supposed to a public hearing are not able to be heard. It would appear that in the process of creating these districts we have found another way to suppress people's voices.

There's lots of ways to silent people's voices. One is to deny them the vote, which we have done this in this state. We have a long history of doing that, even after suffrage, even after the Voting Rights Act; even after 2017 we still find ways to do it. Another way to silence

people is to place them in districts by drawing lines around and through counties and through neighborhoods. Another way to do it is to threaten people with expulsion as they choose to express their appreciation for a speaker as the person before me has just said.

Another way which seems trivial by comparison is to use technology and equipment that is inadequate to the task of spreading a public hearing across the public, across the state. And I realize it's a tiny thing. I'm no expert at doing this kind of thing but I've been involved in webcasts before, and this is probably the worst one I've ever seen. It -- it -- I just -- you know, I think there's glass fiber going all over the state between community colleges. I can't understand why it works this way.

Why, if this is so important, are there such inadequate resources are brought into play to accomplish, or to fail to accomplish? The technology makes voices sound like Mr. Ed and Fred Munster and Mickey Mouse stuck down in a well. And that's disrespectful and it disregards the importance of what's going on here. It seems like it's just another little tiny thing, just like

another little tiny vote, just like another little percentage difference that it makes when you move a congressional line. But all these just things make things unjust.

A man I know named Tex Sample once told -- talked with us about the problem he had with his two sons who had a hard time sharing the task of mowing the lawn. The old one would always take the easy part, leaving the hard part for the younger one. Tex drew a map of the room and he -- or a map of the yard and he said -- the older one -- said to the older one divide the yard up any way you want and said to the younger one, you pick which side you want to mow. I wish we could do voting that way.

REP. LEWIS: That will then move us on to Beaufort Community College -- four speakers.

MR. WICKERSHAM: My name is Dave Wickersham. I live at 838 Sunshine Drive in Arapahoe, North Carolina. I am the chairman of the Republican Party of Pamlico County. My comments today specifically address Pamlico County.

On February the 8th, 1872, the General Assembly of North Carolina ratified, quote, "an act to lay off and establish a new county by the name

of Pamlico," end quote. This new county was made up of land from the existing counties of Craven and Beaufort and we have formed a close relationship with them over the last 145 years.

A computer line drawn on a map does not recognize the people, the lives or their daily activities. We are an inland county, we are not a coastal county. We are not connected in any way to the other counties in this proposed redistricting. Pamlico County is not contiguous with Dare, Hyde or Carteret counties. The only connection is a long drive through Beaufort County via Washington or a tedious ferry ride. On the other hand, Craven and Carteret County are accessible by a four-lane highway or a very short, convenient, 20-minute ferry ride.

We do banking, air travel, car buying, shopping and enjoy dining and entertainment in our neighboring counties. Our retired military are constantly commuting back and forth to Cherry Point. Our children take bus trips to the North Carolina Aquarium and other points of interest in our neighboring counties. The closest hospital and other much-needed medical services are only 25 miles away. There is a significant flow of people

between our three counties.

Our inland coastal location on the Neuse and Pamlico rivers have resulted in very special state regulations that Dare, Hyde and Currituck don't have. Of course they have their own set of burdensome regulations to deal with. To be blunt, our modest population of 13,000 means the much larger counties to our north will mean that we simply will be lost in the shuffle. It is hard to imagine anyone elected in this proposed new district would spend much time with us or, more importantly, represent our needs and concerns in the legislature. I implore you to reconsider this alignment and leave Pamlico County with neighbors with whom we work, live, recreate and worship as a community of shared interests. Please examine again not only your responsibility to comply with a court order, but your human responsibility of doing the right thing instead of just taking yet another political expedient action.

Thank you for the opportunity to speak. I can only hope and pray my words are heard. Please let us stay as we are with our neighbors and shared communities in Craven, Beaufort and Carteret. Because in the case of Pamlico County,

as far as the redistricting goes, it is not fair, it is not contiguous, it is not more compact and it is not respectful of community and shared interests. Thank you.

REP. J. BELL: Ray Leary.

MR. LEARY: Thank you. Good evening, my name is Ray Leary. I reside in Chocowinity, North Carolina, and I'm here representing the Citizens of Better Government of Beaufort County. We do not understand why this committee has chosen to include Beaufort County in a North Carolina senatorial district that has no commonality with coastal communities. Beaufort County has approximately 80 statute miles of estuary and waters, and Beaufort County is connected by this association and historically to the coastal counties of Hyde and Dare counties. We --

MALE SPEAKER: Can't hear -- no broadcast -- all we can hear [inaudible] -- turn it up.

MR. LEARY: Well, it says it's on. I'll just talk louder. We have nothing in common with Vance, Northampton and Warren counties. We do not know why anyone would suggest this plan. It makes no sense. If there is a plausible explanation for

this gerrymandering, we would certainly like to hear why that is from this committee. We do not need this, we do not want this, and we do not deserve to be shut out in Raleigh. It is -- is it not sufficiently corrupt that Beaufort County has to endure limited voting for county representatives? And now this new Senate district map was conjured up to deprive us of representation in the North Carolina Senate.

The redistricting committee has been provided with an acceptable modification to the new maps by the Beaufort County Republican Party Executive committee. The Beaufort County Citizens for Better Government supports this revision and respectfully requests you correct this rather egregious redistricting plan. Such a change will actually better comply with the published criteria for redistricting than the current proposed map does. Thank you for allowing the citizens to provide you with these recommendations and we sincerely hope you will honor not only our request, but others who have proposed this same modification. Thank you very much.

MR. SEIGHMAN: My name is Gerald Seighman. I'm a Beaufort County resident, and I

did not intend to come to this meeting, but the more I thought about it, the more upset I am. Holding a meeting at 4 o'clock is not a public meeting because in Beaufort County we're a Tier 1 community. And a lot of the people that are working, they cannot afford to take off the half-day and lose those wages to come make comments, so I thought I would just come. If you look at Beaufort County, fishing, crabbing, shrimping, that's what we do. We're a coastal community.

And I look at the map, but I see we are with Vance, Warren and Northampton. They're -- they're landlocked, they don't have any water. So if we have political representation from someone that wins the election up in those counties, they have no clue what Beaufort County does. We should be put back into the coastal community where the representation will have some knowledge of at least what we do in this county. Thank you.

MS. JONES: My name is Mary Jones, and I'm from Washington County and I don't like speaking in public. But addressing the topic of how our neighborhoods and counties have been so split up before, these new districts are more

compact than the current ones that we are now under. These districts respect our community and our shared interest with our neighbors. These districts respect the principle of contiguity with means -- which means being close or drawn together, with all parts of each district being connected. It is this way for our county; it may not be said for some of you others. But I endorse these maps. There are -- there are less split-up counties than before.

REP. LEWIS: Thank you. I will announce, it looks like we have about nine minutes if any more individuals are wishing to sign up to speak. Tonight in about nine minutes, at 6:30, the sign-up list will close. If nothing else, we'll move on to Fayetteville Tech for four speakers.

REP. SZOKA: That's Ana Blackburn, Deandrea Newsome, Lynn Hanka, Roberta Waddle -- that's four, and if they go to five, Mr. Buxton.

MS. BLACKBURN: Good evening, I'm Ana Blackburn. I'm the state's Latino liaison for the North Carolina NAACP. Democracy is once again at stake because it is being stolen by an illegitimate General Assembly. This is not just my opinion but that of the court system. The Supreme Court found

the North Carolina white supermajority rigged the election by using racist gerrymandering to win their seats. I am personally tired about hearing that the Republicans gerrymandered as well. We are talking about the here and the now. Two wrongs don't make a right.

Here we go again. With all that in mind, and after being found guilty by the Supreme Court, nine to zero, of racist gerrymandering, you would think that at least a logical person would take steps to admit and attempt to remedy the situation honestly, but no, not our North Carolina supermajority. They turned around and hired the very consultant who drew the previous racist, gerrymandered maps and, to add insult to injury, gave him a raise.

Public records show that Mr. Hofeller has received 50,000 of public funds to redraw the map once again. Yet, whenever we exercise our right to protest and rally, the rhetoric we hear from the supermajority is, the people elected us, they have spoken, stop your whining.

Well, I'm here to tell you, the people haven't spoken, because you saw to that by rigging the maps, which is exactly what you are attempting

to once again do. The public, this public hearing, is a sham. And what a total disrespect to the people of North Carolina, the hard-working voters of this state that you will hold seven hearings, at this time when so many people cannot get here and call that you are honest leadership and trying to do the right thing by the people. It would be a bigger crisis to democracy if I would not stand up to the injustice that this General Assembly is trying to do by silence the people of North Carolina. (Comments in Spanish.) Forward together, not one step back.

MS. NEWSOME: Hello, my name is Resistance, and I'm a resident of Cumberland County. And so I have a message to Chairman Lewis and also Vice-Chairman Szoka. Stop insulting the intelligence of the residents of our great state. It is about time that you all become representative of who you represent. It has been way too long that you think that this is the best that you can do. Are you serious? I am infuriated, disrespected, upset that this is why we're here today.

And to think that -- when you look at our Cumberland County as it -- as it comes down to the

House district, that it's a conflict of interest as our vice chairman's district gets larger, if you look at the maps. The definition of insanity is to do the same thing over and over and over again and expect different results. So the members of the redistricting committee, maybe you're a little insane and it's time for you to come home.

REP. LEWIS: Representative Szoka, could you have the speaker repeat her name?

MS. NEWSOME: Resistance.

REP. SZOKA: Resistance.

MS. HANKA: My name is Lynn Hanka. I'm a --

REP. LEWIS: Representative Szoka --

MS. HANKA: -- I'm a relative newcomer to North Carolina, and I chose to stay here because I love this state. And the more that I learn about the antics of gerrymandering and voter suppression by the legislature the more horrified I am. I would remind you that a core tenet of democracy is that a healthy democracy requires a principled opposition. A healthy democracy requires a principled opposition because a plurality of perspectives is how we progress as a society and support everyone, from the most privileged to the

most vulnerable.

The legislative super-majority has lost sight of this requirement of a principled opposition, doing everything they can to stamp out any opposition. And so we have a sick democracy in our state that's infected with partisanship, disenfranchisement and cruelty to the most vulnerable people.

These new maps show intent to protect the illegal supermajority. And so the sickness that infects our democracy will continue if these maps are adopted.

For us to heal our democracy, we must have a truly open process that allows voters to choose their representatives. End the partisan and racial gerrymandering now, so that our representatives truly represent all of us. Thank you.

REP. LEWIS: Representative Szoka, could you please read the speakers' names so far?

MS. WADDLE: Good evening. I am Roberta Waddle --

REP. LEWIS: Ma'am, you can hear me?

MS. WADDLE: I'm chair of the Cumberland County Democratic Party. Every legislative

district in Cumberland has been redrawn. While the lines in the districts do appear to be more compact, I have no data on the results of these changes. I don't know whether these districts help or hinder our party; they probably don't. I don't know if redistrict will meet justice department approval regarding racial distribution. I cannot determine if they are fair.

I would very much like to comment on the proposed redistricting maps presented here today. However, the process has been so secret and the hearings scheduled without sufficient time to evaluate them, it is very hard to do so.

The reason we are so rushed at this time is because the legislators in charge have delayed redrawing of the districts as long as they could, and they have not allowed for public input. Courts have ruled that the current maps are gerrymandered with surgical precision. Considering that the new maps have been drawn under the same legislative direction and done by the same technical services, it seems likely that we would have a very similar outcome.

I call for an independent commission to draw maps that allow fair representation for all.

Meaning that minorities would have a fair chance to be represented in the legislature, that the parties would be proportionally represented and that there would be fair, safe districts for all. Thank you.

REP. LEWIS: Ms. Waddle, please state your name.

MS. WADDLE: I did. Oh, okay. I am Roberta Waddle. Chair of the Cumberland County Democratic Party.

REP. LEWIS: Thank you. Could you give me the previous two speakers. I -- someone's name was not what I had on the list. Could you give me the name for the previous two speakers?

REP. SZOKA: Mr. Chair, the second speaker was Deandrea Newsome of Advance Carolina and the third speaker was Lynn Halka of Cape Fear Indivisible.

REP. LEWIS: Thank you very much. We will now move on. We're going to go to -- we will increase the number of speakers on each site to five as that does seem to expedite it slightly. And there was one change, but we're coming back here to Raleigh. We will begin with Rosalie Dominik, then Bobo Ayres, then Rachel Lichte, Corey Williams and Aylett Colston.

So in that order we'll begin with Rosalie Dominik.

MS. DOMINIK: Hi, I'm Rosalie Dominik of Durham. And I think the message you've been hearing is very clear. We need an approach to redistricting that is transparent, acceptable to both parties and enduring. This is the only way to ensure a true democracy. Plus, as long -- until we have a long-term solution to drawing districts, we won't have the opportunity for our officials to spend all the time they need to spend and the -- and the funds that are available on education, health care and infrastructure development.

They'll be distracted by the redistricting problem, until it's truly solved in a -- in a nonpartisan way. So the process used to draw the proposed maps, you know, lacks transparency and appears to have, once again resulted in maps that are rigged in favor in one party -- of one party. The citizens of North Carolina truly deserve better. And this is a problem you can fix. You have that power. It's -- it's one of the things that you can fix pretty easily. So I hope that you will do the right thing. Thank you.

SEN. HISE: Bobo Ayres, you're recognized for time not to exceed three minutes.

MS. AYRES: Hi, my name is Bobo Ayres. I am a fiscal conservative, a stay-at-home mom, so I'm literally nobody. I'm sure you guys all have families. And if your children misbehave, you would reprimand them. And if they did it again, you would probably reprimand them again, right?

So in this case, I'm not sure why we're going back to the same guy to draw the same maps. And I'm not sure why you would expect the people to encourage it. To say, yay, you made the same mistake again. So I'm just asking you to stop wasting your time and our money on unnecessary lawsuits. Lawsuits come because an injustice has been done. Thank you for hearing me.

SEN. HISE: Thank you. We'll now move to Rachel Lichte for a time period not exceed three minutes. Is Rachel not here? Okay. Moving on, Corey Williams. Come to order. Recognizing Corey Williams for a time not to exceed three minutes.

MS. WILLIAMS: Hi there. If it helps you, I was Number 9. I am a mom from House District 56 and Senate District 23. And I brought my very expensive visual aids with me today. In

November of last year I had no idea what Senate district I lived in or House District.

I was at the PTA. I was volunteering, but I wasn't really watching what was going on here. The special sessions turned that around for me, and I really began to pay attention. I came down. Some of you, I recognize because I sit in your office and don't leave until you talk to me. But I wanted to know what was going on in this state. And I wanted to find the dedicated civil servants who set aside their interest and serve for $14,000 a year and do this. So clearly you care. And I've met some thoughtful, capable, dedicated, North Carolinians.

I've had lunch with you, and I respect you. I've also seen some of the most contemptible stunts, the likes of which would land these two guys in the naughty corner. This set of maps, naughty corner.

I sat in the Greensboro courtroom and listened to Mr. Starch -- I'm going to get his name wrong -- his very thin argument. They were not delaying the process for partisan reasons. They were instead dedicated to ensuring that the public comment is heard and taken under advisement. And

these people clearly care. We've heard great comments from North Carolinians around this state. I'm glad to hear that you want public comment and I'm hoping that this time Mr. Hofeller hears all of these public comments.

So we're not at the pool today. They put on their suits to come see you, so I could let you know what I think. These maps don't just fail the efficiency gap test, they fail the chuckle test. And while I realize it's still legal, it's not ethical, it's not right and it's not long for this world. We're all waiting for the Wisconsin Supreme Court decision and we're all tired of the they-did-it-first argument. I don't want them to do it, and you guys shouldn't be doing it, either.

In terms of racial gerrymandering, releasing these maps on Saturday has not given me adequate chance to really assess whether a remedy has been achieved here. But I'll tell you, as a black woman, I have listened over and over to protestations that the people -- the members of this body are not racist. All I can say to you at this moment, with no data, is that I hope that when we look hard at the work that you've done, it won't be found wanting. Because mamas will come to the

ballot box and we're going to send everybody who is -- is not providing effective remedy to the naughty corner.

There are some bill sponsors who are to be commended. We saw House Bill 200. We saw Representative Brust's computer redistricting be proposed this session. This isn't -- those are all Republicans. This isn't really an issue of partisanship. It's an issue of incumbency.

So when you go home tonight and you look at your little people, and you tuck them in and you brush your teeth and look at yourself in the mirror -- just like I'm going to do -- ask yourselves, do I feel good about this? Am I happy with these maps? Is this fair to North Carolina? Thanks.

SEN. HISE: Aylett Colston. You're recognized for a time period not to exceed three minutes.

MS. COLSTON: Hi. My name's Aylett Colston. I live here in Wake County. I'm speaking to you today as a North Carolinian and as the mother, wife, sister and daughter of North Carolinians.

At the beginning of this meeting today,

if you guys can remember back that long ago -- been here awhile already, it feels like -- you asked for the public's help in complying with the court order, and I am so happy to hear that. It's great to ask for help when you need it.

I always think it's helpful to go back and think about the basics. To remind ourselves of the basics. Why do we have voting districts to begin with? It is so that people have a representative. Someone to look out for them and the interest of their community when it comes to writing the laws and making the decisions that affect all of our everyday lives.

I've already written to you and have outlined the reasons that voting districts should be drawn with the purpose of ensuring that every person in North Carolina has a voice, and every person in North Carolina has the opportunity to elect someone to represent them. They should not be drawn for making it easier for politicians to keep their jobs.

I have heard a lot of reasons given for why the maps were drawn the way they were, both back in 2011 and also the new proposed ones. What I have not heard is anybody say they drew these

maps because they thought it was in the best interest of North Carolinians to draw them this way.

I have not heard one person involved in drawing the maps say we drew them that way because we thought that was what would ensure the best future for North Carolina. What I would really like to hear is somebody involved in -- when you're drawing the maps, is for you to say and then for you to follow through. And when you're making these decisions in drawing the maps, think about -- ask yourselves these questions, two questions. Will this help the people of North Carolina? Number two, will this improve North Carolina's future?

You guys asked for help in complying with the court order -- I only have three minutes, so if it's possible to incorporate things by reference, I'd point you to this handy dandy little guide to redistricting that your own staff did a great job on. It's in your public website. Anyone can download it. The only thing that's changed is there are now fewer protections for historically disenfranchised communities. I'd also like to mention the actual court opinion that kind of takes

you through all the law and kind of how you got here. It's not too late to do the right thing. Thank you.

SEN. HISE: Thank you. Next we'll have Claudia Koonz and then Andrea George, as we had one not present. Claudia Koonz, you're recognized for a time period not to exceed three minutes.

MS. KOONZ: Thank you very much. My name is Claudia Koonz, and I'm speaking as a citizen of North Carolina who's worried about our state in a time of polarized politics. I'm also here as a historian from Duke University. I'm a historian of Germany in the 20th century. And I particularly am interested in what happens when polarized party politics takes the place of national concern.

Nonpartisan electoral maps are a first step towards restoring the trust that is the bedrock of democracy. That kind of trust is what we need here. I have to say, I have never done this before. I've never even come to a meeting like this, but I have been horrified by the amount of cynicism and apathy I feel among -- just people I run into every day. So let's step back from our situation today. What can we learn from the past? The textbooks tell us that Hitler destroyed

democracy in 1933. That's wrong.

German politicians killed off German democracies, starting in the late twenties, by putting their partisan political self-interest above the common good. Even after the Great Depression, with one-third unemployment. Action was urgent. What did politicians do? Nothing. Major bills died for want of the majority.

Five national elections in four years produced no workable coalitions, only more gridlock. Humorists laughed. They said politics looked like a barbell. All the weight at either end, but the outcome wasn't funny. The more politicians fought, the more rigid they became. A dangerous spiral set in.

Voter cynicism and politicians' partisan rigidity grew neck and neck. So what's happening here today? I think Eva Clayton said this more eloquently than I can possibly say it. But we have been waiting all summer for these maps and now, at the 11th hour -- when it is too late -- I suggest we need a fresh start. We need to ask for an incomplete. Take a -- get rid of the deadline.

Do not trust the firm that drew these maps. Pass House Bill 200. Appoint a panel of

experts -- mathematicians, demographers and geometrists -- to redraw nonpartisan districts. Make both sides equally unhappy.

From a historian's perspective, I close with just this thought. Voter disgust can lead to apathy. It can produce low turnouts and declining pride, but disgust can also produce rage, a potent force to be considered by every legislature concerned with his or her reelection. Think of where we were yesterday, all of us at 2:45 in the afternoon. We all felt together watching an incredible eclipse. That's the kind of feeling of community and togetherness I hope you will help us achieve in our political lives. Thank you.

SEN. HISE: Next up is Andrea George. I recognize for a time period not to exceed three minutes.

MS. GEORGE: Hi, hello, my name is Andrea George. First of all I just want to say I -- thank you for the privilege of being in this country. And thank you for the privilege of being able to vote. And I just want to give a reminder that there are places in this world where people will walk for a week to vote. And making voting as easy as possible for everybody is -- I can't see that as

a priority. It's a privilege. It's a privilege that people died for and -- and we need to respect that.

Secondly, I've heard a lot about division. As I've sat here most of what I've heard about is division. I've heard [inaudible] but one speaker earlier comment about the devil's tactics. The devil's tactics are division. And we keep dividing ourselves by race and color and creed, division gives [inaudible] to division. We will never come together.

Secondly, I'm pleased, personally, to see a map that's brought about without racial considerations with more racial data. I am thrilled because that's where we want to be. That's where our future, I hope, will be one day. And as far as I understand, it follows the Voting Rights Acts.

The communities are contiguous for the most part. I heard maybe one -- one coastal community complaining about that, but for the most part the precincts and the -- and the -- the -- the -- the districts are contiguous. And -- and that's important. People living together sharing common leaders, maybe we will unite instead of

divide. Thank you.

SEN. HISE: Thank you. Members of the committee as well as members of the public, we're going to need to suspend for a few minutes to give our -- ask questions about our court reporter and give her a few moments to catch her breath, as we may say, in this process. So our committee will suspend.

(Recess.)

REP. LEWIS: Come back to order, please. Come back to order, please. Ladies and gentlemen, the public -- going to announce to you that on the current signups we have here at the central location in Raleigh, we have a total of 221 speakers left to speak. That would require, at the pace we are moving, approximately 11 hours. That is in excess of what a court reporter would be able to deal with in making the transcripts. Fortunately, in case of technology issues, we took each site in the state and it is prepared to record on its own as an individual hearing.

There are actually two recordings at each site, one for the House and one for the Senate, which can be delivered to court reporters to create a transcript. And that is what we are going to do.

The seven sites now will operate independently of each other. And we will move through and be able to get through the public comment in a much more time-efficient manner.

That being said, I know that the other sites that are out there that can still hear me. We've also had some technical issues transitioning back and forth. If you have any issues or others, please feel free to contact us. We still have tech support and others available, but the Sergeant at Arms that are adept on how to operate the recording equipment to make sure that we have the multiple recordings for each of the public hearing sites.

We will then be able to have multiple court reporters compile one record that would be available for the members of the committee as we move forward in this process.

We will then continue here in Raleigh with the list of speakers that we have. Next up on the list, I have -- I'll go through the list I have in front of me, William Smith, Gloria Faley. I have an Octavia Rainey, but it has been removed.

UNIDENTIFIED SPEAKERS: No.

REP. LEWIS: Okay. Octavia Rainey, then Susan, handwriting is always interesting, McClana

and Linda Duda.

UNIDENTIFIED SPEAKERS: McClanahan. McClanahan.

REP. LEWIS: Okay. Begin with William Smith. We will be called -- William Smith will be recognized for a time period not to exceed three minutes. Is William Smith here?

(Pause in proceedings; audio from remote feed plays.)

REP. LEWIS: If we could silence the audio at the other sites.

(Pause in proceedings; audio from remote feed plays.)

SEN. HISE: We'll call again for a William Smith. Seeing no William Smith, we'll move to Gloria Faley.

MS. FALEY: My name is Gloria Faley. I live in Orange County. I was born and raised in North Carolina. As a matter of fact my teenage job was topping tobacco, for those of you that can remember those days. So I've been here a long time.

I am horrified at this process. I am -- I got here at 1 o'clock. The rules were to make sure that you got your name on the list. If you

got your name by the list you were going down one by one. That's not happened. I've also noted of all the folks that are here exactly what party -- what party is not here very much. That party that has actually left since these proceedings have started. It tells me something about the process. Your decision is already made. It's a sham.

Let's talk a little bit more about the process, shall we? The law -- lines were drawn, Tom Hofeller. He's a California software guy. He's one by -- according to Atlantic Monthly, one of the members of the league of dangerous mapmakers. A California native that has never lived in North Carolina. He doesn't even know about people like me, a North Carolinian. Why was not an independent group -- nonpartisan, of North Carolina voters, appointed by you and the legislature and the governor? Why? Again, it's a sham.

Now, let's talk about the voters for a minute. The maps themselves for a minute. The voters in Robeson proposed district, which covers most of Greensboro, supports -- supported Clinton over Trump 78 percent to 19 percent. In Wade proposed district Trump received 52 percent of the

vote to 44 percent for Clinton.

It looks like that if three of the Guilford County four senators would be Republicans, two of them live in other districts. This is beyond racial profiling. This is making sure that Guilford County, which is heavily Democrat, gets cut out of the process. In fact, the public hearing only had 20 to 30 seats. How little do you care about Guilford County?

The maps should be free of partisan politics, ignoring voting registration data and past election results. They must also ignore incumbent addresses, avoid intentionally double-bunking incumbents in order to focus on getting one of them out of office. These maps were be -- drawn behind closed doors and voters have not been given sufficient time to review any of the proposed maps before the public hearing. I want to be clear. I'm almost done. The push for the fair districts is not about getting more Democrats elected. It is about --

SEN. HISE: Speaker's time has expired.

MS. FALEY: You know, I will --

REP. LEWIS: Octavia Rainey, you're recognized for a time period --

MS. FALEY: People are frustrated enough that this will --

REP. LEWIS: Octavia Rainey, you're recognized for a time period not to exceed three minutes.

MS. RAINEY: Good afternoon. My name is Octavia Rainey, and I would like to thank you for the opportunity to speak today. I'm here because I am very concerned that I'm a firm believer in anything you do that there should be transparency, fairness and equity in any process. That is how we engage. And we listen to other people's opinion whether we want to hear them or not. But listening to differences of opinion only make you a better and a stronger person that will also enable you to make better decisions.

I have concerns that leaders offered inadequate time to review and -- and analyze the proposed maps. I have strong concerns about the time in which the maps was released at one time and then the data at another time. And this was for the House and the Senate.

It truly concerned me that when the data was released at two different, separate times, it was hard to analyze what was actually going on,

what was being presented before us. And it also gave an air, a feel, of something was wrong with this process. And this General Assembly should not be about that. This General Assembly should be about transparency. We all know what happened to the last map. We know the last map was wrong. The Court said that the last map was wrong.

My concern is why will we go to the same individual to help us draw another map and use that as a benchmark? That is completely wrong. We should begin to look at bringing in an independent body to help us draw the maps. We should all want fair maps. We should all want to increase everyone's right to vote, but we should always want to make sure that everyone, regardless of race, creed, color or national origin, would have an opportunity to run for office, not a gerrymandering running for office. Thank you.

SEN. HISE: Susan McClanahan, you're recognized for a time period not to exceed three minutes.

MR. SMITH: My name is William Smith.

SEN. HISE: Susan McClanahan, you're recognized for a time period not to exceed three minutes.

MS. MCCLANAHAN: Thank you for this time. My name is Susan B. McClanahan. I am from Orange County. I'm speaking as a North Carolina citizen, voter and taxpayer. When you entered the North Carolina General Assembly, you placed your left hand on the Bible and raised your right hand in the air to swear to an oath to support the Constitution of the United States.

One year ago, a federal three-judge panel ruled that you had violated that oath by using illegal, illegitimate, unconstitutional, racially-discriminatory voting maps in three different North Carolina elections. Republican lawmakers appealed to the US Supreme Court. On August 1, 2017, all nine members of the US Supreme Court unanimously agreed that your maps were unconstitutional, yet you have continued to use those illegal maps as the basis for these new maps for 2018. Plus you have used the very same consultant, Thomas Hofeller, who drew those illegal maps.

In your repeatedly failed attempts to litigate and defend these illegal and racially discriminatory maps, you have wasted millions of taxpayer dollars. You have continued to drag your

feet, to delay and obstruct the process by which voting maps are drawn. You have excluded other lawmakers and North Carolina citizens from the process. You have been secretive and have waited until the last minute to disclose the new proposed maps and the data that was used to draw them.

Because of your repeated racially-discriminatory actions, the people of North Carolina have no confidence that you will live up to your oath to create constitutional and nondiscriminatory voting maps. Put simply, you have shown that you cannot be trusted with this very important task. Before you once again violate your solemn oath and before you waste further taxpayer dollars, I urge you to reject these maps and allow an independent, nonpartisan commission to draw fair, legal, nondiscriminatory and constitutional maps so that neither party will be guilty of violating their oath when future voting maps are prepared. Thank you.

SEN. HISE: Linda Duda?

REP. LEWIS: She didn't show.

SEN. HISE: All right. Linda Duda? Not here. We'll return now to William Smith, who was not here when previously called.

MR. SMITH: Thank you very much for allowing me to speak. I was out of the room. I did not know that there was a time to come back in. Hello, my name is William Smith, a concerned citizen living here in Raleigh. Our founding fathers establish -- established our democracy such with the First Amendment. Our nation would be built on the ability of all to express their ideas and that the best ideas would prevail. Here we are now, again, with the free market of ideas that is our democracy being ground under the heel of big government interference.

The government has no business telling me and mine and my community who should represent us. I don't want my tax dollars wasted on propping up this system of political welfare. A system that is creating a generation of politicians who have lost the ability to stand on their own and be successful because they have become dependent on the state to keep their elected offices. The spirit of political entrepreneurship should be allowed to thrive without any government regulations that place limits on how much value a person's vote has.

The free market of ideas should not be weighed down by such burdensome government

regulations. I do not wish to be your enemy. I would very much prefer that we all stand united to conserve and protect our great democracy. Thank you, and God bless the United States.

REP. LEWIS: Thank you. The next speakers I have on the list in order: Gary George, Siva Shaperio, Lloyd Chambless, Larry Reid, and at best we can attempt to decipher is Jean Prinisor. Any of those individuals present? As they may be in the other room, we will call in a moment.

SERGEANT AT ARMS: It's my understanding where the people in the other room will be advised to come up here. I don't know that that's been done yet. Someone's going back.

REP. LEWIS: That's okay. It's entire list numbered 14 to 18, so we'll continue to move through the list. Are you one of those individuals?

MR. GEORGE: I was the first one you called. Gary George.

SEN. HISE: Gary George, you're recognized for a time period not to exceed three minutes.

MR. GEORGE: Thank you, sir. The first thing I'd like to say is I'm from Raleigh, North

Carolina. And I've only been here about five years, but I really like North Carolina and I -- I feel like a -- an established North Carolinian. I served in the -- in the military and worked for the military for 42 years. So I learned something from that and that's be brief, be bright and be gone and I'll try to do exactly that.

Thank you for your service. I hear a lot of people throwing innuendos and statements and -- and things that you -- $14,000 a year is a small civil-service stipend. And each and every one of you deserve our thank yous. Whether we agree with what you're doing or not, you're here working for us, and I appreciate that. That's the first thing I wanted to say.

The second thing I wanted to say was, my wife stood up here and said, "Let's not be so divisive." And I've got to go along with that. And the third thing -- a friend of mine wrote a book. It's called The -- The Hebrew Guy Who Has No Names. And in it he talks about two Jewish men getting together and discussing the subject and having three opinions. Now, this is not anti-Semitic. What he's saying is they have strong feelings and they're discussing those strong

feelings, but they're going to come together. Look in the Scripture and find out what God says and do that. That's the third opinion. That's the one that counts and that's what I'd like to see more of in -- in this -- in this group.

I looked at that map and I think it -- an honest attempt was made at -- at the rules of -- of the law. Whether or not it satisfies what the -- the Court said, whether or not it satisfies what people feel has been injustice in the past, I can't honestly say. But I'm asking y'all to work at unity. Don't be so divisive. Thank you.

SEN. HISE: Thank you. I'll also announce that as many individuals have left, the overflow room in 544 is now closed. There's no one waiting there. Siva Shaperio? No one responding. Lloyd Chambliss? No one responding. Larry Reid? No one responding, and Jean Prinisor, I'm going to guess. No one responding. One, two -- Ontario Parny or possibly Octario? Okay. Max Poteat; P-O-T-E-A-T? Tyler Swanson? Sorry, are you Max?

MR. POTEAT: Yes, sir.

REP. LEWIS: Okay. Max Poteat, you're recognized for a time period not to exceed three minutes.

MR. POTEAT: Good evening. My name is Max Poteat, and I'm currently a rising sophomore from Orange County. I would like to thank the Committee for the opportunity for public comment. I would like to offer my opinion that the new maps are such a clear example of partisan gerrymandering that even young people like me can see.

You spent millions of North Carolinian -- North Carolinian taxpayer dollars defending your maps in the racial gerrymandering case. And now there's a partisan gerrymandering case pending. I really hope that you don't plan to spend millions of NC tax dollars trying to defend these maps, too. I understand that the Democrats played an equal role, when they were empowered, with having unfair maps.

It's time they give the constituents that you represent, the people who elected you, a fair, democratic election and representation. Thank you, Mr. Chair, and the members of the Committee.

REP. LEWIS: Thank you. Next, Tyler Swanson, with the NC -- N -- NAACP?

MR. SWANSON: Good evening. Thank you for this opportunity to address this Committee. Again, my name is Tyler Swanson. I want to, for

the record, put out an official North Carolina NAACP statement in regards to these maps. I want to address this with y'all.

As we all know, the right to vote is not a game. It's a sacred right that is warranted of blood and sweat and tears of many of our ancestors. This General Assembly did not stop adopt -- adopting unjust -- unjust and unlawful criteria when it was disingenuous in applying this criteria to adopt it.

The same body -- which is an illegal body, by the way, said it would not consider race at all when it -- in its proposed maps. And the proposed maps appear to contain districts that are very similar to the illegal ones that was drawn in 2011. And continues to stack black and brown voters into non-compacted districts.

For example, from our preliminary -- excuse me -- analysis, House District 21 continues -- as it did in the illegal 2011 plans -- to sprawl into Sampson County and Wayne Counties to maximize the black votes, populations in the district and limit the power of those black voters who vote -- who votes would have a greater impact on the very drawn -- in a fairly drawn district,

excuse me.

That's same for this district's -- that's true for North Carolina District 19. Which is nearly entirely located in Hoke County except for the piece that I'm -- except -- I'm sorry, excuse me. I can't see my own handwriting here. Yes, let me just re-say that again. This is true for Senate District 19 which is entirely located in Hoke County. Which the illegal 2011 plan disfigures the district borders by reaching into Cumberland County to grab black voters, who would otherwise be casting their ballots in the Senate District 20.

What we want and what the people want are fair maps. Maps that really represent the people. Maps that give people a people's voice and opportunity. And what you all have done by hiring the same individual -- thank you sir, the same individual who's drawn these illegal maps, you all are continuing the same process. And as one of our fellow North Carolinians said, insanity is doing the same thing over and over again, expecting to get the same results.

Well, we're here to let you all know that these maps are -- do not represent the people. These maps are unjust and the people of North

Carolina deserve a government that is of, for and by the people. And one thing since this body is constituted by the North Carolina Constitution, let me just remind you all that all political power derives from the people. I'm going to say that one more time. All political power derives from the people. And please allow the people to have a voice. Thank you.

REP. LEWIS: Thank you. Jane Pinsky, North Carolina Coalition for Lobbying and Government Reform. You're recognized for a time not to exceed three minutes.

MS. PINSKY: Thank you. Thank you very much, Mr. Chairman. I appreciate the opportunity to speak. I have some prepared remarks and I'm happy -- oh, I'm sorry. I'm Jane Pinsky, and I'm with the North Carolina Coalition for Lobbying and Government Reform. And I will be happy to give you copies of my remarks for the Committee members.

Before I start those remarks, I have a brief story to tell. As many of you know, I've been working on this issue for ten years. And a lot of people, including some of my family members, think I'm crazy. And they say why do you keep doing this? Well, the answer is very simple. My

paternal grandfather snuck out of a penal colony in Siberia in the late 19th century; hitchhiked, walked and rode trains across Russia. Got to his hometown and was told that the Cossacks were looking for him and he couldn't stay there.

He came to the United States as a young man under 20 and made his way, raised four children and 12 grandchildren. And one of the things he always told us was that he made that trek across Russia because he was fighting for his voice in his government. And he couldn't have that in Russia, but he came to the United States. And he reminded every one of us that it was our responsibility to speak up and to have a voice. Gerrymandering takes away that voice.

The Coalition which I represent is made up of groups spanning the political and ideological spectrum, including the John Locke Foundation and Common Cause. Two groups that don't often even come into the same room.

Since its creation in 2005, the Coalition has pushed for nonpartisan redistricting in our state. We strongly believe that the people of North Carolina are best served when voters get to choose their elected officials, not when elected

officials choose their voters. Redistricting must be free of partisan influence. And in this case that is incumbent protection.

Former representative Ric Killian, who is a Republican from Mecklenburg County, says North Carolina and every other state should adopt a nonpartisan redistricting plan to ensure citizens can choose their elected officials rather than elected officials choosing their constituents.

People across North Carolina agree; 80 percent of North Carolinians think we should have a change. More than 250 local elected officials agree. There are present and former members of the North Carolina General Assembly who agree. Many other Republican leaders, including municipal mayor Mark Stohlman, who helped his town adopt a nonpartisan process for their -- drawing their town council thinks -- their town -- town council districts also agree.

Mayor Stohlman says when the town of Morrisville carried out a special redistricting earlier this year, we considered only major geographic boundaries and getting each district population count as close as possible. That made the difference and made it easy for Morrisville.

We urge you to adopt their criteria and to move forward. Thank you.

REP. LEWIS: Russ Stephenson, Raleigh City Council. You're recognized. Russ Stephenson, not present? Alan Longman, Progressive Democratic Caucus of Harnett County?

MR. LONGMAN: Hello and good evening. The reason that I'm here -- well, my name is Alan Longman. I'm from the Progressive Democratic Caucus of Harnett County. The reason I am here is that many things today, a long day, which you brought up many, many points. Mainly racism is a concern; segregation is a concern. And non-representation of many groups is a concern everyone has had.

The reason is that if you really, really want the people to judge you at -- at your job. In companies where managers, our people, our boss judges us. And we expect to cater to them and be judged by them. When we are sitting here not representing everybody and we're not representing what's -- what's right and what -- what we believe in and what the people are representative. We are afraid of what the people are going to say about us. So we cut them out. We end their

representation. We become centered on one or two beliefs.

Gerrymandering has been a problem. It's not just a party problem. It's not a GOP problem. It's -- it has been a democratic problem. As far back as you go, you have gerrymandering. The problem isn't -- has to do with human nature and the fact that it's a conflict of interest for the legislature to be making the laws. Otherwise you'd have at least one year which you did not have it. There isn't.

So you have to remove the human element out of it. There are programs -- software programs, that are known and never used, that would remove the human element out of it. And therefore you would have very accountable -- you could use the same data, people could check it from all over academia. And you could sit there and say this was done right, properly, and could answer to the people in full representation according to the law. Right now you don't have that.

To go out there and build your own software and have certain limits and conditions put into it isn't -- isn't where it's at. Don't reinvent the wheel. The software is already there.

What I'm looking forward to is that everybody has problems with extremists in their -- in their politics and when you have gerrymandering, they dominate what the programs are for that -- for that party. And nobody likes doing or being forced to do what they don't believe in.

That leaves good people within each party unable to do their job, or the reason why they came there to be a politician in the first place was to better things. They're not able to do that with gerrymandering. We can end gerrymandering by sitting here and putting the software programs that are already in there instead of reinventing the wheel. And end this ridiculousness and be leaders in North Carolina, setting the pace for the nation.

It's not right, now that we're doing the software program, it's the future of what it's going to be for us from here on out. And that's what we should be looking for, not to keeping one party in, but to end this problem for good. Thank you.

REP. LEWIS: Dianna Wynn. After that, I have Paula Jennings and Bonnie Wright. Dianna Wynn, you are recognized for a time not to exceed three minutes.

MS. WYNN: Good evening. My name is Dianna Wynn and I'm an unaffiliated voter in Wake County. I spoke before you less than three weeks ago regarding recommended criteria for redistricting and today I'll be brief. I appreciate that this committee adopted some elements of the criteria I recommended. However, I ask you to recall the numerous members of the public who spoke passionately earlier this month.

I, along with the overwhelming majority of those speaking, called for politically neutral criteria. We want voting maps that do not consider incumbents' addresses or residents' voting histories and party affiliations. The majority of those speaking at this hearing today and earlier this month request politically neutral criteria. And polling shows that a majority of North Carolinians support a nonpartisan approach to redistricting.

We certainly did not ask for an incumbent protection plan. You asked for public input, and the voters spoke. But it's as if our politicians are wearing noise-cancelling headphones and willfully ignoring the voters. It is my sincere hope that our legislators will stop engaging in

redistricting designed to protect themselves and will truly listen to the voters. Thank you for the opportunity to again speak before you here today.

REP. LEWIS: Paula Jennings. You are recognized for a time not to exceed three minutes.

MS. JENNINGS: Hello. My name is Paula Jennings. I'm from Cary, North Carolina. I spoke at the last hearing advocating for transparency and for fair districts so that my vote and every vote counts in North Carolina. You did allow me to speak, but unfortunately, I don't think you really heard me. I'm a grandmother. I have grandchildren that come to my home, and we have rules at my home. One of them is you have to put your listening ears on, and, believe me, we've had a few time-outs when that did not happen.

I am saddened today that my vote and other votes do not count the same. I am saddened today that the patriots in my family, who taught me when I was knee-high to a grasshopper some rules, which I would like to reiterate today. One was to be honest. One was to have integrity. The other was to treat others as you would like to be treated. Have I always done those things? No. Have you? No.

But I was also taught that when I do wrong, when I make a mistake, that I own up to it. That I ask for forgiveness and ask to do it right, to give me another chance. I'm asking today that you acknowledge your mistake in this partisan, gerrymandering process and that you make it right. That is the right thing to do. Thank you.

SEN. HISE: Bonnie Wright? Seeing none, we'll move to Marshall Botonovic? Not there. Lee Brian? Lee Brian? Paula -- Bonnie Wright, Marshall Botonovic, Lee Brian. Okay. Suzanne Miller. You're recognized for a time not to exceed three minutes.

MS. MILLER: Hello. My name is Suzanne Miller, and thank you for taking the time to listen to my concerns. I came here today representing two separate things. First off, I am a resident of Apex, North Carolina, here in Wake County. And in looking at the way that the maps were drawn, it slices up Apex in four, five different directions. And the saddest part of it, taking the party politics out of it, is that there's nobody totally representing the needs of Apex, North Carolina, at this point, the way that the maps are drawn.

And that, of course, is a huge concern to

me as a resident of North Carolina, with a daughter in a public elementary school in Apex, North Carolina, to not feel as though there is somebody representing our city.

I also come to you as an educator. I am a teacher in Chapel Hill, and we actually did a unit not too long ago on the Voting Rights Act. And we looked at the Voting Acts Right then and now. And we actually studied gerrymandering and voter suppression quite a bit, but it was an argumentative unit where students got to see both sides. They had to address one side and also address the counterargument.

And the interesting thing was, overwhelmingly, my students -- and that's across all races, genders -- all of them advocated for fair maps. You know, they learned about Rosanell Eaton, they learned about Fenning Himner [phonetic], they learned about, you know, so much history about gerrymandering. And all of them consistently wrote arguments that promoted the idea of fair maps. And I ask that you consider that, when and if you decide to reexamine the maps.

And if it does not happen, I would like to hope that Wisconsin does something right and

gets us independent councils in every state in the United States. Thank you.

SEN. HISE: Lee Rafalow? Lee Rafalow? Okay. Sarah Brady Wagner? Sarah Brady Wagner? Okay. Becky Winders? You're recognized for a time not to exceed three minutes.

MS. WINDERS: Good evening. My name is Becky Winders, and I live in Durham Precinct 35.3, Parkwood Fire Station, House District 30 and Senate District 20. Both have declared by -- have been declared by the Court to be illegally drawn, and my precinct has been split up many ways. So I have been personally damaged by the unfair partisan redistricting in 2011.

Though I have been happy enough with the quality of my legislators and may -- may even have voted for some of them, if they had opposition, my vote had zero impact on the election because I had no choice about who to vote for. The 2011 process, which was dominated by the Republican majority, also benefitted my Democratic incumbent legislators while disenfranchising me and the other citizens.

And I have little hope that the -- that the maps that will be produced through this current redistricting process will be more fair because

they've been drawn by the same mapmaker under the leadership of the same committee chairs that the 2011 maps were -- that were done. They have drawn -- been drawn without consideration of whether African American voters have a fair chance to elect candidates of their choice as the Voting Rights Act requires.

They have been drawn to protect incumbents and for partisan advantage. And legislative leaders have stalled until the last minute, failing to allow enough time for the public to have informed input on the maps and data for the Committee to incorporate -- maps and data -- or -- or for the Committee to incorporate public comments into the final maps. With respect to the Committee, I believe that our best chance for this redistricting to be fair is for the Court to reject these maps and have maps drawn by an independent individual or group.

Now, I call on -- on the Committee and the General Assembly to do better in a redistricting that will take place after the 2020 census. The people of North Carolina are tired of gerrymandering. It is not fair for politicians to draw their own districts. We need an independent

commission to do it in a transparent participatory process. If that requires a constitutional amendment, please put it on the 2018 ballot. And thank you for the opportunity to speak.

SEN. HISE: W. David Austin. You're recognized for a time not to exceed three minutes.

MR. AUSTIN: Hi. My name is Dave Austin. I'm a Durham resident. A lot of my attention over the past legislative session was focused in other places, specifically farm worker health and safety. But I thought I remembered, in looking at or trying to remember headlines, that there seemed to be a lot of promise in this particular issue of how we could vote more fairly. Because it seemed like -- I thought I remembered -- that nonpartisan district creation had a lot of benefits that were described in the press and even a lot of support.

So I had hopes that this legislative redistricting commission would acknowledge those benefits. And it seemed like it might do that. But the analysis in The News and Observer this morning sort of dashed those hopes, documenting so many non-competitive races, both in the House and in the Senate. So I thought to myself well, maybe I was just misremembering and those headlines were

somehow in my imagination. So I went back and tried to find out where I'd gotten that impression.

Who supports nonpartisan voting districts in North Carolina? Well, there was a poll that says 59 percent of North Carolina voters do so, with just 15 percent opposed. Who supports nonpartisan voting districts? A nonpartisan panel of 10 retired North Carolina judges and justices, including two former Supreme Court justices. Who supports nonpartisan voting districts? Two of North Carolina's most prominent Republicans: former Governor Jim Martin and Charlotte's former mayor, Richard Vinroot. Who supports nonpartisan voting districts? 240 civic leaders across North Carolina, who had signed a petition calling on the legislature. A dozen towns and cities across the state. More than 100 North Carolina business leaders. A bipartisan group of North Carolina legislators through their House Bill 200. 68 percent of North Carolina independent voters in 13 states.

If I was a legislator, I would have said maybe this is not a bad position. We can wait and be number 49 or 50 of those states that implement this idea whose time has come or we can, once

again, be leaders in the South. The opportunity is still there and I hope you'll take it.

SEN. HISE: Linda Gunnels? Linda Gunnels? Lavaria Blum? Lavaria Blum? Okay. David Meeker, or a small business owner? David Meeker? Anne Robotti -- R-O-B-O-T-T-I? Recognized for a time not to exceed three minutes.

MS. ROBOTTI: Hi, everybody. My name is Anne Robotti. I am a North Carolina resident for the past four years. My husband did his -- served his country at Camp Lejeune here. And I have two children attending North Carolina's fine universities and two other children attending its fine public schools. Having said that, I have five children and a full-time job and a part-time job, and the machinations that I had to go through to get here at 4 o'clock on a Wednesday afternoon and stay until 8 o'clock would defy description.

I feel that truly open public comment -- do you need me to pause while you read whatever you're reading?

REP. LEWIS: No, ma'am. I was trying to take notes on what you were saying. You're more than welcome --

MS. ROBOTTI: Okay.

REP. LEWIS: -- to continue. I would point out that sign-up was open 'til 6:30.

MS. ROBOTTI: Thank you. I feel that truly open public comment should take place over the course of several days, different time periods. I feel there should be at least one weekend day. And I feel that there should be time during the day, also during the week and nights -- evenings.

So why am I here? I'm here to say that if you need to gerrymander your district to get reelected, then you have lost the hearts and the minds of your constituents. And I'm here because I'm just not jaded enough to think that that doesn't matter. I think that it should matter and I think that to some of you that it does matter. And I want to encourage you to keep fighting for the fair districts that people of North Carolina deserve.

A lot of you that are still here I recognize as Democrats. And I also want to say to you that as a life-long Democrat, I am so tired. And I had actually never heard the word gerrymandering until I moved to North Carolina. But do not make me come back here in 2020 and remind you all that I will not tolerate this from

anyone. Thank you very much. Have a nice evening.

SEN. HISE: Thank you. Amy Cox, FLIP NC. You have three minutes.

MS. COX: Amy Cox from Durham. And less than 36 hours ago, the data for these maps were finally released; the maps themselves, just two days earlier. The goal was clear, for the people of North Carolina to have as little time as possible to understand what you've done before our only opportunity for public comment. But what you've done is clear. You shamelessly used the court order requiring you to redraw the illegally, racially-gerrymandered districts to shore up Republican-held districts and further limit competition.

Of the 16 most competitive Republican-held House districts, 11 have been slanted more heavily for Republicans while only two were drawn more favorably for Democrats based on 2016 Presidential election results. This is a flagrant attempt to benefit from the order to redraw illegal, racially-biased maps and a blatant disregard for the spirit of the order and the people of North Carolina.

Many of the redrawn districts lie well

beyond the areas affected by racially-gerrymandered districts. These maps used the most recent election results and data on demographic changes to try to preserve as many Republican-held districts as possible.

The proposed House map moves districts lines as far away as Alleghany County and Burke County near Boone, over 100 miles from the nearest racially-gerrymandered district ordered to be redrawn near Guilford County. The lack of respect for democracy and the will of the people of North Carolina is appalling. You've shown what happens to democracy in this state with these maps in your hands. It's time for the court to take them out of your hands and order independent redistricting. Thank you.

SEN. HISE: Julian Pridgen; P-R-I-D-G-E-N. You have a time period not to exceed three minutes.

MR. PRIDGEN: Good evening. My name is Reverend Julian Pridgen, and I am a plaintiff in Covington versus North Carolina, the federal lawsuit in which a three judge court invalidated 28 state House and Senate districts as unconstitutional racial gerrymanders. First, your

delay in release of the data supporting your proposed maps has undermined our ability to prepare meaningful input for this public hearing. It is clear to us that you continue to not take this remedial process seriously and that you have no intention of enacting fair and legal maps.

Second, we do not believe these maps remedy the racial gerrymandering the court found. For example, in Cumberland County, the proposed Senate districts do the same things as those in the 2011 plans. Black voters are packed into Senate District 21 by use of a non-compact district arm that reaches into Cumberland County. Similarly, State District 28 and House District 57, both in Guilford County, are greater than 50 percent black in voting age population and failed to remedy the racial gerrymanders the federal court hailed were unconstitutional. There are other examples.

Thirdly, what we have identified in the little time available for us to analyze your maps is that your configurations of House Districts in Wake and Mecklenburg County violate the state constitutional prohibition on mid-decade redistricting. House Districts 36, 37, 40 and 41 in Wake County were not declared unconstitutional

and do not touch a district that was ruled unconstitutional. The same is true for House District 105 in Mecklenburg County. As such, Article 2, Sections 3 and 5, do not allow you to redraw those districts until after the next decennial census.

We have drawn various -- I'm sorry, variations, rather -- or versions, rather -- of the House districts in Wake and Mecklenburg County that correct the unconstitutional racial gerrymanders identified by the court: House 33, 38 -- House Districts 33, 38, 99, 102 and 107 -- and do not change districts that have been or are unaffected by these constitutional flaws. Thus, our Wake and Mecklenburg County configurations comply with both the state and federal Constitution. I have brought paper copies of both county maps and our attorneys will be happy to supply you with any additional data on these maps you -- if you would like it.

We urge you to take seriously the need to draw redistricting maps that will comply with state and federal constitutions and will be fair to voters of North Carolina. Thank you for your time.

SEN. HISE: Gerald Givens, Jr., the Raleigh-Apex NAACP. You have a -- you have a time

period not to exceed three minutes.

MR. GIVENS: In 2003, I served in the 332nd -- [inaudible]?

FEMALE SPEAKER: What is your name?

MR. GIVENS: My name? Gerald Givens, Jr., first vice-president, Raleigh-Apex NAACP. In 2003, I served in the 332nd Air Expeditionary Wing, Tallil Air Base, Iraq, providing combat support to approximately 26,000 coalition service members and civilians. The 332nd is a direct descendant of an organization of the World War II 332nd Fighter Group, known as the Tuskegee Airmen, a group of African-American military heroes who served with honor and distinction in a racially-segregated unit, even though most of them couldn't vote in their own country.

In 2005, when Iraqis held up their index finger marked with purple indelible ink and a security bar to prevent double voting, I knew that every Tuskegee Airman's life was not in vain because black men, like myself, helped to make that possible. I'm Gerald Givens, Jr., the first vice-president of the Raleigh-Apex NAACP, a 20-year United States Air Force honorably retired veteran.

Since 1790 until today, the North

Carolina legislature has viewed a free black man as a problem. I chose the year 1790 because before that time, it's extremely difficult to get any records about free black people. However, starting that year, it's clear that North Carolina viewed a free black man as a dilemma, according to the law. Today, it's safe to say that the more things change, the more things stay the same.

Here it is, 230 years later and this body continues to legislate with the view that the free black man is a problem. Racial gerrymandering, voter suppression, voter ID laws being followed out with racial, surgical precision. The oath taken by legislators in this state is not for white supremacy. However, it is for the good of the whole as written in our state Constitution.

Draw the map of North Carolina House and Senate districts that honor the North Carolina soldiers, sailors, marines and airmen who died for the free elections at home and abroad. Draw the map of the North Carolina House and Senate districts that give the free black man his voice. And quit trying to regulate through the law how blacks and whites relate in our state according to an acceptable and unacceptable racist beliefs.

The white supremacy in our state breaks my heart. But no matter how many times that this body uses the law to give white men an unfair advantage, free black men like my grandfather, who fought in World War II, grandfather who fought in the Korean War, father who fought in the Vietnam War, we will fight back at the ballot box, we will fight at the court right along with the NAACP and our coalition partners. Forward together and not one step back.

SEN. HISE: Jerry Coleman. Jerry Coleman; then I have Brenda Brough for Erin Trager that's for -- coming in. And James Holcomb. Any of those three present? Robert Aldrich. Okay. You are --

MS. BROUGH: Breana Brough.

REP. LEWIS: Breana Brough for Erin Trager?

MS. BROUGH: She signed up for me earlier. Is that okay?

REP. LEWIS: Okay. That's --

MS. BROUGH: Okay. Couldn't get here 'til I got off work. My name is Breana Brough. I'm a lifelong North Carolina resident, and I live in Durham. I appreciate you all taking the time to

listen to these comments today and I hope you will really listen and truly consider what your constituents are telling you.

The current legislature was elected under unconstitutional racially-gerrymandered legislative maps. This body's refusal to draw fair maps despite being court ordered to do so now represents a breach of trust and a blatant and cynical attempt to hold onto power acquired through illegal means. While these new proposed maps may not utilize the same surgical precision to disenfranchise African-American voters as the old maps, it is also plain that these new maps do not cure all the constitutional problems identified in the 2011 plans. There are still districts where it appears that race predominated in the construction of the district without any justification; Senate Districts 21 and 28 and House District 57, for example.

I have read the argument that these maps are excusable because in the past, Democrats have been guilty of gerrymandering districts in their favor. I find this argument to be petty and frankly, ridiculous. Our government doesn't have to work this way. We can do better. You can do

better. If you care about the best interests of the people of North Carolina, you will do the right thing and allow an independent commission to draw fair, nonpartisan maps so that all North Carolinians can be confident that their voice matters and their interests are represented in the NCGA. Thank you for your time.

SEN. HISE: Thank you. Robert Aldrich? Then I have Karen Daniels and Erik Raudsep; R-A-U-D-S-E-P. Any of those three individuals present? Robert Aldrich?

MR. RAUDSEP: Erik Raudsep.

REP. LEWIS: Erik Raudsep. Okay. You're recognized for a time not to exceed three minutes.

MR. RAUDSEP: My name is Erik Raudsep, and I am from Durham County; District 31, one of the districts to be found unfair. I'm also a member of the Libertarian Party. Seeing the monitors, we have great attendance around the state and I also applaud all involved citizens throughout the state of North Carolina. And over the many years that I have been working with the Libertarian Party, I've gotten to know several of the esteemed individuals who sit before me. And it's good to see you again.

Seeing this process being played out through a local, state and even unfortunately, once again, the national level, this process is not a cheap one. Wisconsin, it cost in excess of 2 million; in Arizona, in excess of 3.6. And with all of the legal battles that are ensued here in North Carolina regarding this redistricting, I am sure far more. There is no reason that North Carolina would be any different when this process is done. The Republicans are at fault in this round, but both political parties must be held accountable for this dilemma.

This should be a call to action to create real solutions to ensure this never happens again. We must draft and enact fair plans for this and future redistricting by a non-biased -- a nonpartisan process so the evils of gerrymandering districts can never happen again.

In conclusion, you must remember when the term gerrymandering was coined in 1812 by the newspapers of Massachusetts, it was made as a word of warning and unfairness; not a goal to aspire to. Just because it is legal does not make it right. I implore that this esteemed body bring back common sense and fairness to the state of North Carolina.

Thank you.

SEN. HISE: Lekha Shupeck? You're recognized for a time not to exceed three minutes.

MS. SHUPECK: My name is Lekha Shupeck. I live in Chapel Hill, but I grew up in Moore County. I have looked over these maps. I have read about them in many different publications and on many different mediums. I have downloaded the PDFs full of statistics that were released just yesterday. And what I have to say to Republicans on the redistricting committee is this. The people of North Carolina are not stupid. You need to try harder.

In the first place, I'm thinking about this ruse that Republicans have carried on, that they've been scrambling to draw these maps over the last two weeks. That is why the public couldn't see the maps until a couple of days ago; why the statistical analyses weren't released until yesterday, barely 24 hours before this hearing. And yet right there on the map posted online that you can look up -- moved from District 34 to District 31 is Senator Andrew Brock, who resigned in June. And I am told that the maps also do not reflect changes made to precincts in Wake County

way back in April.

So what I would like to know is, what dusty drawer in Mr. Hofeller's office have these maps been sitting in for the past six, eight, 10 or 12 months? Like I said, we are not stupid. Try harder.

Furthermore, we all know that North Carolina is a purple state. Every time there is a statewide election, the vote is split roughly 50-50 between Democrats and Republicans. And yet these maps have been designed so that Republicans retain not just a majority, but a supermajority in the legislature. This is after you received an avalanche of public comments stating that North Carolina voters want fair, impartial districts that represent voters, not parties.

Instead of listening to these public comments, which the court ordered you to do, Republicans in the legislature have decided to protect their oligarchy and continue to disenfranchise North Carolina citizens who want to have an equal voice in their government. And we know that you are playing these disgraceful political games with our votes rather than creating an equitable democracy.

We know that you are more interested in making North Carolina a billionaire's paradise where the rich no longer contribute to society and the poor go without health care and basic services while our homes are sprayed with garbage juice and their water is polluted by coal ash.

We know this because we are not stupid. And so I'm telling you on behalf of my fellow citizens, you need to try harder. Also, if you want targeted criticism, your polls v. popular scores suck.

REP. HISE: Madison Roberts. Madison Roberts, you are recognized for a time not to exceed three minutes.

MS. ROBERTS: Hi. My name is Madison Roberts, and I live in Raleigh. One of the things that most concerns me about the new maps is the lack of transparency and assurance of good faith. Very little has been done to reassure me that I can trust the intent and process of maps directed by a legislature that already utilized illegal, racially-motivated districts in the first place. My trust in your ability to do this was further eroded when you hired Thomas Hofeller, the same consultant who directed the current illegal maps,

to lead this project. How can I believe that this isn't going to be a repeat of the 2011 maps when you yourselves are on the record stating that the previous election data will be used to draw the maps with political considerations in mind?

Where is the statistical justification of how this will improve fairness? With maps drawn without transparency, let alone fairness, how can I trust that I and others will be fairly represented? Illegal, racially and politically-gerrymandered maps remove our ability to hold you, our elected officials, accountable for the direction of our state.

I call for more transparency and evaluation of the statistical rationale used to draw any proposed maps to ensure that they have been created fairly and without extreme racial and political bias. I don't believe you have executed the current redistricting project in good faith and you have not earned my confidence. Thank you.

SEN. HISE: Carol Rist with Common Cause and Democracy NC.

MS. RIST: I'm sure I can walk. Okay. My name is Carol Rist. I'm a resident of Durham County. I'm not a native of North Carolina, but I

am the descendant of North Carolinians who took up arms to fight for government which was fair to all the residents. My fourth great-grandfather, William Hinson and his father, Charles Hinson, were regulators. They fought the colonial government. Not to change the form of their government, but simply to make the colony's political process more equal. They wanted better economic conditions for everyone instead of a system that benefitted colonial officials.

I stand with my ancestors, demanding that the state's political process be more equal. We have lived under unconstitutional districting for all too long. The General Assembly has spent $4.8 million of taxpayer money to defend their maps in court. My ancestors would have understood my anger and stood by me in asking why have you spent $4.8 million of North Carolina taxpayer's money defending unconstitutional maps?

It is well past time to produce maps for North Carolina following the practices used in those states whose districts have been declared legal. Since you waited so long to release your maps, I haven't been able to learn whether or not they follow those practices. If the maps which you

have produced don't follow the practices of the states whose districts have been declared legal, then throw the maps out and start all over again. I demand what my regulator ancestors demanded; to make the state's political process more equal. Thank you.

SEN. HISE: Dean Morgan with You Can Vote? And then I would have Isabel Geffner. Dean Morgan is not present? Okay.

MS. GEFFNER: Thank you very much. My name is Isabel Geffner. And I am a resident and taxpayer here in North Carolina. I have been just enormously humbled by the wisdom and passion of my fellow state residents and citizens, both here in Raleigh and in the various areas that we were able to see earlier. And the thing that really resonates with me most is that what we are -- what I am experiencing and I think what I am sharing with others is that there has been an erosion of trust among the citizens of this state. And -- and the very fiber and fabric of community and society is based on trust.

And there are people who have been way more articulate than I can be about the statistics and facts that have led us to this moment. What I

feel most resonant about and -- and what I feel that I need to express most is that what we need to do in our state is to rebuild the trust between the people and our government. And it is exceedingly difficult to do that when the person who is hired to redraw those maps is someone who has drawn maps that have been found to be illegal and unconstitutional.

When the very people who have hired that organization come from districts which have been determined to be illegal and unconstitutional, how can we, the citizens and voters and taxpayers of this state, trust that you are representing us in a way that is fair, honest and that holds integrity? I would like to cede the remaining 50 seconds of my time to the committee and to ask you to tell us how are you going to use this loud cry of public response in the days that follow before the vote. Thank you.

SEN. HISE: Charles Upchurch with the Wendell/Wake NAACP. You are recognized for a time not to exceed three minutes.

MR. UPCHURCH: Good evening. My name is Charles Upchurch. I'm with the Wendell/Wake County NAACP. I represent east of Raleigh, Knightdale,

Wendell, Zebulon, Rolesville, Wake Forest. Now, I heard someone say a while ago that gerrymandering is equal to white supremacy. If it's not completely true, then it's leaning in that direction. I want the same things all of you want. The very same things. I've got children. I've got 18 grandchildren. I want them all to get what they are supposed to have.

And we talk about voting. We talk about voting in our family. And I hear it all the time; my vote ain't going to count. And I called them a lie 'cause that's one thing I believe, is you've got to do what you've got to do. Now, voting gets you some of these things that I say I want for my children. I want them to get a good education. I want them to have a decent life. Most of that comes from being able to vote. And if they can't get to the ballot box and do what they need to do, then they don't have a voice to do that.

The courts say that the maps are illegal. Then you go and get somebody to draw them. And then you turn around and use my money again to pay them again to do the same thing. Would you do that if somebody come and -- to work on your roof in your house and -- and you weren't satisfied? Would

you call them back to -- to redo the job? You would say no. You were going to get you somebody. And I implore you to get an independent council. Thank you.

SEN. HISE: Rick Wynn with Common Cause.

MALE SPEAKER: No. That's not mine.

SEN. HISE: Rick Wynn with Common Cause. Andrea Cash with Indivisible and FLIP NC. Andrea Cash. Phyllis Demko, Common Cause. I don't think that's Phyllis. Phyllis Demko, Common Cause. Sara Ferguson. You're recognized for a time not to exceed three minutes.

MS. FERGUSON: Thank you. Good evening. My name is Sara Ferguson. I'm here as an independent citizen of North Carolina. It saddens me that North Carolina has become a nationally recognized example of blatant gerrymandering. This new redistricting map was created by the same people with the same self-serving ideals as the map that the Supreme Court ruled illegal.

The purpose of this new map is to protect incumbent legislatures. It does not serve the voters and the voters do not support this. This process has to change. Our voting districts should be drawn by a nonpartisan commission with citizen

oversight. Incumbency protection and previous election results should not be considered in the drawing of district boundaries.

You'll need to earn your re-elections. It's not right to hold a free ticket. My message to the committee and legislature today is this. Give up your redistricting power and start respecting the voters. Thank you.

SEN. HISE Amanda Howell.

MS. HOWELL: My name is Amanda Howell. I grew up in rural North Carolina in northern Gaston County. I went to college in Boone and taught there, and I came to Wake County to ironically teach Civics and Economics at Garner Senior High.

I'm here because partisan redistricting is hurting our state. It has gone on for too long and is costing taxpayer dollars to continue to litigate, defend and redraw maps. I know that this has happened on both sides. However, I also know that pointing a finger and saying he started it is not a good excuse for children. And it is certainly not a good excuse for adults who are representing our state.

This is money that is wasted. It could be used for schools, senior citizens,

transportation and other things that our state desperately needs. Non-partisan redistricting is supported on both sides. We have bills that have been proposed by both sides. It is time for our state to listen to the people and move to nonpartisan redistricting. Nonpartisan district commissions have worked better in other states to support voters and operate with more public support and acceptance. It allows everyone to feel confident in the integrity and the results of our elections.

Failure to do so with so much public support on both sides represents partisanship and an unwillingness to truly represent the people of our state. You have bipartisan bills that have already been presented. You have the ability to follow through with these bills. The question is, do you have the will? Thank you.

SEN. HISE: Alison Mahaley. You're recognized for a time not to exceed three minutes.

MS. MAHALEY: Thank you. My name is Allison Mahaley, and I'm the local president of a chapter of the Americans United for the Separation of Church and State. I'm here today to call out the ruling party for perpetrating fraud and deceit

on the good people of North Carolina.

I want to remind you that just because you can do something doesn't mean that you should. I am fearful of what you have done to our democracy. The entire electoral process has been exposed as racist and you, the North Carolina General Assembly, hold your offices illegally. I have seen you use your ill-begotten power to try and ruin our public schools. And that is what drove me out of the classroom and into activism.

You used your power to siphon money from public schools and send it to religious schools that are not accountable. These schools indoctrinate children to a fear of hell, to bigotry against gay people and who knows what else because these schools are exempt from oversight. You did this because you had the power to do it, not because the people of North Carolina wanted you to.

The overwhelming majority of North Carolinians do not support vouchers. And yet, you got re-elected because of the way your districts are drawn. The Supreme Court ruled these districts are unconstitutional. Politicians choosing their voters instead of voters choosing their politicians have made checking your power impossible. And yet

you keep bringing legislation to limit voting rights and delete the power of African-Americans.

All of this is enough to cause so many to lose faith in our democracy. Some have already sought alternative means of justice, but those of us who have seen this obscenity before have a better plan. And let me tell you, we are getting organized. We are organizing to take our power back. We are in the streets. We are going door-to-door. We are talking to Democrats, Republicans and Independents, and all of them want fair maps. All of them want a nonpartisan commission to redraw the maps and give the power back to the people. Thank you.

SEN. HISE: Dennis Burns -- Burns with Common Cause? You're recognized for a time not to exceed three minutes.

MR. BURNS: Good evening. Dennis Burns, board chair of Common Cause. I'm speaking on behalf of our 10,000 members and allies around the state. And there have been so many great comments, I think what I will do is just spend a few minutes with a little bit of history.

For 20 years -- 20 years, we have objected to the closed door partisan process in

which Democratic and Republican politicians pick their own voters to guarantee in gerrymandered districts the incumbency. In 2011, with the new GOP majority, most of whom were allies of ours, the House overwhelmingly passed our bipartisan, nonpartisan process. What happened? There it goes. And a fair districts bill so we hoped for improvement, but the Senate ignored it. In -- when reform bills, again, introduced by bipartisan supporters, were introduced in 2013 and then in 2015, we again saw no progress.

So in 2016, we had to go to the federal courts in Common Cause versus Rucho to get a hearing to start talking about the damage that this process in these noncompetitive districts are doing to our democracy in the state. And thank you for the historian telling us about Europe in the 1920s and '30s. So now, even orders from the federal judiciary and the Supreme Court cannot seem to change things in a growing and changing North Carolina.

Please, give our citizens a nonpartisan process like in House Bill 200, with 45 sponsors, didn't even get a hearing this year. Please, our fair map bill. Our 10,000 members and the hundreds

who came out today are going to keep trying because three out of four North Carolina voters want us to get rid of this outdated, partisan redistricting process and move into the 21st century. Thank you very much.

SEN. HISE: Bob Hall, Democracy NC?

MR. HALL: Good evening. I am Bob Hall, Executive Director of Democracy North Carolina. And you've heard a lot of criticism about this public hearing process, how disrespectful it is to the public. You also didn't give us the public maps. The maps that were for the public to -- to see. And you didn't give us the data until very late. Also very disrespectful. And you didn't give us the registration of the voters in these districts or the race of the voters. You said you were not going to look at the race of the voters in drawing the maps, as though that would protect you from being accused of drawing racially-biased districts. But it's clear that the practice has continued.

You've heard illustrations here -- named districts, House District 57, Senate Districts 21 and 28, where you're packing more African-Americans into the districts. Because of your fetish for

protecting elephants, you voted to use partisan election outcomes. That was your priority; partisan election outcomes to protect incumbents, to draw the new maps to protect the incumbents. And so many of these districts are rigged to make them less competitive than they are now.

In a few cases, your eagerness is even pushing beyond the state constitution and you've heard that, in drawing districts that are not ordered, you don't need to redraw these districts, that you're violating the state constitution ban against causing redistricting in the middle of the decade. The bottom line is, the new maps are partisan gerrymandering in the extreme and here's two ways to see this.

First, over 90 percent of the new districts are not competitive based on the data that you furnished us here a day or so ago. You look at the five statewide elections where candidates won by two percentage points. These are very competitive elections; Tillis versus Hagan, Cooper versus McCrory. Five competitive districts with less than two percent differences, but in most all of the districts -- the legislative districts you've drawn, the gap between those candidates is

more than 10 percent. In fact, there's only 15 out of the 170 House and Senate districts where candidates win by less than 10 percentage points in at least four of those five elections. That is to say in a 155 of the 170 districts, 90 percent -- that's 90 percent of the districts, you and I know who the winner is going to be.

The second way to look at this is in a partisan gerrymandering -- through the partisan gerrymandering tool called the efficiency gap that measures partisan gerrymandering. The plan that has an efficiency gap of over seven percent is highly partisan. The Campaign Legal Center in the last 24 hours has examined the Senate and the House plans. And they find, looking at those plans, that the efficiency gap is over 11 percent, illustrating extreme partisan gerrymandering. Please take a look at that and draw new lines. Thank you.

SEN. HISE: Thank you. Marcia Everett? Recognized for a time not to exceed three minutes.

MS. EVERETT: Hi. My name is Marcia Everett. I'm from Harnett County. I really came to talk to all of y'all. The most important thing in our country is our self-governance, our -- our ability to vote. It gives us our liberty and

without it, we'd be fighting in the streets. Our forefathers wrote a pretty good law and it's no shame to make some adjustments. They made some and fortunately, we can too.

Even though we disagree on many things, I know we all agree on playing fairly. So what do you do when you get a new game and you open it up? The first thing you do is you take out the rules to figure out who's going -- how the game is played. And those rules apply to everybody playing the game. It applies to the black people, to the white people, to the men, to the women and most importantly, it should apply to the rich and poor.

Voting has a lot of problems, but our forefathers wrote a great law in that they let that law be a living document. Now there are many groups working on ways to fix voting and I think you all should avail yourselves to their ideas. You should study them. Imagine living with them. The idea that I like for gerrymandering is called choice of representation. And you can look that up and you'll probably find direct representation.

You can also go to the Facebook page and you'll find that choice of representation was written by Jim Mueller, but he pronounces it --

it's spelled like Mueller, M-U-E-L-L-E-R. And he ran for office in Wisconsin and when he didn't win, he wondered why all the people who voted for him would not get him as a representative? He thinks that should be a right; that you should have the right to be represented by the person that you choose.

So how it works, or how it would work with only two parties, is that after an election on -- you would count the votes. And say somebody got 400,000 and the other one got 400,100. Usually, the 100 would win, but he says that they both should go and then when the bills come through their office, they would put 400,000 towards the vote and 400,100 against the vote -- 400,100. Anyway, you get what I'm saying. You use the votes to put towards the bills for and against. All right? This would eliminate districts entirely.

Now, I guess my thing is more than three minutes, so basically what I'm saying is, there's lots of things we can do to fix all kinds of problems with voting. You guys need to not take bills based on who's in the majority. The bills need to be addressed in order. These bills have our lives on them. We don't have two years to wait

for another election and another election before you work on these -- these issues. Thank you.

REP. LEWIS: Mary Lucas? Victoria Shick? Victoria Shick? Nan Friedman? Nan Friedman? Taylor Cook? Ma'am, you are?

MR. COOK: Hi there. I am Taylor Cook. I am from Durham, North Carolina. Thank you for the time and the opportunity to speak this evening. And most importantly, thank you everyone for coming out. Let's give yourselves a round of applause and maybe some spirit fingers like we've been doing tonight.

I wasn't surprised at all, really, to -- in the new maps that were recently drawn in response to a request by the courts. I expected them to be unfair and not representative of our population since the author of them is the same author who drew illegal and unfair maps in 2011. Would you be surprised by a thief who steals or a liar who lies? Of course not. The main problem sits with those who choose to put the thief in charge of protecting the bank.

My disappointment lies with those who gave the responsibility of drawing a fair map to those who have proven incapable of doing so. North

Carolina Republicans are not interested in fair maps. They're not interested in a representative democracy. They are surely interested in taking and retaining power. Their interests are not shared by their constituents. As our nation's courts have repeatedly confirmed, North Carolina Republicans consistently draw unfair and illegal maps. For some reason they continue to be involved in the process of redrawing the maps, despite the fact that they can't stop breaking the law when they do it. Why would we ask them to do something they don't have the capacity to do and clearly aren't interested in doing?

We are a so-called purple state. In the past 10 years, we voted for senators, governors and presidents from each major party. Yet Republicans currently hold supermajorities in both houses of our General Assembly. The only explanation is illegal and unfair maps drawn by our current crop of Republicans. What's more, since the maps are illegal, it's fair to say that many of our state representatives should not even in office, much less have any say in how the maps are drawn. But here we are, letting the thieves choose how the bank is guarded yet again. Why do we continue to

let the fox guard the henhouse?

Our state will not progress and solve problems if we don't have fairly selected representatives working on our behalf. Unfair maps have a long history not only in our state, but also in our country. While the origins elsewhere may differ, one common theme persists when looking at the history of illegal maps in North Carolina -- race. These very lawmakers have already been found guilty of identifying every voting [inaudible] and then motivated high voter turnout among black voters and then eliminated them, targeting black people with almost surgical precision. They're clearly in the business of suppressing minority votes. The intent and motivator is clear -- racism. Racist mapmaking has no place in North Carolina.

There are several different constructive solutions for more fair maps. And I'm not going to go into the details of all the options now. They're well-documented and I'm sure you know where to find them if you can go look. But rest assured, none of them involve asking the illegally-selected party in power put a partisan mapmaker who previously drew illegal maps. Thank you very much.

SEN. HISE: Ladies and gentlemen, we have -- of speakers who are left to -- signed up to speak, we have 47 individuals who are left signed up to speak. It is obvious to the chairman that that exceeds the number of people in the room who are listening at this point. So at the advice of the other chairs, if members just -- if you have previously signed up to speak and you would just like to line up to speak, we'll be able to move this a little more quickly than 47 individuals called through the ranks of the system.

But it will be exceptionally important that you begin by stating your name and the organization you represent. And if you've already spoken, you have already spoken to the committee.

MR. OJUTIKU: Good evening.

SEN. HISE: Good evening.

MR. OJUTIKU: Question. My name is Adeniya Ojutiku. I represent the interests of over 3,000 registered black Republicans in North -- Wake County and also members of the African-American Faith-Based Organization of the -- of the Carolinas. Lived in Raleigh for the past nearly eight years. I'm a US citizen, a legal immigrant -- not illegal, legal immigrant and my

world view of self is not -- is -- is racially neutral. Okay? So I empathize with so many here that may not be so privileged.

I would like to submit that your redistricted map plan, whether led by Republicans or Democrats, had been able to adequately fix the issues confronting blacks and minority issues. Only fair and equitable legislation as well as some policies that carry everybody along can. Possible gerrymandering by either party may have in the past been a strategy to manipulate and the enforcement of inclusion or exclusion of minority groups as accused and should not be a guiding principle for any legislative redistricting map. This is because it employs and exploits our crudest instincts of racial prejudices.

If as an effort in good faith, then we support the redistricting plan put forth by the criteria that is given to the General Assembly because they confirm with the stipulated guidelines and criteria given to the joint redistricting committee. The new districts herein outlined are also more compact than current ones through the maps, splitting only few precincts. We are pleased that the General Assembly has drawn these maps

without recourse to racial data, biases or prejudices.

However, in conclusion, we demand that each political party recognizes the need for racial inclusion, eliminating candidates for all elections so that everyone shall [inaudible] a keen sense of belonging and an enduring need for sincere contributions to making our state a great one. Thank you.

DR. SPEARMAN: Good evening. I am T. Anthony Spearman, the third vice president, here to further push the official position of the North Carolina NAACP and the Reverend Dr. William J. Barber onto the record.

Maps should have considered race and should reflect fair districts. We will stand up for our shared democratic principles of fairness. The Grand Old Party caucus admits that they considered, one, past election outcomes, and two, the ability of the Republican Party to win in these districts and that they are drawing these maps for partisan advantage.

House Districts 10, 36 and Senate District 41, for example, combine different communities and fractured communities of interest

and appear to serve only the purpose of creating a Republican advantage in those districts. Substituting party for race for the purpose of achieving that same racially discriminatory election outcome and limiting the voting power of people of color is a cynical strategy that undermines our democracy and fails to remedy the illegal maps.

These maps are not the answer. We do not trust these maps, which were drawn by the same hired helper who drew the 2011 racially-gerrymandered maps and which were commissioned by an illegal legislature that has failed at every turn to act with integrity. Instead, an independent special master should be tasked with drawing new maps to ensure that it is the law that is followed and not the directives of an illegal legislature that the federal courts have already found guilty of intentionally acting to suppress the votes of African-Americans and that numerous federal and state courts have been found guilty of passing legislation that flouts the federal and state constitutions and the will of the people.

These games must stop. At least one federal court has enjoined an unconstitutionally

constituted legislature from taking any further actions until the redistricting process could be completed. See Butterworth versus Dempsey, the Federal District Court decision from Connecticut. And in addition, Costner and Dalton ought to be considered because citizens have a right to vote as soon as possible for their representative under constitutional apportionment plans. Federal courts have also shortened the terms of those legislators who had been elected under illegal maps.

If there's ever been a time that the preamble of the United States Constitution ought to be considered and to prevail, that time is right now. "We the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty," that time is now. These maps are not the answer.

SEN. HISE: Thank you. Please state your name for the record, and you're recognized for a time not to exceed three minutes.

MS. SMALLEY-MCMAHAN: Good evening. I'm Barbara Smalley-McMahan. I'm here tonight in the -- in my capacity as the Political Action Chair

with Raleigh-Apex NAACP. And I want to give a shoutout to the North Carolina NAACP and Bob Hall and Democracy North Carolina for the hard work they've done to point out the flaws in the redistricting plan that -- that you are presenting.

As I make my own comments tonight on behalf of our branch, I want to acknowledge that the racialized maps you drew in 2011 were sadly a major, if unintended, victory for many in our state who make up hate groups. My understanding is that the Nazis, the KKK and white supremacists who recently went to Charlottesville didn't go there because of the statue. They chose Charlottesville as their location specifically because that city is known for taking a strong stance on dismantling systemic racism. I'd love to tell you some of the things they've implemented. We could use a little bit of that around here.

In response to our President's defense of these hate groups, people on all sides of the political aisle are coming together to say we will no longer tolerate those who want to dominate and continue to promote racialized systems -- that includes our voting system. If you doubt that we're coming together, I want to share a news

report with you that I heard yesterday as my husband and I drove to Greenville, South Carolina, to see the eclipse.

According to that news report, the alumni from the conservative Liberty University was mailing in their -- y'all know what I want to say -- they're mailing in their diplomas because they do not agree with Jerry Falwell coming out and -- and not denouncing the racism in our President. And they are starting a strong moral movement for others to follow suit. The antidote to racism is democracy -- of, by and for the people. Where everyone has equal access to the polls to cast their vote in favor of their interest, and that includes their interest in healthcare, public schools, livable wages --

SEN. HISE: Thank you.

MS. SMALLEY-MCMAHAN: -- and reform of the criminal justice system. Thank you.

SEN. HISE: Next speaker is recognized. Please state your name and you're recognized not to exceed three minutes.

MR. SFEIR: My name is Mark Sfeir. I'm from Durham. One moment, please. As we know, gerrymandering across America has inevitably led to

unresponsive governments as politicians representing both major parties have embraced districts where they face no serious electoral challenges, wanting incentives for legislators to meet their constituent's needs.

As it relates to alternatives to the previous districts, mathematical techniques to randomize the political profile of a given district and thus make elections fair, such as computational geometry and Monte Carlo simulations, exist, are well-established, and are prepared to take into account considerations of population, zoning and topography if needed and as deemed constitutional. Amidst this talk of technical solutions to gerrymandering, however, I want to say that almost anything is preferable to a system where the ruling parties draw their own lines.

It is time to consider mathematical methods for generating districts, which could be amply used by nonpartisan transparence, open source commission of elected experts in order to move our state in a radically new and better direction, setting a new standard even among states for fairness of elections. California was able to effectively counter gerrymandering under the --

under the direction of Arnold Schwarzenegger, and so can we. And -- thank you, that's all I have.

SEN. HISE: Thank you. Next speaker, please state your name. You're recognized for three minutes.

MR. WEEKS: Eugene Weeks, I'm a member of the Wake County Voting Coalition and a former member of the Raleigh City Council for five-and-a-half years. As a 20-year Air Force veteran, serving my country, it amazed me that I'm here tonight talking about voter rights.

I did not see this during the time that I was serving my country, and I don't think I need to be seeing this now. I'm going -- we've heard many comments tonight and I'm going to just reiterate probably -- of all the comments we've had, I just want to reiterate what I thought the courts passed down for you to do and not to do. And I think this'll be what I call a lesson; a plan that you can go by.

First, three months ago the courts plainly ruled that race cannot be used to obtain partisan advantages. In order to be fair, new maps must be compact, contiguous and must comply with the Voting Rights Act to give minority voters an

opportunity to elect their candidates of choice -- not your candidates of choice. The maps must also be free from partisan politics, ignoring voter registration data and past election results. They must also ignore incumbent addresses to avoid intentionally double-bunking two incumbents in order to force one of them out of office.

Unfortunately, the new redistricting process is too partisan to ensure that their maps -- that fair maps are drawn. The maps have been drawn behind closed doors after midnight and any other time that you can do it without the public being around. And voters have not been given sufficient time to review any of the maps before the public hearing.

At the end of the day, these maps have still been drawn by the same GOP lawmakers and consultants using the same software as the previous maps and approved by the unconstitutional legislature that was elected using those racial -- racial gerrymandered maps. For years, you have waged a three-prong war on democracy through racial and partisan gerrymandering, unconstitutional assault on voter rights and partisan meddling with the judicial system.

Unfortunately, this new redistricting is simply another part of the assault on democracy. We need to stop it now. As we stated in the military, do the right thing because it's the right thing to do. Throw these maps into File 13. Thank you.

SEN. HISE: Next. State your name. You're recognized not to exceed three minutes.

MS. GRIFFIN: Hi. My name is Maryclare Griffin. I came here from Durham. I'm a North Carolina resident. So just also, there was some confusion earlier about how this process works on your end, so many of us signed up very early in the day, some as early as 4:00. So earlier you advised a woman that if she'd just come at 6:30, she could've spent less time here. I don't think that's very clear.

Anyway, moving on. So a lot of people have said a lot of things that I wanted to say up here already and they've said it very well. So we know that the maps are still racially gerrymandered, I think you know that too. And we also know that this hearing is really a farce. I also think those of you who made these maps know that. That said, I did want to make one point that

I don't think I heard people make, which is that I think you're probably feeling pretty comfortable today and this year.

As we all know, when it comes down to it, we can't really distinguish partisan gerrymandering from racial gerrymandering. And the fact is, in states like North Carolina, where racial gerrymandering is highly -- where race has correlated with political party, you can keep trying to hide racial gerrymandering behind partisan gerrymandering. And honestly, for now you will probably succeed.

But I'm here today to look you in the eye and actually thank you, because of your arrogance and the maps you made in 2011, the Supreme Court not only struck them down, but Clarence Thomas joined in a decision, that among other things, legal scholars agree set a precedent that we may not be able to distinguish racial gerrymandering from partisan gerrymandering, and that does not mean that we'll just have to be okay with racial gerrymandering; that means that you have laid the groundwork to eradicate partisan gerrymandering altogether.

Now, today, you could make a decision.

You could move forward and make better maps -- listen to the people here. I don't think you'll go do that, and in the meantime, I just hope that this will be worth it to you. As you move forward with these racial maps, you will expedite the process of eradicating partisan gerrymandering and you will be remembered as having done things that are very undemocratic and shameful. That is all I have to say on this matter. I will also comment, I very much appreciate those who have listened very sincerely to the speakers. I've also seen many people staring at their phones and their computers and through notes that could not possibly be urgent. This is your job. Take it seriously.

SEN. HISE: Next speaker, please state your name. You're recognized for a time not to exceed three minutes.

MS. DONALYN: Hi. My name is Stacy Donalyn [phonetic]. I live in Chatham County, North Carolina, for the last four years. During the '90s, I lived here in Chatham County and Orange County for six years, and really if this was two weeks ago, I probably won't be here speaking, but it's not. It's -- it's two weeks later, and in the 10 years that I lived -- for 10 years before I live

here, again, in Chatham County, I lived in Charlottesville, Virginia, and, you know, people could go there and lose their lives by standing in for justice, then I can get through my jitters and come here and speak on a microphone.

Thing to know about me is I'm actually a Pollyanna, and I'm a little bit more jaded this year than last, but I still believe in the basic goodness in people and the fairness of our system. I'm still really hopeful that we can win the day by goodness and fairness. However, witnessing, sort of, this messy process in the last couple of years with these different maps, made me wonder a few things about the Committee and the assembly in general. Why did you get into politics? I would hope that you saw an injustice and you wanted to go and fight it and said how can I do it; I know, I'll get elected and I'll make change.

Hopefully, you were thinking of the good of all North Carolina and by extension our country, but if you didn't do that, what were you thinking? Was it just for greed? For power-grabbing? Did you just want power and self-advancement? I think all the people here and all the people in -- in the other venues tonight are saying that's not the way

to go. You need to think about us. Think of yourselves as North Carolinas, but remember that you're representing the entire state.

The distinguishing by the first round of district maps and now this new one, the same committee working on it, the same analyst working on it, shows me that you're not quite on board yet with goodness and fairness. Thank you. I don't know about these colorful maps; they look a lot like the other colorful maps -- a couple less squiggly lines. I just think that -- you know, think about it more -- less political terms and more product terms. If you send out, you know, our Olympic athletes and you want them to compete fairly and win the day, you don't want the other side doping. You're -- you're doping our government and you need to stop.

So let's call for fairness. Let's -- I'm asking you to act in good conscience. Not in more greed, not in moral greed and power grabbing and to fashion fair and nonpartisan district maps, like the HB200 calls for. Failing maps -- if you map the districts according to partisan affiliations, then make it 50/50 -- go Republicans and Democrat 50/50 and just see where the elections stand out.

We can't have good dialogue if we don't have people who can speak on both sides and work together. And if you believe in the power of your convictions, your stances, then you'll suddenly run out. If not, then the other one will, and we can talk and move forward. Thank you very much.

SEN. HISE: Thank you. Next speaker, please state your name. You're recognized for a time not to exceed three minutes.

MS. MATHIS: My name is Kirsten Mathis. My husband and I live in Wake County. Thank you very much for holding this hearing, and I look forward to many more.

When my husband and I moved to North Carolina two years ago, we had always paid attention to politics and voted, but never in our lives have we been so shocked and appalled by the actions of our legislators that we felt compelled to attend a town hall meeting. Because these meetings were scheduled so last minute, he could not get away from work, so I am also speaking on his behalf. His name is Mike.

It may seem apparent that we usually lean progressive, but we have on many occasions voted across party lines for the right candidate. I

shouldn't have to explain that to convince myself that you might care, but your actions as legislators prove otherwise. You clearly need every last vote you can get. Unless these new maps prove to be innocent of racist and partisan gerrymandering, you won't have a snowball's chance in a North Carolina August of getting our votes.

Our state's history of excelling at racist and partisan gerrymandering should have disqualified the very politicians who drew the unconstitutional maps in the first place from hiring the same partisan consultants, Thomas Hofeller, to redraw the new maps. This is tantamount to allowing a person who has been convicted of burglary to wire the new security system.

If you showed as much dedication to representing the constituents who pay you as you do toward rigging the elections in your favor, your jobs as legislators -- legislators will be secure. Until that day comes, you have inspired my husband and I to be more politically active than ever and to do everything in our power to make sure each vote counts. Thank you very much.

SEN. HISE: Next speaker, please state

your name. You're recognized for a time not to exceed three minutes.

MR. BOTTS: Dewey Botts, number 58, from North Carolina. I feel like I'm in a third-world authoritarian country, not a democracy where we the people have a right to vote. Because these maps are racially discriminating and more elusive than the last maps, and because these maps are clearly more politically biased, and because these maps are blatantly unfair, I request the three-judge panel immediately the ditch this fiasco and appoint their map master to draw nonpartisan maps for all the people of North Carolina -- House Bill 2 would do that.

My experience over here taught me not to close this way, but I have to say this. In my last years of my second career, I was in this building many times and must say this drawn out process is an embarrassment to me, to our state and is sadly mean-spirited.

SEN. HISE: Next speaker, please state your name. You're recognized for a time not to exceed three minutes.

MS. CAMERON: Good evening. My name is Chris Cameron, and I'm from Durham County. The

current legislators were elected based on unconstitutional, racially-gerrymandered maps. Our courts have mandated that North Carolina districts be redrawn. To be fair, the districts must be compact, contiguous and must comply with the Voting Rights Act to give minority voters an opportunity to elect the candidates of their choice.

These maps were drawn in defiance of the court orders. On top of that, the public was given very little time to review the new maps that were released, beginning Saturday, while public comment was scheduled to be held today. We need a process that will produce nonpartisan maps. Since the same North Carolina Republican GOP lawmakers have been unable to provide nonpartisan maps, we must have the maps drawn by a nonpartisan group to produce more fair maps that restore our ability to successfully elect representatives that have our own interest at heart. The redistricting Committee, along with these maps that have been produced, are despicable. Shame on you. I urge the General Assembly to go back and give the constituents of this great state nonpartisan maps. We want our democracy back. Thank you.

SEN. HISE: Next speaker, please state

your name. You're recognized for a time not to exceed three minutes.

MS. COLE: Good evening. My name is Susan Perry Cole. I'm from Edgecombe County, and I'm speaking as a concerned citizen tonight.

I think it's worth noting that after the lengthy court battles, the North Carolina General Assembly had the golden opportunity to propose a redistricting plan that would include fair, constitutional, un-gerrymandered new districts. Sadly -- very sadly, that is not the route the legislative leadership chose to take. Instead it is plain that extreme partisanship drove the construct of the district lines, extreme partisanship giving an unfair advantage to Republican voters. That strategy has no place in a meaningful democracy.

Many districts are uncompetitive, so said the Raleigh News & Observer in a front-page article today. Just 10 of 50 Senate districts will likely be competitive, and just 19 of 120 House districts are competitive.

Let me take a moment to comment on the fact that the legislative leadership offered inadequate time to review and analyze the proposed

remedial maps. It appears that the legislative leaders purposely refrained from releasing the data files in order to impede a full analysis before the public hearing. This is a very cynical and insulting move to the citizens of this state.

It's also plain that the enacted map did not cure all the constitutional problems identified in the 2011 plan. There are still districts where it appears that race predominated in the construction of the district. Examples of that would be Senate District 21, 28 and House District 57. The proposed House plan does not remedy all the racial gerrymandering in the 2011 plan. The House plan perpetuates the same strategies of racial gerrymandering, unnecessarily packing black voters in districts and limiting their political statewide power.

So let me conclude by just urging this body to reject the plan that's on the table. Go back to the drawing boards. Respect the citizens of this state and draw a fair plan. Thank you.

SEN. HISE: Next speaker, please state your name. You're recognized for a time not to exceed three minutes.

MS. BREMER: Thank you. My name is

Jennifer Bremer, and I live in Orange County. I'm here representing the League of Women Voters. I want to thank you very much for this opportunity to comment on the draft maps. We appreciate the Committee's work to produce maps that improve on the current maps, but it still -- seems we still have ways to go.

We would like to emphasize that while we don't see the Committee members as foxes and we certainly do not see ourselves as hens, we're still letting the foxes guard the henhouse. We need to put the voters, not the politicians in the drivers' seat. Voter participation in drawing the maps is key to making this happen. The real public participation requires time and citizens have had only three days to look at the House map, two days for the Senate map and just a day for the data.

By putting off the map drawing to the last minute, the legislature has denied voters a real chance to have their say. Some of the Committee's nine criteria, such as more compactness and less precinct splitting, were welcome, but others have no place in drawing fair districts. But even for the appropriate criteria, the Committee gave us yardsticks that don't have any

numbers on them. This makes it pretty hard to say how the new districts really measure up. For example, the criteria called for splitting fewer precincts, but didn't set a target or say how to decide which ones to split.

So what about the maps themselves? We appreciate the Committee's reporting of at least some data on how to propose maps perform against their criteria, and we've used this information to attempt to assess them ourselves.

Since time is short, I'm just going to hit the highlights. The Committee clearly made the right choice in adopting county groupings that conform to the North Carolina Constitution, producing a map that improves on the current one in that respect, even if it does not by itself guarantee that the district also complied. We also see some progress on compactness with somewhat better average scores than last time for the Senate maps on both majors. The House districts have much less squiggly boundaries, but the new maps apparently don't score much better on either measure.

This suggests we're still falling short of fair districts. The promise to split fewer

precincts came without a target, but we're glad to see that the new maps split far fewer precincts -- in the House just 49, which is still a lot less than the 394 split in 2011. The Committee decided to avoid pitting incumbents against each other. This criterion simply has no place in a fair process. Elections should be all about protecting voters' ability to have their say, not protecting incumbents.

We hadn't been able to assess how the political considerations and election results affected the maps, but misuse of this data to determine election outcomes is really what gerrymandering is all about.

Exclusion of racial data also makes it impossible to say whether in all cases, minority voters have a reasonable chance to elect their preferred candidate, so we can't say whether the maps meet this core requirement in the Voting Rights Act. Overall, given that more data are needed for a full assessment, for now we'll just also, like a previous speaker, grade the Committee's work as incomplete. However the Court responds to the maps that the General Assembly submits, let's work together for a truly fair

participate -- participatory and transparent process. Thank you.

SEN. HISE: Next speaker, please identify your name. You're recognized for a time not to exceed three minutes.

MR. MCALLISTER: Good evening, Chairman Lewis and members of the Committee. My name is Stephen McAllister. I'm an unaffiliated voter, and I live here in Raleigh. I'm grateful for the opportunity to be heard tonight. There are a couple of things that I wanted to address.

First, and reference was made to this a little earlier, today the Campaign Legal Center released an analysis examining the efficiency gap of the current maps, and they're just shy of 12 percent for both the House, which was 11.98 percent, and the Senate, which is 11.87 percent. My understanding is that the author of this, Ruth Greenwood, addressed this in the form of a memo to this Committee, and I just wanted to ask that you make sure that this memo be included as part of the record if it isn't already. It can be found at campaignlegalcenter.org.

I would note that her conclusion about the maps were that this 12 -- roughly 12 percent

efficiency gap was an extraordinarily large efficiency gap that she concluded would give an enormous Republican edge in the coming two elections, and so the concern is that racial gerrymandering has been supplanted with just pure partisan gerrymandering.

The other thing I wanted to share with you was an analogy and -- and we're talking about efficiency gaps, and the concept of gerrymandering can be fairly complex. I think sometimes it's helpful to think of things in more simplistic terms, and at the risk of oversimplifying, I'd like you to imagine the following hypothetical.

Imagine that you invite your neighbors over for a pizza party. Your neighbor, his wife and their two kids join you, your wife and your two kids around your dinner table. You take the pizza out of the oven, you bring it over to the table and you slice it up into eight pieces -- one for everybody. You dish out a piece to everyone, you say grace, and then an awkward silence falls over the table. As folks looked down at their plates, they look around the table and then they look back at you, because the slices aren't equal. Your slice and your wife's slice and your kids' slices

are all significantly bigger than the slices you gave to your neighbor and his family. In fact, you gave your family two-thirds of the pizza, and you gave your neighbor and his family only a third of the pizza.

Now, this is sort of silly, because no one would treat their neighbors that way. In fact, you'd never even think about doing this, but just imagine that you did do this. Just indulge the hypothetical. Imagine that your pizza had a roughly 12 percent efficiency gap in its slicing. How do explain this to your wife and your neighbor and the children sitting around the table?

Would you say well, my own family is more important to me than yours, so I decided to give them most of the pizza? In fact, I would have given my family even bigger slices if I could have, but I couldn't figure out a way to make those slices any bigger. You wouldn't do that, but that's what you're doing with these maps. I'd ask you to reconsider and be better versions of yourself. Thank you.

SEN. HISE: Next speaker, please state your name. You're recognized for a time not to exceed three minutes.

MS. FANSLAU: Thank you. I'm Reverend Cathy Fanslau, and I live in Raleigh. Mr. Chairman, I appreciate the House and Senate working to get these maps ready, however long it took. Being asked to do this task again is surely burdened -- burdensome and tedious.

Our state legislators have faithfully, again, done their best to prepare these maps in a fair and colorblind manner. It is my hope that the Courts accept the work that has been done in these maps and refrain from making changes. Based on the 2010 Census, these districts align with the one man, one vote goals, and you did a good job of keeping precincts together. My precinct changes.

However, I am still in the same district, and you respected city and town boundaries the best you could. I live in the diverse community by choice and I'm thankful that you've showed respect in at least keeping me in the same district, even though not the same precinct, but in my opinions, segregating such populations only creates more tension. It's not your job to create a partisan war.

If the state is moving to become more Republican, it's the responsibility of the

Democrats to change that. You surely can't accomplish creating more Democratic districts by how you draw lines. These maps are fair and legal. They follow the letter of the law, as understood today. Better policies in our state can make a difference on both sides of the aisle. Maps enable North Carolina to be fair and respectful of all people.

Thank you for all of the hard work in preparing these maps, and it is my prayer that somehow, someday we do find ourselves in unity. Thank you.

SEN. HISE: Thank you. Next speaker, please state your name. You'll be recognized for a time not to exceed three minutes.

MS. SALZER: Thank you, sir. My name is Grace Salzer. I'm a native of North Carolina and four years a resident of Wake County.

Right now, I am so proud of my state and everybody here who has taken the time out of their busy schedules to come to this hearing. I know many of you have been here for hours.

What I'm not proud of right now is the North Carolina General Assembly and its unconstitutional machinations -- most especially

from the North Carolina GOP. Y'all are acting not just like losers, but sore losers. You're changing the rules of the game because you are afraid to fight fair. And don't get me wrong, gerrymandering is wrong regardless of party, which is why the only proper solution is going to emerge from an independent voting commission.

The NCGOP used unconstitutional means to get their way last time, and now they're putting lipstick on a pig and trying to convince me that it's not a pig. Y'all, this is North Carolina. I've been to enough pig pickings that I know what one looks like. Give us an independent voting commission or stop pretending you actually give a damn about party over people or people over party. I want the people of this great state to only have to worry about fighting over things like eastern versus western barbeque, or Duke versus Carolina basketball, not their fundamental right to have a voice in the democratic process.

Look to make it easier to vote, not harder. Consider race only inasmuch as you can make sure that the votes of people of color count, not to unconstitutionally redraw districts. Resist your baser urges and the silence on the power and

let an unbiased, outside party redraw these maps. You can do better; you know you can do better. So please, for the sake of our citizens, start acting better.

SEN. HISE: Next speaker, please state your name. You're recognized for a time not to exceed three minutes.

MS. DITTMER: Ladies and gentlemen, thank you for allowing me to speak today. My name is Melissa Dittmer, and I have been a Raleigh resident for nearly 30 years. I'm also a mom.

I have been hearing members of the NCGOP whining that Democrats gerrymandered the state for years. It's honestly like listening to my seven-year-old son. It's time to grow up. If the GOP is not ready to do that, it's time for all of you to step aside. We are disgusted with the childishness, and frankly with the plantation owner mentality. North Carolina deserves equality and justice. We also deserve legislators who are picked by the constituents, not illegally gerry -- gerrymandered districts, which were deliberately created to allow legislatures to pick voters who will vote them in. It is time to put this in the hands of a nonpartisan committee, so the very

people who created the unconstitutional maps are not involved in redrawing them. Let's see what happens when the districts are drawn in a non-partisan manner. Thank you.

SEN. HISE: Next speaker, please state your name. You're recognized for a time not to exceed three minutes.

MR. COOK: Hello. My name is Mitchell Cook. First of all, I'd like to say that I just graduated from NC State, and usually on the first day of class -- some of us stay, the Professor says; I don't want to see any cell phones in class on the first day, and after that it's not an issue, so with that -- anyway. I'd like to just ask -- ask you what are we doing? Does it help democracy? Does it forward the principles of democracy, which you were all elected to uphold?

We all know why the districts are drawn the way they are. Everyone in the room knows why gerrymandering happening -- is happening and we know that it has happened.

I just want all the lawmakers in the room to ask themselves; do my own political aspirations, do aspirations of my party really deserve to supersede the will of the people and the principles

of democracy? I think everyone in the room knows in their heart what is the right answer, and whether or not the lawmakers will choose to act on the right answer -- what is just and what is fair and not necessarily what is just illegal, is up to their own will, but I really hope you can find in yourself to do that, because ultimately you have to look in the mirror at night and live with yourselves and ask yourself, did I do something to just help myself, or was I really working for the good of the people and really helping everybody and all the North Carolinians. Because we're North Carolinians first. We're not Democrats or Republicans. We're all North Carolinians. Thank you.

SEN. HISE: Next speaker, please state your name. You're recognized for a time not to exceed three minutes.

MS. GOLDSHLAG: My name is Marni Goldshlag. I am from Durham. I'm a volunteer with Democracy North Carolina, and I'm an Indivisible.

I'm here today because I feel strongly that the legislature which was elected from gerrymandered districts which the courts have declared illegal, should not be the body redrawing

the districts. I don't believe that this legislature will draw maps which are any more fair than the old ones.

This is especially true because they're using the same mapmaker and clearly have partisan goals in mind. These legislatures have -- legislators have used unlawful gerrymandered maps to win elections in 2012, 2014 and 2016. They have spent millions of taxpayers' dollars defending these bad maps in court, while writing terrible laws and being totally unaccountable for their actions.

Enough is enough. It's time that North Carolina have districts which are drawn fairly without racial or partisan bias. It's time for our districts to allow competition for the legislative seats. It's time for the legislature to stop playing these games and for the courts to take the process over. Ultimately, it's time for a nonpartisan commission to be the entity to draw legislative maps. Thank you.

SEN. HISE: Next speaker, please state your name. You're recognized for a time not to exceed three minutes.

MS. FOSTER: Thank you, I appreciate your

time. My name is Caroline Foster. I'm from Durham, North Carolina, but I grew up in Davidson County. So I appreciate, again, the time for those of you that have stayed, it means a lot to us as citizens.

So you've heard a lot of people saying the same thing over and over again today. The courts and the people of North Carolinas are in near-unanimous agreement. We demand a nonpartisan districting process. Despite the guidance of the courts and popular opinion, the North Carolina legislature has acted to obstruct and subvert the creation of their voting districts yet again.

In the context of the racially polarized population, which we have in North Carolina, partisan gerrymandering is the same as a racial gerrymandering. You have unapologetically, unabashedly announced that partisan gerrymandering is in fact your objective, and that you will grossly ignore data that would help you service minority communities. This de facto embrace of the old, shameful Jim Crow playbook makes the actions of this legislative -- legislature especially troubling.

These are not the actions of true public

servants. These actions are motivated by selfishness and fear. Each of you has, in this moment, the opportunity to do better, to be better. A true public servant finding their districts rejected by the Courts and their voters would go above and beyond to make their districts and to be open about the process that produced them. I am certain such a public servant would not re-hire the same consultant who produced the flawed maps to begin with.

For North Carolinians to have confidence in our government, we demand better and open compliance with the law and not secretive processes designed to protect an illegal, unconstitutionally, unconstitutional supermajority.

Nonpartisan redistricting is very clearly a popular issue. Embrace it and then get to work. Winning in the voting booth, rather than try to cling to power through backroom machinations. If you are too afraid to fight a fair fight at the polls, what does that say about your ability to faithfully represent the people of North Carolina?

Thank you again for your time. I appreciate you staying, and I hope that you use this as an opportunity to reconsider your actions

and do the right thing. Thank you again.

SEN. HISE: Thank you. Next speaker, please state your name. You're recognized for a time not to exceed three minutes.

MS. FULCHER: Good evening. My name is Nan Fulcher, and I'm from Hillsborough, and I'd like to speak to two issues.

One is considering the maps. These maps appear to have all the criteria that the redistricting committee has agreed to -- equal population, contiguity, county grouping, municipal boundaries, incumbency protection, compactness, and fewer split districts. Compared to the 2011 maps, the new ones are a huge improvement. The districts are built exclusively on intact voter tabulation districts, at least from the resolution of the urban areas that I could see, and you can tell at the glance they -- they look compact. They look better without any fancy calculations, and they don't have all the squiggly lines that people hate. The maps, then, are a great success because they prove you can meet the Committee criterion and still achieve extreme partisan gerrymandering, nonetheless.

Congratulations; you've achieved the goal

on the very first try. Things should be wrapping up more quickly than the public even suspected. It is time, also, for the public and all people involved in redistricting to understand these criteria can be used as smoke screens for more partisan, extreme boundary drawing. A long time ago, they were developed to help the process to make things look better and less gerrymandered, but now they're working against us. People need to see this.

The second issue is transparency of the redistricting process. The redistricting committee should provide a list of the technicians that are assisting Dr. Hofeller and whether they're staff or contractors, a list of legal counsel, and to specify the location of the mapping process. The reason these issues are important is they relate to what happened in the 2001 mapping process. Testimony from the Dickson versus Rucho -- the redistricting case has the following information. Several lawyers were co-counsel, including former Republican Representative and Budget Director Art Pope, who directly influenced the boundaries of the districts. Some staff were hired four months prior to the release of Census data to work on the

groupings and the last point is the Republican Party Headquarters contain the redistricting data base, and those sorts of things should not be repeated.

SEN. HISE: Thank you. Next speaker, please state your name. You're recognized for a time not to exceed three minutes.

MR. PHILLIPS: Good evening. I'm Bob Phillips with Common Cause North Carolina, and not my intention to have been to be the last speaker, but here I am -- I guess even my board chair has left the building. But I will say this, I've been very impressed with the number of people who've come here and at all the other the satellite sites. They've come with a lot of emotion and a lot of passion. You all may not have agreed with everything that has been said today and this evening, but I hope that it does give you a representation that a lot of folks are upset, and a lot of folks do feel like we need to change the way we do redistricting and you all -- many of you know me, I'm a lobbyist. I've had the opportunity to come to your offices and talk to you directly about the cause of redistricting reform.

And when I look up from the dais and I

look around the room, I see a lot of allies for redistricting reform. Some of you former champions, some of you current champions, that elusive goal of getting everyone together at the same time doesn't have to be elusive. We're not going to give up on that. But what I will say and you know that when I've talked to you all in your offices, is we need a new process. We need fairness. We simply need to take the politics out of the process.

I remember 15 years ago, when I've stood shoulder to shoulder with other folks -- with the late Senator Ham Horton, a Republican who was the champion in this body for redistricting reform. And we stand shoulder to shoulder with the bipartisan group of lawmakers who also are supportive of redistricting reform. And Senator Horton's bill and the House Bill 200 and all the bills that have been filed in between have the same thing in common; it had fairness. It had a sense of taking politics out of the process. It was an independence to it as well as more transparency.

I know that you all do know what the right thing to do, and I know that a lot of you all have heard that tonight, and I know that some

people will say, well, there's no such thing as a nonpartisan process, and I say that's a bit of a cynical view. You have rules that you have to follow -- equal population, whole county, abiding by the Voting Rights Act. The rule to take politics out of the process can also be a rule you follow. It's an insurance policy for both parties, so that when you're in the minority, you know that you're not going to be gerrymandered into irrelevance.

I don't really know whether the maps are fair and legal; the Courts will decide that. But I do know that the paths to a fair and legal map is reform, and I know that a majority of North Carolinians want you to take that path. So again, thank you for your service to the state.

SEN. HISE: Thank you. Any other speakers which signed up prior the 6:30 deadline, wishing to speak at this point? Seeing none, the chair will recognize Chairman Lewis for a statement.

REP. LEWIS: Thank you, Mr. Chairman. I want to thank all the members and the public that are here tonight. I want to thank you for participating. I would like to say one of the

speakers who spoke earlier before she left early, commented on the number of empty chairs that were in this room. I did want to state for the record that we have 10 members of the Committee who were presiding at the satellite sites, and by my count at least six members of the minority party who are also present at the satellite sites. I think the characterization that the Committee was not present is certainly not a fair one.

We will work to continue to comply with the order of the Court, which states, for the record, that 14 days after -- 14 work days after receipt of the order of the Court is when the House map was released -- 19 total days. So, again, I appreciate everyone for their time tonight. We will -- it's our intention to continue this discussion on Thursday after we've reviewed the comment from tonight, and again, I do hope everyone travels home safely.

SEN. HISE: Having exhausted the list of speakers wishing to give public comment, this public comment meeting is adjourned.

(End of proceedings.)

STATE OF NORTH CAROLINA

COUNTY OF GRANVILLE

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings held on August 22, 2017, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 28th day of August, 2017.

Robbie W. Worley

NORTH CAROLINA GENERAL ASSEMBLY
JOINT SELECT COMMITTEE ON REDISTRICTING

TRANSCRIPT OF THE PROCEEDINGS
PUBLIC HEARING CONCLUSION - BEAUFORT SATELLITE SITE

In Raleigh, North Carolina
Tuesday, August 22, 2017
Transcribed by Brad Worley

Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070

(Transcriptionist's note: the following transcript is of proceedings held at the satellite hearing site following disconnection of the communications feed from the central Raleigh site.)

SEN. BROWN: All right. Next on my list I have Lloyd Jones. Mr. Jones?

Before you start, Mr. Jones -- Mr. Jones, before you start -- I don't know if you've heard, but each individual site is going to go ahead and record responses or your comments tonight, so all this will be in the record. So if you'd just feel free to say what you were going to say before this change. This will allow us to move along so you won't have to be here to midnight tonight, okay? All right, Mr. Jones.

MR. JONES: My name is Lloyd Jones, Jr. I live in Roper, which is in Washington County. I believe these maps comply with the Voting Rights Act. These maps strictly follow the old county provision as allowed by law. I hope the courts will respect the constitutional role that legislatures have in drafting district lines. The drawing of legislative districts is the responsibility of the elected branches of government. I respectfully request that the courts

refrain from changing redistricting laws and standards after the lines have been drawn.

And President Trump won 76 of North Carolina's 100 counties. You can't win the legislature while losing North Carolina's small and medium cities, as well as almost all of the rural areas. No maps can fix this for Democrats. Only better policies can. These maps are fair and legal. Thank you.

SEN. BROWN: All right. Next I have Carol Phelps from Washington County.

MR. PHELPS: I'm Carol Phelps. I'm from Creswell, a little town in Washington County. I spent 24 years in the Air Force and spent 22 years working for NCDOT. So I'm retired now. Now, what I gave up to come here today, I gave up half a fishing trip with my brother this morning, right on the Alligator River. But it wasn't a total loss, because I caught a baby crab, two baby perch, a really nice bass that I couldn't keep because it's a half-an-inch too short, and a catfish, and it'd been a shame to put him in the pan by itself. So I hit the road and -- and came on up here.

I'd like to commend the panel that worked on these maps, because now Washington County is one

piece. My job as the Chair was twice as hard when it was split down the middle. So I really appreciate that. I think you put a -- a -- a fair job as you could putting it together. And though everybody's never going to be happy, there's so much that can be said and done, but there has to be a point where the line is drawn and we go forward. I hope nothing changes quickly that we have to go through this mess again, because it causes a whole lot of hard feelings with everybody, in every party.

With that being said, my family reunion gets nasty, because my cousin is the Chairman of the Democratic Party in Washington County. So we stay on different sides of the front yard once when the party starts. But I thank you for your time. I thank you for all the work that you do. And I'm proud to be a citizen of the State of North Carolina and the United States of America.

SEN. BROWN: Thanks for that. Richard Friend?

MR. FRIEND: I prefer not to hold the mic. If I can, can I put it on my cuff?

SEN. BROWN: Yes.

MR. FRIEND: My name is Richard Friend.

I live in New Bern, Craven County. In Covington v. the State of North Carolina, the U.S. District Court found that the North Carolina legislature had violated the U.S. Constitution by illegally drawing 28 districts. This has created a pretend or illegitimate democracy. The -- the legislature continues in its pretend democracy today with these hearings.

The concept of notice and opportunity is a well-established principle in law. An excellent example of that is North Carolina Statute 160A-364, which is the statute that controls notice for zoning changes. That statute requires two publications in a newspaper of general publication in a period not less than 10 and not more than 25 days before the hearing.

This hearing -- the original notice on this hearing came out Friday. At least that was the first notice I received. And that was through the internet, not from the legislature, not from any public source, but from a private source. The maps were published then, at least one of them; the second one came out shortly after that. And the data supporting them, this 16-page document, I printed this out this morning. I was able to

access it late last night, less than 24 hours before this hearing.

I ask the U.S. District Court to reject this sham of a public hearing for lack of appropriate notice. The legislature seems to place the importance of zoning changes considerably higher than the voting -- excuse me -- voting rights -- requirements. Thank you.

SEN. BROWN: Thank you, Mr. Friend. Next I have C.F., I think it's Pittenger.

MS. PITTENGER: My name is Brett Pittenger. I am from New Bern, North Carolina. The spirit of the federal gerrymandering ruling calls for a transparent and thorough effort representing all the voters in North Carolina. The Joint Redistricting Committee had, at one point, the opportunity to use a -- or utilize a non-partisan approach, and they rejected it, moving forward with their -- their maps protecting gerrymandering and the incumbents largely elected by the gerrymandering process.

If the legislature moves forward with these maps, which many of us think is what you're going to do no matter how many of us are outraged, it is my hope that the three-member federal panel

finds not only these maps, but your intent morally reprehensible and removes this responsibility -- this redistricting responsibility from the legislature and places it with a non-partisan commission. Thank you.

SEN. BROWN: Thank you, Ms. Pittenger. Next I have Bill Roach.

MR. ROACH: I'm from Carteret County, and I came along to the speakers today. And I wrote all this stuff down, and now it's all jumbled up. But it looks like we started out on this because our first effort to redistrict ended up in the Supreme Court, and they told us we did it wrong. It cost us about, what, four or five hundred dollars? And we're probably going to do the same thing; it's going to cost us more money. I hope, at some point, if they have something where it says, we can't give teachers a raise because we don't have enough money in the budget, that the legislature will be ashamed of themselves. Or there will be a rainy day fund shortage where we have a hurricane down here in Beaufort County.

A couple of thoughts that I heard today that I -- they talked about -- one guy said something about, well, the Democrats did it for

years. And they did. And they did it for Jim Crow laws. They did to suppress -- for racial suppression for 100 years. They were wrong. The Republicans got into power. They've done it. The Supreme Court said, you tried to keep a certain group of people -- make it harder for them to get to the polls. Okay. The Supreme Court said it. It's not -- not a matter of -- doesn't amount to nothing. So here's another group.

Any time that you're trying to suppress a group who may or may not agree with your opinion, Democrat, Republican, liberal, conservative, you're a supressionist. You're a supremist. And if you happen to be white, fill in the blank. So if you support it -- now, I don't think all the majority parties did this, but if you support the system that's set up to do it, sorry. It's just -- that's the way it is.

I think this is the most important issue that we've got going right now. I think if we could resolve this one issue to where we have non-partisan, we could have a true debate in North Carolina. We could have -- we could -- we could have this state improved for everyone. We'd have a conversation about what's right, about what we

think is right. You wouldn't you have to worry if you were -- if you win your primary, all I have to do is out-conservative or out-liberal whoever that is. I've got to get to the left of Bernie or to the right of whoever, and then I'm going to win because I'm safe. Let's have a conversation, figure out a way to make it a non-partisan agreement. Other states are doing it; it's working for them. Thank you.

SEN. BROWN: Thank you, Mr. Roche. Next I have Jodi, is it Lones?

MS. LONES: Lones.

SEN. BROWN: Lones, sorry.

MS. LONES: I'll be brief because I don't have a lot to say. Because, frankly, I haven't time to look at the maps. I'm a full-time taxpayer. I had something going on this weekend. And even though the legislature has known about this since June 5th at the early -- at the latest, I mean, here we sit, right before the deadline, trying to have a public hearing, trying to have everybody speak at once. And I just wanted to express how frustrated I am with this process and how it really hasn't given us an opportunity to speak.

SEN. BROWN: Thank you, Ms. Lones. Next, Helen Robinson.

MS. ROBINSON: My name is Helen Robinson. I'm a voter in New Bern. I'm a taxpayer in New Bern. And I think I realize today that I'm an unhappy donor to the legal fund to pay for bad maps. The citizens of North Carolina have been given about 48 hours to review a proposal that was ordered months ago. We're now trying, with limited time and limited information available, to decide whether this proposal represents a good-faith effort to comply with the Court and to respect the rights and needs of all voters.

Gerrymandering has long been a tool of partisan politics. Democrats have used gerrymandering in North Carolina for years. So have Republicans. Republicans have now taken, in recent years, this practice to a whole new level. Sorry, but I believe that taxation without representation is wrong.

We're trying to understand whether the Republicans in Raleigh have operated in good faith. It appears that they have simply used more invisible stitches to sew together this surgical procedure that they've done. The lack of time for

review, the failure to provide adequate explanatory information and the rehire of surgeon/mapmaker Tom Hofeller are clear signs to me of continuing lack of good faith.

The plan we have before us today seems to me like a weak imitation of a credible attempt to really cooperate with the direction of the Court. It is not fair and it is not wise for politicians to draw their own districts. We should know that by now in North Carolina. Most North Carolinians, no matter what their political affiliation, are sick and tired of gerrymandering. I wonder when the politicians are gonna hear that. We're sick and tired of it. We have learned the lesson, I think.

It's time for an independent commission. An independent commission seems to be the only way, in North Carolina, that we're going to be able to achieve a more fair system.

SEN. BROWN: Thank you, Ms. Robinson.

MS. ROBINSON: Yes.

SEN. BROWN: Next is Michael Shachter.

MR. SHACHTER: Very good, yep. Hard to pronounce; hard to spell. Okay. I'm Michael Shachter. I'm the first vice president of the

Craven County Branch of the North Carolina NAACP. And I've lived in Craven County for about 40 years. And I'm an unaffiliated voter. These hearings are a sham because the maps just came out, and there was no time to have any analysis of the implications for the effects on black or other minority voters.

It is unlikely that these maps could have been drawn fairly or justly because of the way they were done and who was in charge of the process. That is, the same people that were elected under the illegal, unconstitutional and racially gerrymandered district maps that the U.S. Supreme Court rejected and sent back to be withdrawn. These same people were, once again, in charge of drawing these maps. So it is very unlikely that much has changed with this discriminary outcome of these districts.

It is also -- the entire project is in violation of the Voting Rights Act, which states that the voting power of black citizens should be -- should not be diluted by any means. This would be in violation of the principle of one man -- well, one person, one vote and the true meaning of this -- of the concept.

The new voting districts should be drawn in a non-partisan process, not in a matter to protect incumbents or members of any political party. They should provide all voters, and black voters in particular, with the opportunity to elect people of their choosing. The districts should be drawn to represent the voting power in proportion to the characteristics of the population of our state. And, therefore, our representatives in government would truly represent the will of the people.

We have -- we have not had the time to analyze these maps, but it's extremely unlikely that these maps and districts will accomplish this goal. And that will mean that they are still in violation of the Court's orders.

SEN. BROWN: Thank you, Mr. Schachter. Next I have Jeffrey -- is it Bower?

MR. BARKER: Barker.

SEN. BROWN: Barker, okay. I'll give you a pad, here. I'm sorry.

MR. BARKER: Old man with a left hand. Good evening. My name is Jeffrey Barker. I'm a relatively new resident of Beaufort County. Before coming to Beaufort County, I spent nearly 30 years

being a lobbyist and a deeply involved observer and speaker with a legislature of another state. During that period, I was also general counsel to the Common Cause of the state and co-author on a brief for the Supreme Court of that state, by which we successfully sued the Senate of that state over redistricting issues in 1982. Redistricting and gerrymandering have been near and dear to my intellectual and emotional and political heart ever since.

I was convinced when I relocated to North Carolina, 40 years after graduating at UNC, that things would be different here. But, as I've written to many of my friends in that other state, it seems like North Carolina's having a race to the bottom with many of the other states, and they're darn near close to winning. This particular process here is an absolute, certain proof of that.

There is something terribly, terribly wrong, members of the legislature and the General Assembly, when a party that receives just over 50 percent of the statewide vote can garner over 66 percent of the seats in the General Assembly. There is something terribly wrong with the districts that lead to such malapportionment and

maldistricting. And the United States Supreme Court has agreed that the decisions that were made in 2011 were unconstitutional.

And yet, as you've heard time and time again here today and from the other locations throughout the state, the legislature continues to turn a deaf ear to this problem and to press forward as if nothing had happened after dragging its feet so long that the process, for us, has been entirely rigged by virtue of the fact that we did not get these maps until less than five days ago. And we still have not had adequate access or time to review the data underlying these maps, much less the opportunity to address the entire committee, as opposed to two members, whose appearance here today I appreciate. Nonetheless, a personal appearance is a whole lot better than the dry transcript that's going to come out of this hearing.

And I hope the legislature will recall that a functioning democratic republic only functions properly when its elected officials realize that they are there at the choice of their constituents, not for the purpose of telling their constituents what they're supposed to believe. We don't ask legislators to do things. We inform them

of our positions. And we have every right and expectation for them to responsibly respect and respond to our expectations. Thank you.

SEN. BROWN: Thank you, Mr. Barker. Bill Hines.

MR. HINES: Thank you for this opportunity. I'm really happy that you noticed that Eastern North Carolina had no opportunity to present its citizens' viewpoints on gerrymandering. And that, finally, we were finally given this opportunity at the very last minute.

The Joint House and Senate Redistricting Committee passed criteria for drawing the maps. Most of the criteria did not reflect requests from the public at previous input hearings and were passed despite objections from Democratic lawmakers. Will our input to be taken into consideration from these hearings?

The data and the files that were used to shape the new districts were only released late -- late last night. So it was too late to conclude if the new redistrict plan -- excuse me, redistricting included transparency, compact and contiguous districts, the efficiency gap calculation, equal population, no racial or partisan gerrymandering.

All these things must be considered.

Using the same consultant that drew the original, unconstitutional districts to help draw these changes, will only result in similar embedded, slanted influence. Use a non-partisan process to redraw unconstitutional legislative districts. You should pass House Bill 200 and reform redistricting measures that would take drawing maps out of the hands of politicians. I resent the process that occurred today that didn't allow me to share that with the other four meetings so that other interested people around the state could light up their legislators and let them know about House Bill 200.

I want everyone's vote to matter. Gerrymandering is wrong. It's time to fix the -- these unconstitutional violations. Do the right thing and rise above partisanship. You must perceive -- you must preserve democracy in North Carolina. Thank you.

SEN. BROWN: Thank you, Mr. Hines. Next, I have Sharon Evans with Democracy NC. No? Next I have Keith Kidwell, Chairman of Beaufort County GOP.

MR. KIDWELL: I'll stand if it's all

right, Chairman?

SEN. BROWN: Yeah.

MR. KIDWELL: I find it more difficult to speak when sitting for some reason. My name is Keith Kidwell, the Beaufort County Republican Party Chairman. Also, the first vice chairman of the Third Congressional District for the Republican Party. I want to thank our legislature for their work on these maps, although I do have some disagreement with them.

I also want to point out a couple of things that I've heard over and over here this evening. From us, as -- as well as on the -- the other locations and that is the use of the word democracy. People, we are not a democracy. Look at your historic documents, we are a republic.

Benjamin Franklin was asked, when he left the -- the writing of the constitution, Mr. Franklin, what have you given us? And he stated, a republic, if you can keep it, ma'am.

Thomas Jefferson said a democracy is the most evil form of government contrived by man. I ask any of you who refer to us as a democracy to go back and read your history books; we are not.

I also ask you to look up the word

gerrymandering in the dictionary. It comes from a salamander-shaped voting district. I do not see but one salamander-shaped voting district. I see blocks, I see sections. I don't see gerrymandering on this map, by and large. There is one, and that's the Third -- the Third Senatorial District.

With that said, Beaufort County has issues that are unique to coastal, water-bearing, and our economic engines that we have in Beaufort County. We are not closely affiliated in any way, shape, or form with Warren or Vance County or Northampton County. That's why I take issue with the Third Senatorial District. It does not work well. If you have somebody who's -- who is a representative, I don't care if they're Republican or Democrat, if they're from Beaufort County, how do they represent people in Vance County? How do they fairly understand those people's issues? Or if they're elected from Vance or Warren or Northampton, how do they understand issues we have unique to here in Beaufort County? That deal with fishing and hurricane and wind insurance and hail insurance. They don't understand that.

There's no way you can ask one senator to represent people in a district that runs 160 miles.

It would take you nearly three hours to go from one end to the other. That is absolutely unacceptable. I spoke with Senator Hise yesterday in reference to this. He indicated that this was the only way these maps could be drawn based on what the Court had said.

Representative Speciale, I'll like to ask you today, I would like to meet again with Chairman Hise, between now -- Chairman of this committee, between now, and then when these maps are finalized. Because in 24 hours, Mr. Rader and I have come up with at least six other viable options that would keep Beaufort County in a more centralized location without true gerrymandering, because that's what we do have.

With that said, I want to thank everybody for coming out here to -- this evening. This is the American process. This is what we are supposed to do. So please remember we are a republic. We are not a democracy. Come now, represent the people you speak for. Do a good job, I love what y'all have done tonight. Thank you for coming out.

SEN. BROWN: Thank you, Mr. Kidwell. Next I have Tim Buck. He left? Wilbur Costellow? Hood Richardson?

MALE SPEAKER: Gone.

SEN. BROWN: Pam Woods?

MS. WOODS: Here.

Good afternoon. I'm Pam Woods. I'm the President of Craven County Branch NAACP. Today we've heard a lot, a lot of statements and a lot of information, some of which I'm sure none of us had before. But we've been given information at the last minute for us to consider, not very good. I'm just going to make a couple points because most of the information has been passed.

I see on these maps that counties that have totally different geographic economic issues and interests have been grouped together. That doesn't make sense to me. And I'm sure if it doesn't make sense to me, with my level of understanding, it doesn't make sense to a lot of other people.

We should've been working on this or fixing this problem a long time ago. And I truly don't believe that this was just done. I heard it said earlier that they've known since June. I'm sure they did this long before 48 hours ago. It was given to us 48 hours ago, because they wanted to wait 'til the last minute. And I don't think

what we say or do is going to really matter, but we have to say it.

We must let people know how we feel, or they will continue to do whatever they want in the way they want. I think it was totally disrespectful for us to be here at 4:00 p.m. in a room this small. It can't be a public meeting if the public can't get here. They can't get here, and they can't fit in here. And after being here an hour they would've sweated and died in here. But that's just how I feel, 'cause I'm hot all the time.

So I think this was an open meeting, as was said earlier, but not a public meeting, a public hearing. And that's okay. Because a lot of things were said, and I'm sure if there is a real transcript, somebody will read it.

Using the same consultant to redraw the lines, I think was terrible. It's just the same as hiring a thief that does the vault. You think everything's going to be in there when you're done. You can't trust the results. It's just not good. And for us to believe that we -- for them to believe that we trust the results is not good.

I think it's important that we read -- we

all read and pass -- help to pass House Bill 200. It's a very informative bill, and it will enlighten anyone who reads it. Thank you for your time.

SEN. BROWN: Thank you, Ms. Woods. Next I have, and I -- this name's tough.

MR. CAGIATI: That's got to be me. Alessandro Cagiati.

SEN. BROWN: Thank you, sir.

MR. CAGIATI: Thank you for the opportunity. Thank you for the opportunity to utilize my constitutional right. As elected officials, you all took, among other things, an oath to withhold, excuse me, to uphold the Constitution and defend it. In 2011, legislation was promulgated, enacted and passed that was later deemed unconstitutional.

Now, you have the gentlemen who drew that up initially, that wonderful colored map, doing it again, with more money spent for him to do it. Whiskey tango foxtrot are you thinking?

Furthermore, with regards to this meeting, you've had at least six months, possibly a year to come up with it. On Friday, it became knowledge that this meeting was going to be held. Sunday you released the map; yesterday, you

released the backup data. Well, I'm sorry, but obviously more people showed up than anybody anticipated. The fact that they showed up is great. The fact that this meeting is held three days before you're going to vote on it, you have two days to review the testimony or opinion, statements of the public that you asked for.

Like Mr. Sanderson, who has been conspicuously absent since before the break, I hope the rest of you do not turn your back on the statements made by the people here. And it is truly regrettable that we are unable to share our views with the other people at the other sites, as they have been able to hear ours. If this testimony is in fact written down, it should be read by each and every member of the committee. And I hope the three-judge panel that is looking over this reads it as well. Thank you.

SEN. BROWN: Thank you. Next I have Beth Bucksot?

MS. BUCKSOT: Bucksot. Ever so close. I've been called much worse.

Good evening. Thank you for bearing with us in the public, including this -- this opportunity to speak. I live in Pamlico County,

North Carolina. My name is Beth Bucksot and I'm on the Chamber of Commerce board, I'm secretary for that, and also past president. And I'm the Director of Economic Development for Pamlico County. My boss, Tim Buck, was here a little while ago. He had to leave to attend another meeting, but I can tell you that our County Commissioners passed a resolution opposing the House District.

One of the reasons would be is that we would lose our representatives, who happens to be a Republican representative, Speciale. So you look at this map, showing it to you, the big area in blue is the new House District for Pamlico County. And it looks like it's a contiguous area, but it's not. That big area, blue, is apropos, because most of what you see there is water. There is no land mass connecting Pamlico County to Hyde, Dare or Currituck Counties. So that's just the opening on there.

I have here with me a letter from the Pamlico County Chamber of Commerce executive that I would like to read to you. It says, [inaudible] We thank you for taking the time to gather input from local towns, counties, individuals, agencies that would be impacted by the proposed House

district laws. This is a very important matter that impacts every citizen in the State of North Carolina. We request that due to the inadequacies listed below that you reconsider the proposed redistricting plan and leave our district as is or at the very least leave Pamlico County in a district with Craven County.

We understand that the parameters you've been given to set new districts are extremely difficult to meet. However, we have citizens and businesses in Pamlico County, as well as many of our surrounding neighbors, have great concerns regarding the current House redistricting proposal. and its impact on the historic, economic, social and civic well-being of our communities. If you move forward with this proposed district, which includes our county, there will be severe impact on small, rural, economically distressed communities, including minority communities in the county and surrounding counties. Many of these communities already lack adequate electoral -- electoral voice due to low population counts. They would, as a result of access issues created by this district, suffer the loss of what little representation, the combined interagency and nonprofit resources they

have available to them.

In addition, contiguous counties within current districts have longstanding interagency agreements in place that affect shared workforce, kindergarten through 12th, and community college education. Social service agencies, economic development organizations, nonprofits, shelters for people, animal shelters, chambers of commerce, councils of government and regional transportation, this is just to name a few. This new plan would decimate many of these collaborative efforts and detrimentally -- detrimentally impact distressed populations by creating new barriers to access services.

We recognize that those who drew the new districts did not understand the transportation demographics created by considering counties as contiguous that only have large bodies of water that touch and not land masses. The state map used by the House is a perfect example of this. It looks as though Pamlico and Hyde County are connected, but it does not show why.

Thank you.

SEN. BROWN: Thank you. Next I have R.J. Hemby. Mr. Hickman? Patricia, I think it's

Garrison?

MS. GARRISON: Yes.

Good evening. Patricia Garrison, Guilford County. I had the opportunity to meet with one of the North Carolina Senators, and they were explaining to me how the redistricting actually occurred. You'll be happy to know we get to do this again in 2020. I wonder how many people will be happy then. 'Cause the redistricting occurs when the Census occurs.

Number 1, population. Population is Number 1 in determining how the maps are drawn. You get a county, and that population is calculated. So all the one counties who get their population calculated, they're Number 2 -- Number 1. Then you get two counties, then you get three counties, and it's all done according to population.

So when you get to smaller counties, with a less-dense population, you have to combine these counties. That's how it's done. Okay? Beaufort County, okay, will change in its senatorial district. I don't agree with it. I would rather Beaufort County had stayed as it is so that their [inaudible] and economic, recreation, et cetera,

would all be represented by our senator. That's not how it's drawn, and it's according to population.

I have sat here and I have listened to people in the audience call people names and insinuate that these people that drew these maps are not honorable people. I know some of these people personally, and they are honorable, and they have tried to do a good job. And they did not draw these maps according to racial bias.

I'm proud to live in North Carolina. My family has lived in North Carolina ever since my ancestors came here from Germany 100 years ago. I'm proud to be in North Carolina. I'm not ashamed of it. Do we have things to improve upon? We certainly do. A little history lesson. In 2012 was the first time that the Republican Party became the supermajority in 150 years. That's a history lesson.

I think it's time that we come together and we try to have a conversation and we respect each other in the conversation.

SEN. BROWN: Thank you, Ms. Garrison. Next I have Noel Cayton. Next is Jim Kohr.

MR. KOHR: Kohr.

SEN. BROWN: Okay. Jim.

MR. KOHR: Thank you. I'm Jim Kohr, Craven County. I pastor Freedom Baptist Church. I'm happy with my district, because it doesn't appear as though much is going to change, but I do have several things I'd like to state. First of all, I agree with the gentleman from Beaufort County, and thank you so much. We live in a representative republic, not a democracy.

With that being said, I'd like to address our legislators and say thank you. Thank you, number one, for this site that you provided for us. I know some have said, you know, complained about the size and whatnot, but otherwise we would've had to drive all the way to Raleigh, so thank you. Also thank you for drawing these maps. And while I don't agree with everything, I appreciate your effort in the maps.

One thing that I -- does concern me is Pamlico County. I'm not from there, but they always have been closely associated with us and Craven County. And if you look at the -- as been said many times, the -- the other counties connected by water, we're actually connected by land. And I think it'd be detrimental to those

people.

Many times throughout the evening, it has been said about -- that the -- it appears as though the districts are trying to protect incumbents. But a quick glance over the House redistricting shows 83, 24, 61, 51, and 91 have two representatives already in those districts. So somebody's going to get -- not be there. And it appears as though some of these actually have two very strong conservatives in the same district, so I don't understand that -- and I try to stick to facts, not feelings.

Going back to the fact that we are a republic, I'd also like to address the courts, and have -- remind them that we do have three equal branches of government. It is the legislators' responsibility to determine law. It is their responsibility to determine the constitutionality, and I hope they'd go back to the Constitution and not their political agenda when they determine the constitutionality of these maps. Thank you.

SEN. BROWN: Thank you, Mr. Kohr. Next I have Steven Rader.

MR. RADER: Steven Rader, Beaufort County Republican Party. First thing I'd like to do is to

thank the legislature for the hard work they've done on putting these maps together. I know they've heard -- had a hard job, because the law has changed dramatically. In 2011 you had one set of laws where they had to include race and consider that very heavily. And now the Courts have said you can't include race. So they've -- they've been bounced back and forth by these ward heelers in black robes. And they've had a tough job. And we don't need any more of the court interference power grabs of the legislature's power. We need to -- they need to respect the separation of powers.

Now, some people have mentioned these non-partisan commissions. They sound good on paper, but the experience of California and Arizona shows that they often are -- end up being more partisan in their mapmaking than legislators, so that that's really not a good way to go. Sounds good on surface, not good in reality.

People talk about fair elections; voter ID is the key to that. International best practice on fair elections. And we have, again, ward heelers in black robes that are blocking that in North Carolina. There's much good in these maps. But there are some things, particularly that we in

Beaufort County are very concerned about, and that is our Senate district.

We're placed in a district that we have no chance of electing a senator, and a senator that's going to be responsive to the northern end of the district where all the population is and can get elected without giving us diddly-squat, in terms of time or consideration. That's not a good district to be in. For decades, under both Democrat and Republican redistricting, we have been grouped with the counties on the coast. We have a lot in common with them.

Now, one of the issues that's come out in all of this with these pods that were drawn, is they say that, well, if you end up in a one-member pod that we can't do anything, those lines are sacrosanct. But if you're in a multi-member pod, there're all sorts of ways you can rejigger the lines. The problem here is the line between the First and Third Senatorial District. And we've put forward three proposals of ways that could be redrawn to combine communities of interest, to reduce the -- the deviation in population to equalize that better, and also to make them more compact, 'cause one of these districts is now 11

counties.

What's been done has put form over substance. And we think that by saying it works one way for single-member pods and another way for multi-member pods is deny us equal protection of the laws. And so we have the committee, and if necessary, the courts look at that.

SEN. BROWN: Thank you, Mr. Rader. Patricia did you put your -- Garrison, name down twice by chance?

MS. GARRISON: No.

SEN. BROWN: Okay. Well, then very similar name. He'll -- here, looks like a Patricia -- and it looks like Garrison again. I --

MR. BARKER: No, I did not write my name twice.

SEN. BROWN: Okay. Anybody with a name close to that that I may be messing up here? Next up, VCR parts, it looks like the sign is -- okay. Judy -- Judy Merik?

MS. MERIK: Julie.

SEN. BROWN: Okay. Julie Merik. You can use the mic.

MS. MERIK: Thank you. My name is Julie Merik. I'm from Pitt County. It's really hard to

speak about the map that we've been given on such short notice. However, I believe that this map and really any map that has created under this -- the current process is -- is unacceptable. It seems to me, as a resident of North Carolina, that the way that we draw our voting districts is fundamentally broken and has been for a long time.

We, in North Carolina, have world-class institutions. Our state university system, our community college systems, private colleges, universities, experts in our state government, in private citizen groups and just among our citizens. We have demographers, legal scholars. We have ethicists, people who think and have thought long and hard about redistricting, and who have the skills to draw law-abiding, fair maps. All of these resources right here in our state, and yet the members of the General Assembly responsible for drawing our voting maps, and this map, insist on using out-of-state consultants.

They've created maps through less than transparent processes. They've dragged their feet, and here we are, mere days after a map has been released, having our public hearing. So why? Why are we ignoring our best people? Why are we

ignoring the requests of so many people in this room and across the -- the state? Of many of our representatives in the General Assembly that we change the way that we do this redistricting? We'd move to a better system. Why are we allowing representatives elected by and who wrote a discriminatory maps to try again?

I ask these questions, but I feel most of us know why. It's not that the people that drew these maps are worried that the people living in North Carolina -- be it by a bipartisan commission cannot draw a fair map, they're worried that they can. And they're afraid of that map. And they're afraid of that map, because that map would not allow them, as Representative David Lewis said, gaining partisan advantage. And that's the goal of this map, possibly. We don't know; we haven't had time to look at it, right? But that the goal of -- of -- that has been the goal of the way that they've drawn these maps.

And that's not serving us. That's not creating a map that represents us well. And so I say, just go back to the drawing board. Consider carefully your ethical and moral obligations to us, the people of North Carolina. Fix the process, and

then give us a good map. And then we'll come back here, and we can talk about that map. I'd love to. But we can't do that until we fix the process. So thank you.

SEN. BROWN: Thank you. Next I have John Haywood.

MR. HAYWOOD: Okay. Well, first I want to thank William Barber for streaming this live on Facebook, or I would've missed more than half the hearing. I know he's not here, but at least he'll be in the record there.

Most of what I've heard tonight about problems with the process, I agree with. And I want to reiterate that a hearing three days after the maps have been released and a day after the data is released is just ridiculous. And we really need to improve on this process and come up with something that's fair.

There's not much left to say that hasn't been said. But I would also like to make the point that these maps, just like the previous maps, seem to be symptomatic of a larger problem. Our democracy, I think, is in the process of breaking down. And if -- I think if we let this happen, the future will not judge us kindly at all.

Now, I -- I truly believe that all members of the legislature are doing what they believe is best for our state. But I really think they need to think about what -- how the process works, and is it fair? I know we're in a republic, but our republic should be representative of the voters. And right now, with the maps we have, it will not be representative of the voters.

Finally, these maps are going to also -- the -- everybody knows the big problem with them is they favor extremism over moderation. And I think moderation's what we all need, not more extremism.

I hate to sound cynical, but after just observing this, I have the feeling that the majority party who's been drawing these maps has just been doing the bare minimum. And I think they're trying to draw this out as long as possible, and they're going to try and keep this in the courts through 2018 and possible -- possibly 2020. At this point, I think probably our best hope is that the courts throw these maps out. And that's about all I have to say, thank you.

SEN. BROWN: Thank you, Mr. Haywood. That's all I have on the list. Is there anyone else that would like to speak? All right. If not,

I just want to thank y'all for coming this afternoon. I know it's been a long afternoon. We appreciate this input. This is -- this is not an easy job, as -- as you may know, I promise. And the input that you've given us, we're going to take back, and I promise we'll take a look at this input. And again, I just want to thank you for being here, and -- and sharing your ideas on what we could.

(End of proceedings.)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings held on August 22, 2017, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 28th day of August, 2017.

Brad Worley

Brad Worley, transcriptionist
Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070
brad@worleyreporting.com

NORTH CAROLINA GENERAL ASSEMBLY
JOINT SELECT COMMITTEE ON REDISTRICTING

TRANSCRIPT OF THE PROCEEDINGS
PUBLIC HEARING CONCLUSION - CHARLOTTE SATELLITE SITE

In Raleigh, North Carolina
Tuesday, August 22, 2017
Transcribed by Brad Worley

Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070

(Transcriptionist's note: the following transcript is of proceedings held at the satellite hearing site following disconnection of the communications feed from the central Raleigh site.)

REP. TORBETT: Well, we're going to move on. Are y'all ready? All right, the same rules apply. The same rules apply; you get three minutes. We have a gentleman right here, Sergeant at Arms, that's going to give you the one-minute warning and tell you when time is up. We can, if it's more effective, also have people if you would, on deck -- even though I'm using a baseball analogy over here.

So now we're going to jump ahead. Remember y'all voted for this. We're going to let Abby Connors, if she hadn't gone to sleep yet. Abby, come up here, young lady.

(Pause in proceedings; audio from Raleigh feed plays.)

REP. TORBETT: What Ralph is telling you is that we have devices up here that are recording this for this evening, okay? So all that will be heard by the court reporter --

(Pause in proceedings; audio from Raleigh feed plays.)

REP. TORBETT: And so -- so your words will be captured, they will be recorded onto the court document, if you would, just as if we were all in Raleigh, for example. Okay? So I just wanted to let you know that.

We're going to move forward with this. Abby, you made some people mad at me, because I let you go first, but I don't care. Are you good? I'm a granddad, I told them a minute ago. Abby Connors, tell us what you'd like for us to hear.

MS. CONNORS: My name is --

REP. TORBETT: It's all good.

MS. CONNORS: My name is -- oh --

REP. TORBETT: It's okay, hon.

MS. CONNORS: I'm so sorry, I get really nervous.

REP. TORBETT: You're doing great. You're doing great. Take your time.

MS. CONNORS: My name is Abigail Connors, and I am nine years old, and I live in Charlotte. I came here with my mom because the decisions being made to redistrict will even impact my first elections. Oops, I mean my first election. Districts should be fair -- everyone -- for everyone. Elections should be about what all

people want. We should pick who we want to speak for us in Congress. They should not speak -- be picking us. Thank you.

REP. TORBETT: Now back to the list. Who -- who's on deck? Casey Throneburg, Beth Henry, Anne Clifford, Sally Kneidel. All right. Hang on one second. Let me ask a question here. Sergeant at Arms, do we need to still use this microphone, or was it for -- only for thing?

SERGEANT AT ARMS: It's only for that, yes.

REP. TORBETT: So if they stand actually closer to here, you'll hear them more easier for the recording; is that correct?

SERGEANT AT ARMS: Okay.

REP. TORBETT: Y'all get that? When you speak, disregard the microphone; come to this area right here right here so you can be picked up by these microphones. Thank you.

MR. THORNBURG: Hello, my name is Casey Throneburg. Thank you for holding these hearings, but I'm not particularly optimistic, given that we have -- since we haven't been given time to fully analyze these maps and they were drawn by the same consultants who drew the previous maps which we

wasted $4.8 million defending, and the Supreme Court unanimously upheld the decision that those maps were racially gerrymandered.

Although this hearing isn't about Congressional districts, since those already had to be redrawn, I do think our 2012 Congressional election illustrates the severe impact of gerrymandering. That year 81,000 more North Carolinians chose Democratic representatives for Congress than Republicans, but we elected three Democratic representatives and ten Republicans. Republicans won 76.92 percent of the seats, with only 48.75 percent of the votes.

Before those 2012 maps were unveiled, Congressman Patrick McHenry bragged to Politico about packing black voters into a new majority-minority district. State Representative and Redistricting Chair David Lewis, tried to explain the motivations were partisan instead of racial. Lewis stated, "We want to make clear that we are going to use political data in drawing this map. It is to gain partisan advantage." Lewis also stated they were drawing districts to elect ten Republicans and three democrats because, quote, "I do not believe it's possible to draw a map with

11 Republicans and two Democrats."

Courts have not said partisan gerrymandering is legal, but instead that it is difficult to measure. The best method may -- may be with the efficiency gap. And an analysis by Professor Simon Jackson counted out of 512 US elections, dating back to 1976, North Carolina's past three elections were -- had the seventh, eighth, and 13th most pro-Republican efficiency gaps. Last year, Republicans won 64 percent of the General Assembly with only 53 percent of the votes. That doesn't even account for unchallenged districts, where safe incumbents must pander to party extremes to survive primaries. This lack of accountability leads to extreme partisanship. Under fair maps, the Republicans wouldn't have a supermajority, and unconstitutional legislation such as the Voter Identification Verification Act would not have become law.

While white nationalists like those in Charlottesville deserve vehement condemnation, they have not systematically undermined the will of African Americans in a way comparable to the North Carolina legislature. Gerrymandering and disenfranchising voters is less overt, but has a

greater impact. Courts ruled North Carolina's voter ID laws targeted black voters with surgical precision, but an Election Board audit found only one instance in 2016 where a photo ID would have prevented an impersonation attempt. Gerrymandering, however, essentially nullifies hundreds of thousands of votes.

Politicians should not draw districts based on partisanship, predicted outcomes, or incumbency protection. 80 percent of North Carolinians agree voters should be able to choose their representatives instead of politicians choosing their voters. Districts should adhere to geographic boundaries, be compact, and not split communities or precincts like the proposed maps do, such as like with the districts of Senators Ford and Tarte, here in Mecklenburg.

Our elected officials are to represent and serve the people, so let's have fair maps and a battle of ideas. Cheating by gerrymandering and disenfranchising voters is unpatriotic, disgusting and not sustainable. Thank you to those who fight gerrymandering, like Democracy NC and Common Cause. I urge the legislature to draw fair maps and give us all a voice. Thank you.

REP. TORBETT: Thank you. Beth Henry.

MS. HENRY: I'm Beth Henry, a lifelong North Carolinian. I am horrified to see our state still in the national news for anti-voter laws and unfair legislative maps that target African Americans with almost surgical precision. As recent events in Charlottesville reminded us, our country and our state need racial reconciliation and healing, but instead of healing, gerrymandering promotes racial divisions and resentment. Racial gerrymandering robs African Americans of their constitutional right to one person, one vote. This is wrong.

Most North Carolinians understand that we are all better off when all people are treated with fairness and respect, when all are encouraged to participate in our democracy, when all votes have meaning. I urge the Committee and the legislature to reject maps that have the impact of disenfranchising African Americans. Please, at this critical time, recognize how important it is to make these maps fair.

I'm also concerned that when districts are not competitive, lawmakers do not listen to the people. The maps and inadequate data just came

out, and there hasn't been time to analyze them thoroughly, but initial reviews suggest that the maps are only slightly better than the court reject -- those the court rejected that's racist. 90 percent of the districts seem solidly tilted to one side or the other. This lack of competition leads to unaccountable legislators, whatever their part. Unaccountability amounts to taxation without representation. Unaccountability means money replaces the vote. I urge the Committee not to approve any districts that lack partisan competitiveness or show racial bias.

REP. TORBETT: Thank you, Beth. All right. Anne Clifford. By the way, while Anne's coming up here, I'm going to tell y'all have been great. We've been hearing about complaints from other places; y'all have been great. Thank y'all for that. Anne Clifford.

MS. CLIFFORD: Yes, Anne Clifford from Mecklenburg County. And based on the reaction that I've heard that you've had for other speakers, I'm counting on your Southern hospitality and your concern for my feelings. Feelings are a big thing now, right?

So I'll begin by saying that hopefully

the judiciary will respect the constitutional duty of the legislature to draw district lines. The maps as drawn are fair and legal. There are more compact districts following the whole county provision. There are fewer precincts split, and city and state boundaries are respected to the best of the ability to do so.

Gerrymandering? Look no further than the historical Congressional 12th. The gerrymandering is only a rallying cry when Democrats are in the minority. When they were in the majority, it was a non-issue. Disenfranchised? Look no further than the Charlotte City Council and the Mecklenburg County Board of Commissioners.

Maps cannot give the Democrats victories they fail to gain on their own in elections. I can go through elections the Democrats have recently failed to win in greater detail, quote percentages or data, but simply put, the Democrats have lost nine out of ten Presidential elections, three straight Senate elections, 14 out of the last 18 partisan statewide elections. Drawing district lines don't guarantee outcome, but better policies that reflect the will of the voters do.

REP. TORBETT: Sally Kneidel. Next up,

Debbie Snowdon, William Brice, Austin Miller Orteneau. Did I do that okay?

MS. KNEIDEL: I'm Sally Kneidel. I'm a retired teacher and writer. I've been in Charlotte all my life. I've been thinking about the difference between gerrymandering and the strategies of the KKK and the neo-Nazis. Most Americans oppose the KKK and the neo-Nazis, especially their violence and their hatred. Gerrymandering is different from that. It's inconspicuous, almost invisible. It's carried out mostly by polite, white men in expensive suits, doing their prestigious jobs.

Most Americans don't even know what gerrymandering means, and yet the violence of the neo-Nazis and the gerrymandering of the elite are very similar in their effects. Both are white supremacist tactics to put down and disconnect people of color. Both can be effective, but in the end, gerry -- gerrymandering is much more effective and more dangerous.

Gerrymandering is killing our democracy. Not only does it leave a large portion of our population without representation, it moves us closer to a repressive, totalitarian government

owned by the ultra-rich. It says -- gerrymandering says loud and clear, quote, you don't count, you have no voice, you are other. We will knock you off the playing field. We are in control. We now own the government, and we have rigged it so we will stay in control.

I heard on NBC that North Carolina is ground zero for voter suppression largely because of gerrymandering. We are the state most tainted by racist politics, most dishonored. I used to love this state where I was born, where my dad was a politician back in the day. Now, I feel ashamed to live here in this madness. I'm glad my dad can't see it.

To the legislators, please honor our democracy and our Constitution. Please act like you have principles. If you don't, we are going to wind up in a very ugly future that is a far cry from what the Founding Fathers intended.

REP. TORBETT: Debbie Snowdon.

MS. SNOWDON: My name's Debbie Snowdon. I'm from Denver, North Carolina, and I don't know about you all, but I'm tired of being told that this system is okay because it was done to us, so now we can do it to you. That's a kindergartener's

excuse, and we need to grow up.

There are people's lives at stake. Peoples' quality of life suck because of this gerrymandering. It is so unconscionable that Raleigh continues this madness. Sorry, I'm not shaking because I'm nervous; I'm shaking because I'm mad.

The new maps are just crazy. They're submitted this late just because gerrymandering lets you do that because you don't have to listen to us. As we've heard, 90 percent of these districts are still completely locked up. And you can call it racial gerrymandering, you can call it partisan gerrymandering; it all comes down to the same thing. It's racial. We know that in North Carolina, there is no difference between the two.

This just simply means the extreme partisanship and the polarization in this state will continue. That less than 80 percent of the electorate will still continue to determine who gets in office and what policies are going to be heard, which is why, of course, we got HB2. So again, you're using the exact same company whose maps were illegally drawn, and we get to pay for it. Thank you very much.

Now, I want to share some really frightening results and they were frightening for me, anyway. This is a 2012 Electoral Integrity Project study. This assessed the integrity of electoral processes throughout the world. Within the United States, North Carolina ranked last of all the 50 states. And some of the quotes from the findings of this report are -- I'll keep it short.

"North Carolina is a deeply flawed, partly-free democracy that is only slightly ahead of the failed democracies that constitute much of the Third World." And "North Carolina can no longer be considered as a full-functioning democracy." And also, "North Carolina is the worst entity in the world ever analyzed by the Electoral Integrity Project."

I was so alarmed by these findings that I went up to Raleigh and I made appointments with my two legislators, who are, of course, Republican. There's Representative Saine and there's Senator Curtis. Both of them said to me, "Hey, you did it to us." That's -- that -- that was what I got in return. They were very frank about it. Screw you. You did it to us.

These results have been brought to

your -- these results have been brought to the legislators' attention many times, but they just brush them aside in favor of maintaining a status quo. Well, this might make their lives comfortable, and it might make their seats secure, but I've got to tell you. It's leaving many of our citizens stranded on the outside of this system and we're waving worthless ballots. Thank you.

REP. TORBETT: William Brice? William Brice? Is William in the room? I don't -- I apologize on first name. Austin or Anston Miller Orteneau? Nancy Wiggins?

MS. WIGGINS: Good afternoon. I'm Nancy Wiggins. I've been a voter in Mecklenburg County since 1977. The purpose of my testimony is to implore the state legislature to finally make the most equitable districts that are fair-minded regarding the citizens, giving them competitive choice for their representation.

Since Gomillion v. Lightfoot, Baker v. Carr and Reynolds v. Sims, the directive of the U.S. Supreme Court has been to have equitable proportional representative districts regarding population and socioeconomic demographic factors of citizens. For far too long, the legislative agenda

on this matter has been to satisfy and maintain the -- the dominating partisan representatives in the legislature. Totally ignoring the needs of the citizens of the -- that they represent.

North Carolina -- North Carolinians, excuse me, and Americans are practical people, and their structure of government reflects their desire to have practical policies that serve the greater needs. Currently, we are operating under an erroneous assumption that these citizens and constituents are better served by an artificially -- artificial district representation system that does not fit their needs or beliefs. Let's please live up to our commitment as Americans and as North Carolinians to live by our motto.

In Mecklenburg County, the most egregious of these senatorial -- of the districts that I have noticed under the brief amount of time I've been given to look at them, is the State Senate District 41. It needs to be more geographical -- geographically relevant to the citizens -- for the citizens' representation of this county. Thank you.

REP. TORBETT: Thank you, ma'am. Martin Doherty? Have I pronounced your name wrong?

Martin? Martin? Mary Degree? Mary? You're next, dear. Rachel Campbell? Is Rachel in the room? Jay Leach? Jay, you're going to be right after Mary. Ronnie Long? Ronnie, you're going to be right after Jay.

MS. DEGREE: My name is Mary Degree, and I'm a state officer of the NAACP. The right to vote is not a game. It is a sacred right won both through the blood, sweat and tears of our ancestors and it's -- you know what? It's a low-down, dirty shame that we're here today in the 21st century, going through maps. Despite having come to power by using racism for the -- their partisan gain, the GOP -- GOP caucus is unrepentant. There has been no acknowledgement or apology to the people of North Carolina, particularly to African Americans and other people of color, whose voting power was suppressed by the GOP's unconstitutional and racial, unjust maps for six years.

To the contrary, the all-white leadership of the General Assembly has played, and continues to play, the same game of putting their own interests and discriminatory agenda above the will of the people. We do not trust these maps which were driven -- drawn by the same hired helper --

helper who drew the 2011 racially-gerrymandered maps, and which was commissioned by an illegal legislature that has failed at every turn to act with integrity.

Instead, an independent special master should be tasked with drawing new maps to ensure that the law is followed and not the directives of an illegal legislature that the federal courts have already found guilty of intentionally acting to suppress the votes of African Americans, and that numerous federal and state courts have been found guilty of passing legislation that flaunts the federal and state constitution and the will of the people.

These games must stop. The GOP leadership of the General Assembly has repeatedly argued before the courts that it is impossible to quickly remedy their unconstitutional maps. But now that they have lost their Supreme Court appeal, we see the truth, that maps can be created in days when the General Assembly decides it has to. We deserve an apology for the inexcusable games that people have played. Justice delayed is justice denied. Thank you.

REP. TORBETT: Jay Leach? Jay Leach?

MR. LEACH: I don't know about you, but I look forward to the day when the economic miracle in North Carolina is so miraculous that the County of Mecklenburg can afford a microphone that amplifies voices. I understand they're making them now.

I'm Jay Leach, and I'm minister of the Unitarian Universalist Church of Charlotte. Here and around our state today, many have asserted and will assert that Republican redistricting is a regressive, irresponsible, racially-biased offense of a system steeped in white supremacy. I don't disagree with that assessment. Regrettably, it is insufficient.

Yes, Republicans are the problem now, but they are following a cynically crass course invoked by North Carolina's Democrats to their own biased ends. Ever since Governor Gerry of Massachusetts used this political sleight of hand to create his salamander-shaped district, the status quo has used gerrymandering to protect and defend its own interests. Nothing I or anyone could say today will change this. You will keep on with surgical precision cynically trying to defend your own power. While Democrats -- when Democrats are back

in the majority, they will do the same thing.

If you wonder why the fastest-growing political affiliation is unaffiliated and why many opt not to participate at all, look no further than this practice. Your shared cynicism has not only fueled the raging fire of political animosity and encouraged the mass exodus from party politics, it has sown the seeds of social unrest. You have colluded to create the kind of mistrust we saw in our streets last September and which we will surely see again. When people cannot trust the political process, they will look for and find ways outside of it to give deepest expression to their concerns, complaints, aspirations and ideals. It is abundantly clear today. We do not, we cannot and we should not trust this long-practiced process.

REP. TORBETT: Ronnie Long? Next up, Ralph Geddes or Geltes. Ralph here? Mary, I apologize for the last name -- Hasmart [phonetic]? Mary? Mary? Louise Woods? All right. You'll be next. Bueller? Bueller? Yvonne F. Rhines? Is it Ms. Rhines, or is it Devonne? I'm sorry if I'm mispronouncing. Is she here? Okay. Go ahead, sir.

MR. LONG: Good evening, ladies and

gentlemen, and to the Chairman of the Committee, Mr. Lewis. I appreciate the opportunity to speak here. My name's Ronnie Long. I'm a -- been elected as an at-large member for the North Carolina 8th District Republican Party. I'm also a business owner in Cabarrus County, a father, grandfather and a great-grandfather. Don't let the gray hair fool you; I'm only 47.

A word to our members of the House and the Senate that are here. You guys have caught hell tonight. One thing that some of the public may not know is that they had planned to have a longer time to work on this situation. They were supposed to be going to Raleigh on September 6th and work on this through November 15th. My understanding is it was what -- within the last three weeks, the courts have come back and said, you got until -- and then they shut us down quite a bit.

I am not in favor of the maps that we have drawn. Now, the Committee has done as good a job as possibly they could with what they had to work with. I have to tell you, I'm very disappointed in the people that they hired to do this work. I think anybody with any kind of common

sense could have sat down, thrown darts at a map over their shoulder and done a better job than our quote, hired map drawer has done.

The gerrymandering has got to stop. We can't use that as an excuse anymore, though. We have got to set up a system here in North Carolina that represents all of the voters. I don't care if you're pink, green with purple polka dots. Doesn't matter whether you've got an R, a D, a U, or a whatever behind your name. We all need to have fair representation.

These folks that we have elected to represent us need to know that we're standing behind them, but they also need to know that they work for us. We remind them of that, and we ask them to please go back to Raleigh, take this information that we've given them in public hearing. And I have to say, this has been one of the worst episodes of a public hearing I have ever seen. Learn from it, put us together a map that will pass Superior Court or Supreme Court final say-so and get us back on track like we need to be. Enough of this he said, she said, the Democrats did it, the Republicans did it.

Look, let's get it right, folks. We got

a very short time to do it in. The Committee's done as good a job, I guess, as they feel like they could in a short period of time, but quite frankly, I think they left us woefully short. Thank you for your time.

REP. TORBETT: Thank you. Louise? Louise Woods? James Doermann?

MR. DOERMANN: Yeah?

REP. TORBETT: James, you're next. Steve Abraham? Steve Abraham? Carl Gandel? You're next after James. Bob Diamond? Not here. Chris Turner?

MS. WOODS: I thank for the opportunity to speak to you today -- tonight. I'm Louise Woods. I am a resident now of Mecklenburg County for the last 50 years, but I grew up in eastern North Carolina in the Farmville area. And my family for generations and generations has lived there, since before the Revolution, as a matter of fact. And so I have a heritage, my heart -- is as a North Carolinian and my heart breaks right now. My heart breaks when I feel like that the ideal that I was taught in public school, the ideal that I felt that North Carolinians believe -- North Carolinians believed in and were working toward has

been destroyed. And that is one man, one woman, one vote. My heart breaks because I'm -- I am -- for the last seven years voted, and my vote hasn't counted.

How long do we have to wait? How long is justice denied? How long when we know that my senatorial -- state senatorial district, for example, is like this in a little circle and got a big table that goes across Independence Boulevard on North Independence -- goes across Independence Boulevard down to Monroe Road, all the way down to Villa Heights.

Now, it doesn't take any -- it really doesn't take anything but a little logic to know that that was gerrymandering and that that took away the rights of African Americans. It took away the rights of everyone who lived in that district, and that's happened all over the state. In seven years, nothing. We still don't have our right to vote. And I'm angry about that. I'm frustrated.

I want to tell you that -- that any public school -- excuse me, student in North Carolina could tell you that if half of the people vote -- it's Democrats, approximately. If half of the people that vote as Republicans, and if

two-thirds of the legislature is in either party and one-third in the other party, something's wrong. It doesn't take a judge to figure that out. Anybody in the legislature knows it. You know it's wrong, and you need to do something about it, and you need to do it now.

One other thing that I don't understand. Republicans -- many Republicans, I believe, really would like to have non-partisan maps. I know every Democrat I've talked to now, since the Democrats are not in charge, but every Democrat now is saying they want non-partisan maps. So why don't you get together? Why is House Bill 200 not even allowed to be put up for a vote? Why doesn't every representative demand that your leader put it up for a vote and then take it to the Senate? Give people a chance. Give our -- give our -- at least give our leaders a chance to vote on a non-partisan plan. Thank you.

REP. TORBETT: Thank you. Thank you for coming out. James Doermann. How do you pronounce the last name?

MR. DOERMANN: Doermann.

REP. TORBETT: Doermann.

MR. DOERMANN: Yep.

REP. TORBETT: Excellent. Thank you.

MR. DOERMANN: Good evening. My name's Jim Doermann; I live here in Charlotte. In 2005, in December, I was part of the force of Marines that was occupying a part of Iraq. And we were encouraging the voters of Iraq to participate in the first free and fair elections that the nation of Iraq had had since 1958.

And now 12 years later, I'm in my own state watching my fellow citizens have to fight to have free and fair elections in their own state, here in the United States of America? You can't understand how upsetting that is to me to know that we'll send people overseas and dump trillions of dollars into wars overseas to spread democracy, and then we have officials in our own cities and states that fight against letting us have fair and free representation in our own country. It's disgusting and it's anti-American.

There have been a lot of really great points that have been made here tonight. And I don't want to rehash a lot of the same ones because -- you know, whether it's been coming from Republicans or Democrats, the overwhelming message coming from everyone is that these maps don't work.

These maps are terrible.

The solution coming from both sides of your constituency is set up a system, a non-partisan committee or some non-partisan form of creating voting districts that don't create such partisan divides. Everyone's pointed this out. It's the Democrats did it, the Republicans did it. You know, like, we've heard this time and again tonight, and it's time to put a stop to that. You can do that. Be the representatives who stand up to the -- you know, the House majority whips or whoever it is that's -- that's forcing this to continue. Stand up to them and vote for your constituents. Thank you.

REP. TORBETT: Thank you, James. Carl Gandel, then Chris Turner. Gavin Edwards? Gavin Edwards? Gavin Edwards? Robin Taylor? Robin Taylor? Susan Harden? Susan Harden? I'm sorry, Carl, go right ahead.

MR. GANDEL: My God. My fellow North Carolinians. Oh, look it's 2017, it's 2017 and we're still talking about race. Are you kidding? Are you kidding? Unbelievable. 2017 and we still have a racism problem. It's never been a race problem. Notice I said it's a racism problem. We

still have a racism problem. It has always been a racism problem; never a race problem.

And thanks to the hate rhetoric of our divider in chief, it's only getting worse. So I say to our fine representatives in Raleigh, who are tasked with getting these maps right, to get colorblind. Get it right. Get on the right side of -- of history. Get woke. Country over party. Country over party. Do it right.

REP. TORBETT: Thank you, Carl. Chris Turner.

MR. TURNER: Thank you very much. I come before you as the elected official for the Mecklenburg County Republican Party. I am a millennial. I have been here for about eight years. I work for a company here in Charlotte. I'm raising my family here in Charlotte.

First of all, I want to thank our representatives. It is disappointing to hear from grown adults terms like white supremacist, Nazis, neo-Nazis for people who are drawing maps. There's a big difference. I'm a history major. I'm a religion major. I might have been out of class for a while, but there's a big difference between that and drawing maps.

That being said, as the representative for Mecklenburg County and speaking about the county, let's get past platitudes. Let's get past the talking points. Let's look at the statistics. In 2016, Hillary Clinton won Mecklenburg County by 294,000 votes to 150,000 votes against Donald Trump. That is two-to-one. Two-to-one. In our State House, we have eight Democrats and four Republicans. Two-to-one. Sounds like the maps that they drew work just fine.

In the Senate, it's three-to-two. Democrats to Republicans. The maps got it right. Am I disappointed in that? Do I wish Mecklenburg County would be more Republican? Absolutely. That's why I ran for office, and that's why I'm going to continue to work to turn that around. Because in Raleigh since 2010, Republicans have proven that the Carolina comeback is real.

We have lower taxes, we have better business, we owe less debt to the government and we all as citizens have more opportunity. That being said, look at the city council. Nine-to-two; Democrats to Republicans. You don't hear me complaining about districts. We've got more work to do in Mecklenburg County as Republicans. The

county commission, I think, is seven-to-two. You don't hear me complaining about district drawings.

I'm going to work harder and bring better policies in these local races to win the way we have done on the state and national level. This is not about districting. Donald Trump, whether you like him or not, he won 76 counties out of our state. Our state has rejected Democratic policies, and we are seeing that countless times in non-partisan and partisan races across our state.

As soon as people realize that the Republican values that are being led through our Raleigh leaders are what's best for our county and for our state, then the better we'll be able to move past this absolutely ridiculous statement that our maps are what's holding Democrats down. It's their policy. Thank you very much.

REP. TORBETT: Thank you. Dan Steele. Dan, you're next. Laura McNamara. Okay. Sarah Cassie -- Casey? Sarah Casey? I'm sorry, but Dimple Shah? Is that right? Okay. Did I do your name okay? Excellent. Thank you. Abbey Dunn. Joanna Hollingsworth? Joanna Hollingsworth? Elliott Willingham? Elliott Willingham? Steve Rundle? Steve Rundle? Jay Moore? Jay Moore?

Lenise Melton? Okay. So we have Dan, right?

MR. STEELE: Yes, sir.

REP. TORBETT: We have Dan Steele, Laura McNamara, Dimple Shah, Steve Rundle, Lenise Melton and Mary Bowman. Is that correct? Thank you. Dan, sorry.

MR. STEELE: It's all right. My name is Dan Steele, and I was born just a few blocks from this spot, grew up on Rea Road, graduated from Myers Park High School, and I've spent a combined total of seven years on two degrees from UNC Chapel Hill. I say all that simply to provide a background as to how much of a personal, vested interest I have in the future of my state.

I'm also a healthcare professional. And so directly serving the citizens of this state is my professional mission, as well as my personal conviction. Every doctoral program including the clinical doctorates like the one I recently completed, involves training in research methods and principles.

One of the most basic concepts in research is that of bias. Much attention is paid in peer-reviewed settings to conflict of interest and how those can cast doubt on the validity of all

findings that follow them. It's important to remember that bias does not require malicious intent in order to negatively affect the outcome of any scientific undertaking. This is a basic and uncontested principle known to every first-year PhD student.

I will not use this public forum to express my personal opinions on the -- on the intent of the GOP lawmakers who drew our current legislative maps. What I will say to the Republican legislators is that if you wish to be taken seriously in your assertions, that your intentions are to have fairly represented elections in North Carolina, then prove it by appointing an independent non-partisan committee to draw legislative maps using scientific statistical methods to ensure as fair a system of representation as possible.

The current method of politicians choosing their own voters is a glaring red flag that would immediately fail peer -- fail to pass peer review in any respected research journal. I understand that politics is not a laboratory science. But the impact of what happens in the legislature tangibly effects the lives of millions

of vulnerable citizens like the patients I treat every day. So surely any honest public servant owes his or her constituents the most fair and systematic way possible to determine their representatives. Take this decision out of the hands of both Republicans and Democrats. Demonstrate your willingness to eliminate even the appearance of a conflict of interest and take the first step towards restoring shattered voter trust in our democratic system. Thank you.

REP. TORBETT: Thank you, Dan. Laura McNamara.

MS. MCNAMARA: Hello. Thank you for being here. Thank you for staying so late. I'm Laura McNamara. I'm from Charlotte, North Carolina. I'm 27 years old, and I know a lot of people my age would like to voice their opinions here today, but they couldn't be here at the four o'clock start time. So I do feel I'm speaking on behalf of many like-minded folks; that I'm ashamed to be part of a state that is called the worst efforts of gerrymandering in the United States. It -- it ashames me and it's why I'm here today because I just felt like I needed to say something. I needed to protest. I needed people to hear that

we are not okay with this.

The new maps are not fair. They are still unfairly divided by race and income throughout party lines that were designed by legislators that are interested in their own benefit. I understand it has happened in the past, and I just want it to stop. I want non-partisan efforts to re-draw the maps. I want new maps. The current maps are -- I echo other speakers in saying that we need the courts to throw them out and we need non-partisan people to create a new map in order to create a fair voting system that respects democracy. We need maps that are free from partisan politics, that ignore voter registration data, past election results, and incumbent addresses that are used to draw the lines that benefit the people in power.

The new maps must comply with the Voting Rights Act to give minority voters, whose voices in North Carolina have been suppressed for decades, the chance to elect candidates of their choice. This is an issue that is imperative to upholding a democracy, and we cannot expect a fair representation of our citizens until these maps are fairly drawn. Again, thank you for being here and

staying 'til the end, and thank you for listening.

REP. TORBETT: Thank you.

MS. MCNAMARA: Thank you.

REP. TORBETT: Dimple Shah. Thank you.

MS. SHAH: Thank you. Thanks for having me. My name is Dimple Shah. I live in Matthews, North Carolina. These maps are still being gerrymandered. Less than 36 hours before the only opportunity for public comment on the proposed new legislative maps, the NCGOP finally released the correlating election data. We see why they don't want the public to have time to see and understand these new maps.

We compared the proposed maps to the current unconstitutional ones. Of the 16 GOP-held NC District House Districts Flip NC has identified as the most flippable based on past election results, 11 have been slanted more heavily for the GOP while only two were drawn more favorably for Democrats. The other three were unchanged.

Make no mistake; the NCGOP is actually trying to benefit from having drawn illegal racially-biased maps in the first place and the court order to redraw them. These lawmakers were elected under unconstitutional maps, and now

they've used the most recent election results of data on demographic changes to try to preserve as many Republican-held districts as possible and limit competition. This is what racism looks like.

Though the GOP can, and will, technically argue that they fixed the problem of overt racial gerrymandering, they have simply returned to a model of precise partisan gerrymandering no fairer than the model used to draw the illegal maps in the first place. This is an arrogant, cynical attempt to adhere to the court's ruling while blatantly disregarding the spirit of the order to draw districts that would result in fair representation for all NC -- North Carolina citizens.

These new proposed maps are actually more favorable to the GOP than the current ones, and they do nothing to address the fact that the current legislature was elected based on unconstitutional maps. This is a clear attempt by the NCGOP to cement their illegal super-majority, and one that the court should reject for a number of reasons.

Most flagrantly, they've reached well beyond the areas affected by racial gerrymandering and redrawn many districts that were completely

unaffected by the court ruling. The court ordered the NCGOP to address a narrow set of districts it determined had been racially gerrymandered with near-surgical precision, and the NCGOP has used the court order as a chance to redraw much of the legislative map in its favor.

Historically, Democrats and Republicans have both been responsible for gerrymandering. Now, the GOP is showing that they have no interest in drawing fair maps. The future of North Carolina's democracy depends on all of its citizens to make their voices heard and demand the power to draw legislative maps be removed from the legislature. And they should be drawn independently, and we should have fair maps. I tell my children that they must play fairly, and it's not too much to ask for our legislature to play fairly as well. Thank you.

REP. TORBETT: Thank you, Dimple. Steve Rundle.

MR. RUNDLE: Bless your all's hearts for being here so late. Good God. I'm - I'm going to be brief and not rehash too much, but I do want to point out that one of the fundamental things at -- at work here is a racial bias and a discriminatory

intent. What we -- we have to look at what happened back in 2013 when the Supreme Court removed the shackles off North Carolina and were -- and they no longer had to submit their voting plans to the Justice Department. It -- Katie, bar the door. We -- we got voter ID laws. You know, voter suppression measures. Things to make it harder for those of -- in our communities of color and those, you know, who are -- they would be biased against due to race or party to get out to vote. Plain and simple.

And what we have here, just to look at the maps that we have coming out or look at the process that is keeping all of us here for hours on end, essentially a process that -- that gives you only a fifth of the voice because you're taking the entire state at one time as in a -- in a commentary period. And -- and a process that doesn't give you the data backing up the maps to really be able to evaluate in time.

So when we have had a legislature that -- that has tried -- tried to get away with stuff, been found by the courts to have discriminatory intent in what -- in what they have tried to get -- get away with in the past. This -- this map is --

is supposedly a correction of that. It's clearly not. It's just the latest example, exactly, of - of the egregious way this -- this legislature has tried to suppress the vote and -- and, you know, have a racially biased intent in the way they are doing things.

So bless your hearts. I -- I -- I would also support a non-partisan way of doing this. You know, it's simply become too refined with -- with the -- with the electronics and the way they can literally gerrymander things right down the middle of the street these days, you know, based -- based on voter things. You know, for years and years you could never get it that -- that fine. Now, both parties have the technologies, so we have to move to a non-partisan way of doing this.

But I -- I just have to point out, tonight with the process that's taking this long, keeping us all here, and -- and suppressing comments from a lot of people because of the cumbersomeness of the process. You know, it is just the -- the latest example of, you know, a legislature that doesn't want to open this up to comment, that doesn't want to pay attention to the courts and does -- doesn't want to -- and we will

see you in court again. Thank you.

REP. TORBETT: Lenise -- Lenise Melton. Did I do your name -- first name right?

MS. MELTON: Yes, that is correct.

REP. TORBETT: Thank you. And then Mary Bowman. Thank you, Mary.

MS. MELTON: My name is Lenise Melton. I'm a resident of Gaston County. I work here in Charlotte. All of my voting life has taken place in North Carolina. I grew up in South Carolina. I'm just really discouraged about this whole thing. I'm going to say that it feels like theater to me. Like, nobody really cares what the citizens want. I'm sort of like the voting process; I've got an appeal, but I'll do my best.

In a democracy, the voters are supposed to pick the representatives. The representatives are not supposed to pick the voters, but both sides do. It doesn't really have a lot of sway with me. When Democrats were doing it, they weren't nearly as good at it, and two wrongs do not make a right. I'm pretty sure my parents taught me that. I'm pretty sure all your parents taught you that. They taught you that. I like to see the best in people. I like to think that whatever's in their heart,

it's for the good of all of us. And it's just really getting hard to always think that.

I really like this gerrymandering map. I don't know if anybody else has showed it to you. How you take a representative population, and there's four ways to do it. There's straight line. There is perfect, so that it comes out equally. There's compact, but completely unfair. And there's neither compact nor fair. And it feels like North Carolina picks winner number four. And the entire -- and we're leading the way. Other people are going yeah, let's do that. We're setting a terrible example.

And my other chart that I brought -- and it's not about the state legislature, because I have a full-time job. I'm not an activist. I'm not representing anybody, so I don't have time to dig through all these maps and figure this out for the state legislature. But I don't think -- that guy that was just quoting statistics about how it's exactly right because of Hillary's vote? I don't really think that's a good representative example.

This is a New York Times thing that lines up nine states. North Carolina comes in third behind West Virginia and South Carolina for the

most unrepresentative legislative nationally. I think in '12, we were 44 percent Democrat votes and got three out of 13 seats, for 23 percent. And then it got worse. It got to 44 percent and we still have the same, you know, terrible 23 percent of our, you know, national seats. And you know, when are you going to be ashamed? When it's 51 percent, and we still only get 23 percent of the seats?

I just would beg you to be the bigger party. Be noble. Show us all in North Carolina and the country that we can do this non-partisan and we can win on ideas. We're a purple state. We need purple representatives. Thank you.

REP. TORBETT: Thank you, Lenise. Mary Bowman?

MS. BOWMAN: My name is Mary Bowman, and I am a minister here in Charlotte, North Carolina. I just really wanted to weigh in, in a general way, about just the importance that every voice really matters in North Carolina. That I think gerrymandering we've seen so often that we're seeing our elections determined at the primary stages. That we're really not allowing full votes to be cast and to be heard. And it's just

something that's so important.

Many others have pointed out that both parties are certainly guilty of this. I'm right in the middle of reading about Alexander Hamilton and the forming of our country. And we simply are asking for true, sort of, leadership in terms of allowing the process to really benefit all voices. And just really encourage that the current legislature would -- would take leadership. That they would allow that neither party has done this process very well and that it's really time to turn it over to an independent and bipartisan commission that can really analyze and get things to a more fair value. So thank you.

REP. TORBETT: Thank you, Mary. Ladies and gentlemen, wow. We started out, the room was just absolutely burning up. We had to turn the AC up as high as it would go. Thank you all so very much for attending. Very much, from the bottom of my heart. This is -- this means a whole lot when you participate, and we need more of that across our state and -- and country.

MR. WILLINGHAM: I thought I was on as well.

REP. TORBETT: What's your name, sir?

MR. WILLINGHAM: Elliott Willingham.

REP. TORBETT: I'm sorry. I called your name earlier, and I marked you off for some reason.

MR. WILLINGHAM: I didn't hear you, obviously.

REP. TORBETT: I'm sorry. We have one more. Elliott Willingham.

MR. WILLINGHAM: Thank you. I'm coming here from work. As a teacher, I'm always good about showing this like -- what this looks like to me. And also as a lifelong Presbyterian, my grandmother -- go back to my grandmothers of elder, many, many years. And she always went back to Micah. Love justice, show mercy and walk humbly in the eyes of God.

So when I looked at the map the other day for the district that I'm assigned to according to the new representative map, that's a combination of 67 and 99. To me, it kind of looks like this. Forgive me, I'm not -- not the best drawer. There. All right. Kind of like a fat cat, if you may, with the tail that's been cut off. Kind of what my -- my neighbor's cat used to look like when some relatives got a hold of the -- the tail here.

In any case, you have a -- a district

here where you have one representative, Representative Moore, who lives in Charlotte. Now, coming against Representative Burr, who lives in Albemarle down here. With fully about 50 miles between them, correct? Okay. Well, not 50 miles -- I'm sorry. About 50 minutes in terms of driving distance between you.

Now, how is -- when I looked at the map, how is this going to best benefit those families and constituents that live in Charlotte versus those that live in -- I guess this is fast-growing suburban Cabarrus County, rural Cabarrus County going into Stanly County which is mostly rural as well? It doesn't make sense. It's not showing that basic common-sense principle about, you know, love and justice, showing mercy -- mercy, and being humble in the way that we utilize our -- our -- our -- our -- ideas in terms of democracy.

Again, being a lifelong Presbyterian, we're supposed to believe in representative government. We're supposed to believe in making sure the people are represented fairly. This, in this particular case, isn't showing that to me. And that's beyond all the other historical issues that happened with our redistricting efforts here.

Please keep this in mind. There's got to be something better here. There's got to be. The fat cat really ain't working.

REP. TORBETT: Thank you very much. Let me start by announcing that I'm not seeing anybody else that was here to speak and I did not call your name. I do apologize again, Elliott. All right. That -- that is all I have. Thank you all for being here. Thank you all for participating and this meeting is -- unless anyone has any last -- adjourned.

(End of proceedings.)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings held on August 22, 2017, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 28th day of August, 2017.

Brad Worley

Brad Worley, transcriptionist
Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070
brad@worleyreporting.com

NORTH CAROLINA GENERAL ASSEMBLY
JOINT SELECT COMMITTEE ON REDISTRICTING

TRANSCRIPT OF THE PROCEEDINGS
PUBLIC HEARING CONCLUSION - FAYETTEVILLE SATELLITE SITE

In Raleigh, North Carolina
Tuesday, August 22, 2017
Transcribed by Brad Worley

Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070

(Transcriptionist's note: the following transcript is of proceedings held at the satellite hearing site following disconnection of the communications feed from the central Raleigh site.)

REP. SZOKA: Ladies and gentlemen, because some of the other sites are having difficulty with their audio and their video, a decision has been made to disconnect all the remote sites. And we're going to continue this public hearing here today just within the site where we are right now.

So we have been recording everything that we've been doing so far. Everything that has been said here and everything that will be said here will become a part of the permanent record, will be transcribed by a court reporter when the tape of this, which -- as I said, it's been recorded from the beginning until now and will be through the end, is sent out to Raleigh. So any questions about that? Yes. Yes, ma'am?

FEMALE SPEAKER: So is this over with now?

SEN. JACKSON: No, ma'am.

REP. SZOKA: Well, it's not over right now. No, ma'am. We're going to continue this --

we had a committee that was distributed over the state. Now we're -- we're going to continue with myself and Senator Jackson as the chair here to run the committee for the public hearing right here, right now. And if you were signed up on the list by 6:30, you'll still have your opportunity to be heard. All of your comments will be transcribed by the court reporter and will be entered into the permanent record. So --

SERGEANT-AT-ARMS: John, if everyone's still here, we have 15 speakers.

REP. SZOKA: Okay. So let me go through the list here to make sure that you're here. And if you are here, would you just raise your hand? If somebody isn't here -- is out in the parking lot on a smoke break and comes back in -- when they're called, the rules say that they'll be allowed to speak after everybody else is here.

So the next two minutes or so, we'll get Mr. Buxton up, then Linda Devore, Hiram Reynolds, Ray Hudson, James Baker, Harold Mendelson, I'm sorry if I butcher your name, Amariche Hawkins, Lelia Harrington, Maude Gibbs, Susan Mills, Michael Mills, Al McSurely, O'Linda Watkins, Dennis Biddle and Mitch Colvin.

So you'll still have three minutes to speak, and when you come up to the microphone, please identify yourself. And if you choose to say what group you're representing if you're representing something, however you choose to do it, say that for the record. And the Sergeant-at-Arms here will keep time as he's been doing. He flashes up the one-minute warning. When he puts up to stop, that means stop.

So any -- any questions on that? It's really the same thing we're doing -- we've just been doing here. So -- you're ready now?

MR. BUXTON: Yes, sir.

REP. SZOKA: Please identify yourself for the record, and you have three minutes.

MALE SPEAKER: If you feel comfortable about picking that thing up out of the microphone stand, go ahead and talk into it that way. Either way.

MR. BUXTON: I'm Jimmy Buxton, President of the Fayetteville branch of the NAACP, here in Fayetteville, North Carolina. I'm really disappointed to stand here as I did back in 2011 in Raleigh in the same manner that this is the comments about redistricting and actually having

people to tell the representatives at that time that they were drawing racial gerrymandering districts.

I'm also disappointed that when I went to my state representative, who I thought maybe could give me some information on the maps that were drawn this past Friday and Sunday night, they were put out at that time, that he could give me some information on it. At that time, he told me he didn't have any information, mainly because he was not called to sit in on this redistricting, which means that's a sham. If he sits on this redistricting committee and was not allowed to have input for this map drawing, it's a sham.

The three-judge panel has already deemed that these maps that were drawn before 2011 were unconstitutional. After reviewing the redrawn maps, I feel that they are unconstitutional. These maps were drawn to benefit those who are set in their mind to not give Medicaid to thousands of people, to cut education, to take away the power of the duly elected governor.

Gerrymandering is a way of forcing the outcome of the elections in their favor. I hope and I pray that this three-judge panel will hold

every legislator that is responsible for this in contempt and have these maps redrawn again and that can be fair to elect people that -- and will elect -- to elect and to reject those people that are duly running for the election. Thank you.

REP. SZOKA: Thank you, sir. Next is Ms. Linda Devore. Please approach the mic, identify yourself and you'll have three minutes when you start talking. Thank you.

MS. DEVORE: My name is Linda Devore. I'm not here to represent any organization. These are my own remarks. I've lived in Fayetteville for 37 years. And my ideas and my thoughts on not only the 2011 districts, the 2001 districts, the 1991 districts, the 1981 districts and the districts we're looking at today may not reflect any particular group's perspective other than my own.

First of all, I want to thank our members in the legislature for the good work they've done. Because as I look at the new districts, the ones that are proposed here tonight, I realize that for a very long time, we've been -- this -- that these districts go a long ways towards correcting a wrong that's existed in our state for a very long time. You don't have to look back very far. Just go back

to the 2001 districts if you want to.

You know, in -- in the 1970s, the Supreme Court of the United States made what I consider to be a very unfortunate decision. They decided that -- that in spite of -- of the bad rap that gerrymandering deserved and had gotten over the years, that political gerrymandering would be allowed in this country. So as a result of that, in the 1980s, the 1990s, the early 2000s and after the Census of 2010, states across the country, whether they be Republican or Democratic legislatures, have increasingly engaged in gerrymandering for political whim because the Supreme Court said that that was constitutional in this country.

There is a case before the Supreme Court which will be heard this fall, which comes out of Wisconsin. The case is Gill versus Whitford, which may reverse that. And that will be for the benefit of all of us. But what I want to tell you is that the maps we're looking at tonight are by far, on their face, the least gerrymandered districts we've had in the State of North Carolina in the 37 years that I have lived here.

I was one of the first to speak out in

early 2012 and 2013 about the designer districts that were created in 2011. You know, it wasn't just here in North Carolina. Software got to the point by 2011 that either party could design districts to benefit their partisan interests. There were irregular boundaries in our districts, there were land bridges joining largely contiguous areas, split precincts, split communities. And if you look at the line, the line in our county between the Senate 19 and 21 District, the boundary was an embarrassment to fairness. I don't see how anybody could see a different way, no matter which side of the aisle you're on.

We need a reset. And here's the thing; these nine districts that we're looking at tonight, they are a reset. We are looking at compact districts, regular boundaries. They bring together communities of common interest. There are nine municipalities in Cumberland County. Eight of them are -- eight of them are unsplit. The ninth -- the ninth municipality, which is Fayetteville, is too large to be within one district.

Y'all, we're looking at the best job I've seen in Cumberland in the state of North Carolina in the 37 years I've been here. Thank you.

REP. SZOKA: Please finish up. Thank you. All right. Hold your applause, please. Hiram Reynolds. Hiram Reynolds. Hiram Reynolds. All right. We'll go on. If Mr. Reynolds shows up, he'll be able to finish speaking then. Ray Hudson. Sir, please identify yourself for the record, and then you have three minutes.

MR. HUDSON: Certainly. Yes, I have -- if you're the gentleman I want to speak to, do you mind if I turn this mic around?

REP. SZOKA: Either way. Whatever makes you comfortable.

MR. HUDSON: My name is Ray Hudson. I'm from Montgomery County, a rural county. Somebody said you live in the sticks --

REP. SZOKA: Would you -- excuse me, would you get closer to the mic, so that you it gets picked up.

MR. HUDSON: Certainly. My name is Ray Hudson. I live in Montgomery County, it's a rural county, close from -- is this good? Well, someone said, do you live in the sticks? I have to drive five miles to get to the sticks to buy gas. That's how far out I live. And something I was told in that community is you don't use harsh words,

particularly in mixed groups like this when we just don't know anybody. But to be perfectly blunt, my parents told me that, my teachers. But frankly, they never encountered the legislature we've got now. And I'm going to have to use some blunt words.

North Carolina used to be known for intelligent, progressive leadership. We have a little bounce in our step. We saw somebody from South Carolina be blunt, we go hmm. Well, folks, we can't do that anymore. North Carolina is not that intelligent, progressive leadership anymore. We're about bathrooms, gerrymandered districts and voter suppression. And I'm ashamed of it. There's no excuse for it.

Now, this -- I used to teach. I've done a number of things and I told those children, you be proud you're American. And I still tell people that. That the political system works, it's fair, you have to keep fighting. That's a lie now. It's a flat out lie. You have disenfranchised people.

You got a man -- and I'm going to use -- I'm going to say a -- well, scoundrel crook, whatever to draw those first districts. And then, lord, you give them the job a second time. That's

like the crook got repelled the first time, so we're going to let him have another crack at breaking into the house. Don't tell me that's fair. It's simply not. And here's what's so bad about that.

You probably figured out I am a staunch Democrat, and I am, and a proud one. But I want two strong, competitive parties that we can respect. Going to be blunt with you. Conservative -- heard that first word when what it meant was, we didn't want the blacks in the schools. It was a code word for a bigot. If I'm insulting somebody, I'm sorry. But y'all can fix that. You can have Eisenhower-type conservatives where we can respect you and disagree with you. You start by coming up with a fair commission to put together the districts. And I thank you for your time and have a good day.

REP. SZOKA: Thank you for your comments, sir. Next up is Mr. James Baker.

MR. BAKER: My name is James Baker from Cumberland County. First of all, thank you for the opportunity to comment on the proposed redistricting for the North Carolina Senate and House. I have two points I'd like to make.

First, from what I've seen in the preliminary maps, both those presented here today and those presented in other settings and from what I've read about the redistricting plans in various media outlets, the new districts apparently respect the principle of contiguity; all the parts of each districts seem to be connected. Along with this, the new districts seem a good bit more compact than some of the ones we presently have.

As a former elections worker myself, I'm encouraged when we don't have a lot of voting precincts that are split by district lines. I'm also encouraged that the new district boundaries, for the most part, don't seem to violate municipal boundaries very often. For the most part, district lines should hopefully allow citizens to vote with the same neighbors they work and shop and play and worship and go to school with. Wherever possible, district lines should respect communities and neighborhoods. And as far as I can tell, most of these do. That's my first point.

My second is this. Elected legislature -- elected legislators have a constitutional role in drawing district lines. We do not have a parliamentary system. Statewide

election results have never been expected to determine the precise percentage of legislative seats won or lost. To the best of my knowledge, it has never been constitutionally required of the executive branch or the judicial branch, or for that matter the legislative majority that they should compensate for weak performance at the ballot box on the part of the current legislative minority. Now, policy differences exist, but that's not the same thing as legality. It's easy to call something unethical or immoral or unfair, but that's not the same thing as legality, either.

And finally, it's easy to charge that something is illegal; but just saying it's that way doesn't make it so. As long as the proposed districts comply with the one man, one vote requirement; as long as they contain approximately equal populations under the 2010 Census; as long as they comply with the Voting Rights Act; as long as they follow the law as it's currently understood; specifically, yes, to include court precedents and rulings now in effect; then these maps are legal, and they deserve our support. Thank you.

REP. SZOKA: Thank you, sir. Next speaker is Mr. Harold Mendelson. Sir, please

identify yourself for the record, and you have three minutes.

MR. MENDELSON: My name is Harold Mendelson. I am from Moore County, and I appreciate the opportunity to speak tonight. I would like to say that the purpose of the redistricting is based on the ruling of the Fourth District Court of Appeals which stated that they felt the existing maps were racially biased. The redistricting as shown in the new maps did not use race as a determining factor in forming the new districts. It is in compliance with the court's mandate.

Other comments would have the redistricting ignore party affiliation. While this could be a better than -- better than the current methods, it is not the purpose of the redistricting. And this issue has no bearing on requirements of the federal court's requirements at this time.

In 1965, the Voting Rights Act established the rules to determine the -- the rules of establishing voting districts. Up until 2010, the Democrats determined the districts and used party affiliation and population in determining the

districts. When the Republicans came to power in 2008 in spite of the Democrat gerrymandering and maintaining control in 2010, this was the first time that the Republicans had an opportunity to create these maps.

In 2011, the Department of Justice approved these voting maps. And then in 2016, there were number of lawsuits that were instigated against the maps being racially biased. And eventually the -- the Department of Justice joined in on these suits. This brings to light that the real reason behind the lawsuits -- and the reason was to -- and that reason was to reduce the power of Republicans. When the Democrats were in power, why didn't they remove political affiliation from the districts?

The comments here was that an outside company created maps. That's not correct. The outside company supplied the software, and the legislators supplied the limitations or -- or the actual specific areas for that -- redrawing the maps.

All right. Now, these new districts comply with the federal courts; at least, apparently so. It would obviously be up to them to

make the final determination. If the -- if the public wants to remove party affiliation from -- from determining districts, then they should ask their representatives to create bills that will do so. If the representatives don't respond to the voters, then they have absolutely -- that can be resolved in the elections.

REP. SZOKA: Sir, if you could finish up?

MR. MENDELSON: I'm done.

REP. SZOKA: Thank you very much. Our next speaker -- and again, I apologize if I butcher your name -- is Amariche Hawkins. Is -- is there anybody with the last name of Hawkins here? Hawkins, one more time? All right. We'll hold that to the end as well. Next speaker would be Lelia Harrington or Harringbon.

MS. HARRINGTON: Harrington.

REP. SZOKA: Sorry. Again, I apologize.

MS. HARRINGTON: It's okay. You said Lelia.

REP. SZOKA: Lelia, okay. I was never a good speller. So --

MS. HARRINGTON: Hi --

REP. SZOKA: If you'd approach the mic, identify yourself for the record, please. And you

have three minutes. Thank you.

MS. HARRINGTON: Hi. Hi. My name is Lelia Harrington. I'm a retired veteran. And I'm speaking here on behalf of myself and on the veterans. Now, I had a look at that map. You have 76 districts for the Republicans on that map and 52 for the Democrats. And I'm not even familiar with this map because I haven't had a chance to really study it. I just briefed over it.

Now, my vote should count. Now, you all can get up here and you can -- like the young -- like the man before me and you can talk about oh, this map is great. But you don't know this map is great. This map is crap. I fought 21 years. I served 21 years in the American Armed Forces. Army. For the First Amendment. The Second Amendment. Every damn amendment on the Constitution. How many of you all have served? And here I stand. Every day I have to fight for my rights as a woman that served and you all have not. I have to fight for my right for me to vote.

My son was kicked off voter registration -- who served in the Armed Forces. Why is that? And you going to tell me this is fair? No, it's not fair. It's a piece of crap. I

counted, and I don't even know that much about this map yet. Okay. You are going to win. You fear my vote. But instead of you reaching across the aisle getting to know me, you would rather suppress my voice. You can reach across the aisle and get to know me. Hi, my name is Lelia Harrington. This is who I am. Oh, you don't want to shake my hand? Okay. I -- this is what I'm talking about. This man don't want to shake the hand of a black woman who served in the Armed Forces, but he wants to tell you he's fair. What, is my hand too dark for you? Am I too dark for you? See, you fear my vote because you don't like me. But my vote is going to count. This is crap, and it will be turned down. And this time the courts will do it. Said all I had to say.

REP. SZOKA: Thank you for your comments. And just for the record, three of the four legislators up here are veterans. Next is Maude Gibbs.

MS. HARRINGTON: You served 21 years? I don't think so. And if you couldn't shake my hand you shouldn't be called --

REP. SZOKA: Ma'am, your time is up, please. Is Maude Gibbs here?

MS. GIBBS: Yes, I'm here.

REP. SZOKA: Yes, ma'am. Please approach the mic. Identify yourself for the record, and you have three minutes. Thank you.

MS. GIBBS: Yes, sir. Thank you. My name is Maude Gibbs. A lot of the stuff I've seen here today is ridiculous. The disrespect I've seen to one of our legislators. Whether you like him or not, I know he served this country. I know this for a fact. My family -- I have a third of my family are veterans. My ex-husband's a veteran. And let me tell you one thing. Half my family are officers. Army, Air Force and Navy, all three branches. I have several first cousins who are [inaudible].

This is craziness, is what's going on in this country right now. This gerrymandering been going on forever; definitely in the Democrat party. Let's keep it real, missy. So when -- when Republican got a chance to do it, now you want to cry it's not fair. It was fair all the other time. Might as well continue being fair now. Sitting in these churches, telling lies. Knowing you're lying, not telling the truth. You know what's in your heart.

Everybody gets an opportunity to get the upper hand, you going to take advantage of the upper hand. They got the upper hand now, and the only reason they got the upper hand is because the people voted for them. If the citizens walking around didn't want them, they wouldn't be up there. That's just setting; one, two, three. Whether you're black or white, it doesn't matter -- an eye for God. Let's keep it real. Let's call it like it is. What's goose -- what's good for the goose is good -- is good for the gander, my grandmother always used to say. That's what I got to say.

Anybody don't like it -- don't care if you're black or white. I don't look at color. I look at -- I vote according to what you -- what you stand for. What you believe in your hearts. And for HB2, let me tell you one thing. I supported the ex-governor on HB2 because I'm going to stand on my true Christian values. I'm not selling out for 30 pieces of -- of gold -- of silver. Thank you.

REP. SZOKA: Thank you for your comments, ma'am. Next speaker is Susan Mills. Please approach the mic, identify yourself for the record, and you'll have three minutes. Thank you.

MS. MILLS: Thank you. My name is Susan Mills. I am from Cumberland County, and I am a schoolteacher. And I want to thank you all for the pay raise that we got. We really do appreciate it, and it's something that we hadn't seen under the Democrats. So thank you very much.

I'm very pleased the General Assembly has drawn the maps in a color-blind way with no use of racial data. These maps are fair and they're legal. Excuse me, we've all given everybody else courtesy, so if we could please do that, too. These maps are fair and legal. They follow the letter of the law as understood today. The districts are fair and compact. They split fewer precincts. City and town boundaries are respected where possible.

And I would like to say it's great to be able now that I'm going to be able to look out my window and see that my neighbors have the same sign that I have in my yard because across the street, we didn't have that. So now with the districts being redrawn we're going have that. So the towns and cities are all going be more compact and much more in common than other places.

Let's face it: there's no way to please

everybody. However, I really do believe that these districts are fair to all and comply with the one man, one vote law. I thank you all for your time. Thank you for all that you do. And hopefully we'll keep these districts. Thank you.

REP. SZOKA: Thank you for your comments. The next speaker is Michael Mills. Sir, please approach the mic, identify yourself for the record, and you'll have three minutes to speak.

MR. MILLS: Michael Mills, Cumberland County. I want to thank you guys for this opportunity to come and speak. I actually support the new districts. I also recognize that when the Democrats were in control, they did the same thing. So, you know, we -- we can't now all of a sudden choose sides and direction.

These new districts will not solve the Democrats' problems. They need a new -- they need to change their policies. For example, Democrats lost nine out of the ten presidential elections. They've lost three straight US Senate elections and 14 out of the last 18 partisan statewide elections. So clearly, the Republicans have gained approximately 125,000 state -- elector -- citizens and the Democrats have lost about that same amount.

So you guys are still running for election the next go-round, the Democrats need to get candidates and run against you guys. Thank you.

REP. SZOKA: Thank you for your comments, sir. Next speaker is Al McSurely. Sir, please approach the microphone, identify yourself for the record, and you'll have three minutes.

MR. MCSURELY: My name is Al McSurely, 81 years old. Been a lawyer for 29 years. Worked with the NAACP for every part of my life -- for 60 years, fighting against racism. I just want to try to clarify a few very bad mistakes that some of the speakers have been made.

There's [inaudible] suits; I think the two people -- two people that mentioned. One they're talking about, of course, the voter suppression suit, that was Fourth Circuit. And Supreme Court upheld that for just the Fourth Circuit. That has nothing to do with this hearing today. The hearing today is about a three-judge federal court that ruled that these -- the same maps that are hanging up there are unconstitutional -- they didn't change them at all. And this -- this case has been decided nine to nothing by Neil Gorsuch, by Clarence Thomas and

all -- all nine of the Supreme Court. So there's no appeal to this. People are kind of upset, there's going to be some kind of appeals on this. This case is not appealable. This case has been decided by nine Supreme Court judges.

The three judges that heard it -- and those of you who are here that were up in Greensboro, went up there and saw the three judges. Margaret Eagles, Jim Wynn and Schroeder -- I mean Schroeder who heard the first part of the -- of the big case. And they ruled three to nothing, a narrow three to nothing ruling stood up in the Supreme Court. That was what was adopted. So there's no more appeals. This is it.

So when the all-white Republican caucus that will be in Raleigh gets that case -- last August, the -- 12 months ago and had it for 12 months and decided not to do -- to sit on their hands for 12 months, and now are waiting until last night to tell us how they designed these new maps, they presented what lawyers call a bad faith and what the Old Testament calls unclean hands. So they've come to the court with unclean hands of sitting on something for 12 months, being in contempt both of the federal court here and of the

Supreme Court now by not recognizing any of the law that they have to go by.

So what is obviously going to happen and I -- I hope the reason I get up to talk is that the three-judge court -- this will go back to them next week in September. And they will look at it to see whether these maps meet what the Supreme Court said is the law of the case. There is no other law. And they -- and they will argue that this -- this all-white supermajority caucus that has been running our state for the last six and a half years --

REP. SZOKA: Sir, would you finish up, please?

MR. MCSURELY: -- come to court with unclean hands. And I'm hoping that the judges get a sense of how these bogus hearings were put together. Not talking about how you run this, but I'm just talking about -- general.

REP. SZOKA: Thank you, sir.

MR. MCSURELY: Gentlemen, I thank you for your courtesy. Thank you.

REP. SZOKA: Thank you, sir, for your comments. Is O'Linda Watkins here? Yes, ma'am. Please identify yourself for the official record,

and you'll have three minutes. Thank you.

MS. WATKINS: Thank you. My name is O'Linda Watkins. I'm President of Moore County NAACP. Our preliminary analysis shows House District 21 continues as it did in the illegal 2011 plans to sprawl into Sampson and Wayne Counties to maximize the black voter population in the district and limit the power of those black voters whose votes would have greater impact in fairly-drawn districts.

The same is true in Senate District 19, which is nearly entirely located in Hoke County itself except for a protrusion that is in the illegal 2011 plans. The biggest addition to the border are reaching into Cumberland County to grab black voters who would otherwise be casting their ballots in Senate District 20. Likewise, Senate District 28 in Guilford County retains -- retains the same irregular shape it did in the illegal 2011 plans and similar packing black voters into it's odd [inaudible] shape.

These maps also grandfather in race discrimination by protecting incumbents who were elected in under the 2011 racially-gerrymandered maps. Instead of protecting those incumbents who

were elected under unconstitutional maps, the proper comparison would be to the -- to the last constitutional maps for General Assembly seeks prior -- and to the 2011 were drawn.

The GOP caucus admits that they considered one, past election outcomes and two, the ability of the Republican Party to win these districts, and that they have drawn these maps for partisan advantages. House District 10 and 36 and Senate District 41, for example, combines different communities and fractured communities of interest and appear to serve only the purpose of creating a Republican advantage in those districts.

We do not trust these maps, which were drawn by the same odd helper who drew the 2011 racially-gerrymandered maps and which were commissioned by an illegal legislature that has failed at every turn to act with integrity. Instead, an independent special master could be tasked with drawing new maps to ensure that it is the law that is followed and not the directions of an illegal legislature that the federal courts have already found guilty and intentionally -- of intentionally acting to suppress the votes of African-Americans, and that numerous federal and

state courts have found guilty of passing legislators that ignores the federal and the state constitution and the will of the people. The -- these games must stop. Thank you.

REP. SZOKA: Thank you for your comments, ma'am. The next speaker is Dennis Biddle or Bidell. Yes, sir. Please approach the microphone, identify yourself for the record, and you'll have three minutes to speak.

MR. BIDDLE: Good evening. My name is Dennis Biddle. I'm a Cumberland County resident. After carefully listening to all these different comments and statements over the last two hours regarding the reconstruction or realignment of the matter at hand -- the reconstruction, realigning of mapping to me personally is nothing more than an underlying attempt to camouflage its efforts to continue the economic control for the few.

It reminds me of the 1835 treaty in which the Supreme Court found it that it was legal to remove a nation of people to a -- a prison in Oklahoma, to take through political process -- and states -- Arkansas, Louisiana, Texas -- from a people. From my ancestors, that -- I'm a -- a -- think it's like a one percent blood of -- my

great-great grandmother was Caddo Indian from Arkansas. And they had to move. But the only expense is to a prison. And other folk came in. It -- this ploy is nothing more than another repeated attempt to control the distribution of the wealth generated by middle America.

I must move personally towards the recommendation that was made by the Reverend Dr. Martin Luther King. He spoke about the disproportion of the land and -- and the disproportion of loans given to only certain people in this country to allow them to economically grow financially. He recommended that if those that stand behind these -- these ruthless and deplorable decisions to control and manipulate wealth, that we move to our other agenda. And that other agenda is nothing more than we will mobilize and we will control the support that we make in this American economy. And for those that -- those companies that represent these officials in these offices, they will feel the economic pinch in reference to their behaviors. Thank you.

REP. SZOKA: The last speaker we have is Mitch Colvin. Is he still here? Again, is Mitch Colvin here? According with the rules that were

established, I'll go back and repeat the names of the folks who didn't respond the first time, because we are at the end. Hiram Reynolds? Amariche Hawkins? Or Mitch Colvin? Seeing no one respond, we have gone through the list of everyone who signed up here at Fayetteville for this public hearing.

Before we adjourn the public hearing, I would just like to thank the -- Senator Brent Jackson and my fellow House members, Representative Floyd and Representative Lucas, for being here, as well as all the members who signed up to give -- or all the members of the public, that is, who signed up to give testimony today. We appreciate your comments, whether you submitted them today verbally or in writing. I'd also like to thank our staff, the Sergeant-at-Arms and the local law enforcement folks who supplemented our Sergeant-at-Arms. There being no further testimony, this public hearing in Fayetteville is adjourned.

(End of proceedings.)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings held on August 22, 2017, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 28th day of August, 2017.

Brad Worley

Brad Worley, transcriptionist
Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070
brad@worleyreporting.com

NORTH CAROLINA GENERAL ASSEMBLY
JOINT SELECT COMMITTEE ON REDISTRICTING

TRANSCRIPT OF THE PROCEEDINGS
PUBLIC HEARING CONCLUSION - HUDSON SATELLITE SITE

In Raleigh, North Carolina
Tuesday, August 22, 2017
Transcribed by Brad Worley

Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070

(Transcriptionist's note: the following transcript is of proceedings held at the satellite hearing site following disconnection of the communications feed from the central Raleigh site.)

SEN. DANIEL: Because of the problems they've experienced and the number of -- really, there's a high volume of speakers that are still left in the metropolitan areas, so they just want the areas to each do their own speakers that are remaining. I think we have maybe eight here that are still wanting to speak.

And so this will -- hopefully, you'll be recorded by these gentlemen down here so it still all can be part of the record, and we're going to see if we can video it too. I'm not sure if they can do that without the -- that's the point. So the next speaker, then, is Josh Brannon. Stand right here. So you're recognized for three minutes, Josh.

MR. BRANNON: So my question to any legislators who still believe in gerrymandering is, would you -- if it were legal to break into voting machines and flip the ballots, would you do that? And if not, then how do you justify gerrymandering, because to democracy, it is exactly the same thing.

In -- in North Carolina, it's -- it's very hard to quantify the effect that -- that gerrymandering has on -- on the state-level districts simply because there's so many districts that don't have challengers due to the districts being so partisan in the first place.

However, as a proxy, we can use the congressional districts in North Carolina, and in 2016, 47 percent of ballots cast in North Carolina for Congress were cast for Democrats. We elected 23 percent of Democrats to Congress. We undermined half of Democratic ballots. That's functionally no different from breaking into voting machines, flipping half of the Democratic votes to Republican.

And, you know, if -- if we're going to continue to pretend we live in a democracy, we have to fix that. We can't have a situation where one party, each -- each voter has one and a half votes and the other party, each voter only has half a vote. That -- that's what we have right now. It's -- it's looking like for the General Assembly, the -- the outcome is going to be the same. The -- the numbers have already been crunched, and out of -- out of 16 districts that were the closest to

being flipped to Democratic this past election season, 11 have now moved to be more Republican. So we're -- we're actually more gerrymandered now and not less. We have to fix this. We have to -- we have to return to a national democracy, and we -- we have to have a system where one person has one vote, full stop. Thank you.

SEN. DANIEL: The next speaker is Ted Alexander, and then following Mr. Alexander will be Charles Senf.

MR. ALEXANDER: Thank you. My name is Ted Alexander. I'm from Shelby. I serve as the 10th District Chairman for the North Carolina GOP. That covers Polk, Rutherford, Cleveland, Gaston, Lincoln, and parts of Buncombe, Catawba, and Iredell Counties. I do want to thank you for the opportunity to speak today and for holding these hearings.

I'm here in support of these maps for redistricting. And while I know that they're probably not perfect, from what I've seen, what I've heard, otherwise these maps -- compared to previous maps drawn by both Republicans and Democrats in the past, are a vast improvement from where they've been set.

The new districts, I've heard some comments that I've agreed with, the fact that they do. They are more contiguous. I think the legislature's tried their -- their best to keep the counties together where it's -- it's possible. They are smaller and more compact for the most part, and I do think that for the most part, they represent the common interest of the communities and they does -- do -- they do split fewer precincts. But my point regardless of any of that, and -- and this is my particular major point, is -- is that I know that the courts follow the North -- the North Carolina Constitution Article IV, Section 4, which says that the legislature is responsible for drawing these districts and not the courts. The -- the legislature are the elected officials. And they -- that is the body that was designated by the Constitution to do these districts.

The fact is, in North Carolina, the Republicans in the past almost decade have gained in registration by about 125,000 voters. Simultaneously, the Democrats have lost almost the same, similar amount of voter registration. They -- the fact is, they have lost -- Democrats have lost nine out of the last ten presidential

elections, and they have lost three straight United States Senate races, and 14 out of the -- they've lost 14 out of the 18 partisan statewide races. These are statewide races. And I think my estimation is that these maps are simply a reflection of that reality of voter registration.

I'm concerned that continued litigation of these maps and districts will only serve to create continued unnecessary expense, chaos, and uncertainty for voters and candidates alike.

I'm a native of North Carolina. I grew up in Burke County. I can't recall a time in our state's history where districts have been challenged over and over and over just because someone or some group doesn't like the outcome. I would respectfully request and urge the courts to abstain from further undue interference. Thank you for your courtesy.

SEN. DANIEL: Next is Mr. Charles Senf. And if I didn't mention this, please identify yourself to the microphone so that it'll be in the record.

MR. SENF: Good evening. My name is Charles Senf. I'm from Lenoir, North Carolina. I -- I -- there's so much you want to say after

what you've listened to tonight. Transparent, inclusive, nonpartisan American democracy. We were not created equal or given our rights by the political operatives sequestered in the proverbial back room. The United States Constitution demands but a simple count of male citizens and slaves to apportion legislative districts. No mention of race, religion, habits, voting registration were required then or now.

The information age has provided partisan hacks the ability to effect [inaudible] schemes with unerring precision. The computer offers a solution to the divisiveness this scheme has brought across America. Simply eliminate race, religion, gender, ethnicity, and political affiliation from the data fed into the redistricting programs. Publish open source the program and databases used so anyone might verify the process and duplicate the results. An inclusive, transparent, nonpartisan process to ensure our citizens choose their representatives and not the gerry way around. To paraphrase an old technical maxim, partisan in, partisan out. Thank you.

SEN. DANIEL: Thanks. Next speaker will

be Mr. Norm Bossert. And following Mr. Bossert will be Cindy Sellers.

MR. BOSSERT: Thank you. My name is Norm Bossert. I'm here from Transylvania County. I had a nice drive to get here. I was looking at my map up there, and I just want you all to know a fly landed directly on Macon County. I'm not sure what that means, but it means something. I'm sure of that.

In 2010, I lived in Senate District 15. We had a Senator named John Snow. Fine man, hard worker, good representative for us who ran a race against Phone-in Jim Davis -- Senator Jim Davis. That was in a Democratic gerrymander. John Snow lost that election, and we Democrats have tried to figure out why for a long time.

The bottom line is, in the districts that have been gerrymandered by the Democrats, a Republican won. And that 2010 year was a real critical election year here in North Carolina. It concerned everybody because eventually, a fellow named Tom Apodaca, who was a tremendous supporter, a tremendous supporter of nonpartisan gerrymandering in the state, nonpartisan redistricting, lost his passion for that when the

Republicans came into power. Find that interesting.

I find a hopeful note -- just as a bit of history, I find a very hopeful note right now; I'm glad you all are doing hearings. I wish they had been done differently, but I'm glad you're doing them. You certainly heard a lot of people who have opinions, strong opinions, but I'm very, very excited, because near where I live, there's a Republican named Chuck McGrady, and he was one of the principal sponsors of House Bill 200. Along with people like Stevens, Jordan, Hardister, Adcock, Ager, Ball, Beasley, Bell, Brockman, Butler, Carney, of course, Brian Turner, a good friend of mine. All of those folks, Democrats and Republicans, looking to change the way we redistrict in North Carolina.

Now, House Bill 200 isn't perfect from my point of view, and I don't love it, but at least it's a bill, I think, that has its heart in the right place, looking to redistrict this state in a nonpartisan fashion with a nonpartisan committee. I hold that to you, the current Senate and current General Assembly will look more carefully at the House Bill 200 and revisit this whole redistricting

business. The way you've done it is just going to create a lot of disorder in the state, and there's too much partisan discord already.

I personally am sick to death of the acrimony between Democrats and Republicans. I -- the gentleman who spoke earlier about the numbers of people registering, I would just remind Republicans that 39 percent of the voters in this state are registered Democrats, 30 percent are Republicans, but 30 percent are a growing group called unaffiliated voters. They're sick of it, too. They're really sick of it, and they are going to hammer us all. Thank you.

SEN. DANIEL: Next speaker is Cindy Sellers, and then following Ms. Sellers will be Emily Wilkins.

MS. SELLERS: Wake up. Get woke. If you haven't heard that phrase get woke, you're going to hear it again sometime. My name -- good evening. My name is Cindy Sellers, and I live in Alexander County. I'm retired, proud retired schoolteacher, but I am a disenfranchised voter. I have watched this state slide down the slope for hopelessness and feeling like the middle class doesn't matter anymore while carrying on their backs for the

taxes.

We have to fund the nonprofits to help the poor and watching the poor only get poorer while the rich get richer. Those without conscience gerrymander voting districts so they can stay in power and follow the directions of ALEC, the -- the legislative agenda, ALEC, and they're -- they're pushing us down -- that down our throats.

To me, there's a little bit of white supremacy that may be going on there. I'm not sure about that, I'm still wondering about that. But the Koch brothers don't care anything about us. You guys are supposed to, be in separate opinion on you guys. Being blue in a red state is infuriating, and those of us who are paying attention can see through all the games being played against the citizens by Republican legislators who march lockstep to the ALEC tune. Democratic legislators were not even given the chance to debate the devastating laws to benefit the rich and the corporation in the past. Even -- not even from the past, not even from this state.

Throw the maps you have created in secret out in the trash, please. Computer programs to intentionally favor either group should be

outlawed, and maps should be drawn with both parties present. Shame on all of you who call yourselves a Christian in these times of racism and dirty politics and won't stop this. I'm a proud United Methodist and a Rotarian, and I bet some of the legislators are too, maybe many of them. One of the things that we say at the end of all our meetings is, is it fair to all concerned? Set things straight now. Change your ways. It's not too late. You know this is not right, and my vote should count. And indivisible, we were -- will persist to resist. Thank you.

SEN. DANIEL: Next speaker is Ms. Emily Wilkins, and then will be followed by Lynn Dorfman. Is Ms. Dorfman still here? And so after that would-be Thelma Eley.

MS. ELEY: You've got that right.

SEN. DANIEL: You'll be the last one. You get the last word.

MS. ELEY: All right. Very good.

MS. WILKINS: Hi. My name is Emily Wilkins, and I'm from Durham, North Carolina. And it is my pleasure to be accompanying you here tonight because I'm traveling back from the eclipse today. So on my way home, I have to do something

political, switch it up.

In light of the unanimous Supreme Court rulings, what prevents North Carolina voters from free and fair elections? Gerrymandered maps, which disenfranchise black voters with surgical precision. These maps are no improvement. Black lives matter. Punching some folk into small pockets and stretching districts through six counties to enhance representation of predominantly white people repeats the same illegal districting.

I'd like to draw your attention to the following on the Senate redistricting plan. Please look at the District 47. It includes Madison, Yancey, Mitchell, McDowell, Rutherford, and Polk. These are six counties on the outskirts of Asheville. Also, look at Senate District 3: Vance County, Warren County, Northampton County, Bertie County, Martin County, and Beaufort County. You've already heard from your Republican colleagues that they don't like this, and I don't like it, either. Those are on the outskirts of Raleigh. Then, we have the concentrated areas. 41, suburbs of Charlotte, 28 for Greensboro, 29 for Winston-Salem, Franklin County dips into downtown Raleigh, number 18.

Dividing us by race is an old strategy to deprive everyone of access to economic, social, and political parity. Forward together, not one step back. Forward together, not one step back. Forward together, not one step back. Thank you.

SEN. DANIEL: Final speaker is Ms. Eley.

MS. ELEY: Oh, that's me. I thought Lynn --

SERGEANT-AT-ARMS: Lynn Dorfman.

SEN. DANIEL: Oh, did she come back yet? Oh, she did not? Okay.

MS. ELEY: All right. Good evening. My name is Thelma Eley, and I'm from Hickory, North Carolina. You know, sitting silently endorses agreement to an existing situation or circumstance. I stand before you today to loudly proclaim the disapproval of the quote, unquote redrawn maps. These maps are just -- they're unjust, and they do not allow proper representation of the people of North Carolina. The redrawn maps were created by the originator of the previously drawn maps, Thomas Hofeller.

Now, I believe that his goal remains the same. And that goal is the goal of the existing governing body of North Carolina, the Republican

Party. Those are the ones who -- they have proven year over year that their concern is not for the marginalized, but for those who have those deep pockets and who look more like them. Gerrymandering is not just and does not provide the voices of all North Carolinians to be heard.

As a member and a citizen of these United States of America, I -- I have the sacred right of being able to vote unencumbered and without suppression. A trusted entity must be engaged to draw the maps equitably that would provide the citizens of North Carolina the ability to voice their opinions and elect officials that will represent our voices, our issues, and our concerns. The amount of time and money that we spend on this issue could have been utilized for education, healthcare, and infrastructure. One person, one vote, and my vote should be valued just like those of the majority party. Thank you.

SEN. DANIEL: Thank you, everybody. That concludes this hearing, so we're going to adjourn the Caldwell County hearing of the Senate Legislative Redistricting Committee. I appreciate everybody coming here. Everybody was very respectful. We didn't have any disturbances like

some of the other locations had, so I appreciate your participation, and good night and safe travels.

(End of proceedings.)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings held on August 22, 2017, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 28th day of August, 2017.

Brad Worley

Brad Worley, transcriptionist
Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070
brad@worleyreporting.com

NORTH CAROLINA GENERAL ASSEMBLY
JOINT SELECT COMMITTEE ON REDISTRICTING

TRANSCRIPT OF THE PROCEEDINGS
PUBLIC HEARING CONCLUSION - JAMESTOWN SATELLITE SITE

In Raleigh, North Carolina
Tuesday, August 22, 2017
Transcribed by Brad Worley

Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070

(Transcriptionist's note: the following transcript is of proceedings held at the satellite hearing site following disconnection of the communications feed from the central Raleigh site.)

REP. STEVENS: We are disconnecting from them, and we will conduct this as a separate hearing, so we don't have to stay here all night. And as -- as you heard, we will record your words, and they will be transcribed as part of whatever goes to the Court. So that being said, Mr. Brown, Cardes Brown, you are first, followed by Kay Brandon, Linda Sutton, Margaret Salinger and Anne Brady. For a time not to exceed three minutes, we'll still do the three-minute time.

MR. BROWN: Thank you so much for the opportunity to come --

REP. STEVENS: Wait a minute. Do we have our timekeeper? We -- we just need to get our timekeeper.

SERGEANT AT ARMS: Real quick, folks, if you'd like to turn your chairs around, so you could see the speaker, feel free, but do not rearrange them as far as where they're at. Just simply pick them up and turn them around; that is fine.

MR. BROWN: Thank you so much for this

opportunity. I'm Cardes Brown. I have been privileged to serve in the Greensboro area now for more than 50 years as a pastor.

I'm very concerned about these proceedings today. The hearing, first of all, at a time when most people could not come that would've come. I think that was intentional, it was deliberate and it's obvious that we are here going through probably an exercise in futility. Our draconian legislators intended to do a mockery of -- of the democratic process. They have been doing that for quite some time, this is nothing new, and I hope that we are aware of what is being done.

First of all, they are to have this done by the first of September. They know that it is impossible to do it and do it properly in that time frame. I'm hoping that the Court will take the responsibility away from this draconian legislature and will decide for this state who should draw the map. First of all, we already know, we are wasting money, our money, taxpayers' money, going through this exercise in futility.

They have hired the same person to draw the maps that disenfranchised -- in fact, the Court

said, like a surgeon, intentionally disenfranchised African-American voters. So I have no hope that this is going to come out in a way that is fair and represents the will of the people. This is still to be a government of the people, for the people, by the people. And what has now happened is legislators have taken these things and they covered these things, they have no desire to represent the people. They are only representing their own selfish ambitions and -- and many of them.

I have gone before the General Assembly. I have been arrested. I've gone to jail fighting for something that is a constitutional right, and I'm hoping that we, who are here, will insist that by September 1 -- which they cannot draw maps complicit to the directions of the Court, that we will insist that the Court will take this process over. And many of them know that they would never be elected again. Most people recognize that these folk who have coveted and hoarded these positions would never be elected by the people if this process were fair.

So I'm hoping that we will stay together across this state and stand as one voice and insist

that we want a democratized government, and if we do it, the people will prevail. I'll stop. Thank you.

REP. STEVENS: Still -- still a court proceeding. Still being recorded. No applause, please. Thank you.

MS. BRANDON: Good afternoon. I am a resident of House District 57 and Senate District 28. The North Carolina legislature has allowed inadequate time to review the proposed map before a public hearing is being held. It appears this was done on purpose, to prevent the public from having the time to analyze the data in any meaningful way.

The public has not had an opportunity to comment on the criteria used to draw these maps. The criteria are believed to -- to be tainted because they used the 2011 maps that the Court struck down as being unconstitutional. The 2011 maps were racially gerrymandered and should not be used as the benchmark for drawing new maps.

The districts of the new map have been drawn with excessive amounts of wasted votes, which is an indication of continued partisan gerrymandering that undermines democracy. The House plan perpetuates the same strategy of racial

gerrymandering and unnecessarily packing black voters into districts limiting their statewide political power which was found to have been unconstitutional by the government.

My Senate District 28 has been [inaudible]. The legislature [inaudible] established a bipartisan committee to redraw the districts. It can be done, as is proved by the volunteer panel of retired Supreme Court judges and appellate court judges who created a non-partisan redistricting plan. Non-partisan redistricting is the only way to restore democracy in North Carolina.

MS. SUTTON: Good afternoon. My name is Linda Sutton. I'm a voter in Forsyth County affiliated with a lot of organizations. I'm a life member of the NAACP, but I'm mostly proud of being affiliated with Democracy North Carolina, a non-partisan organization that uses advocacy and education. Democracy North Carolina is an organization you need to check out. Go to our website, democracync.org, and you can view the same basic principles that we're giving to all of our legislators and this committee to use in redrawing these illegal maps.

Well, I just want to say something about this sham process. We're 200 people waiting in Raleigh and -- and don't know how many in the other areas. With seven locations mostly in small communities, would you expect to hear from the voters? No. It was set up that way. It's a rigged process, okay? The whole system is rigged. Short notice is just per statute. That's it. Just for -- you could've had it earlier. They dragged their feet in drawing this map, or maybe they didn't. Maybe they had the map drawn when, last month, month before last, right? Okay.

I'm just saying it's too little, too late. It's not going to make any difference. I believe they've already decided what they're going to do. So we're going to have to give it to our courts, we're going to have to take it further. It cannot be left at this level. Not at all.

The only other thing I want to say is -- no one has talked about this one, although they've talked about race a lot, but no one's talked about counting incarcerated persons, and so it is possible to count incarcerated persons who -- as residents of where they lived before they were incarcerated. You know, when you think outside the

box, this is just common sense.

But lastly, let me be clear, the old maps and the new proposed maps are nothing less than another power grab. They equate to the continuing white supremacy, and you know what that is. Money, power, greed and racism, okay? The voters and I are sick and tired of being sick and tired of being disenfranchised, disrespected, dismissed, which is disgraceful. To the point that people are saying North Carolina, you not even a democracy anymore, you know? I'm -- I'm -- I'm ashamed. I'm ashamed.

So I urge you, show some decency, some morals and some fairness in drawing these maps. Second thought, don't draw them, let the courts do it. Thank you.

MS. SALINGER: Hi. My name is Margaret Salinger. I'm a native of Greensboro. I represent the League of Women Voters of North Carolina. Thank you for this opportunity to comment on the draft maps. The League appreciates the committee's work to produce drafts that improve the current maps, but we certainly have a way of getting there. While we don't see the committee members as foxes, we certainly do not see ourselves as hens. We're still letting the foxes draw the maps. We need to

put the voters, not the politicians, in the driver's seat.

Voter participation in drawing the maps is the key to making this happen. Real public participation requires time and the means of assessing the degree to which these maps adhere to the criteria set by the committee as well as universally accepted standards of fairness. Citizens have had only three days to look at the House map, two days for the Senate, and just a day for the data. By delaying that drawing until the very last moment, the legislature has denied voters a real chance to have their say.

Some of the committee's nine criteria, such as more compactness and less precinct-splitting were appropriate, but others have no place in drawing fair districts. But even including appropriate criteria, the committee did not make it possible to determine how the new districts measure up. For example, the criteria called for splitting fewer districts, but didn't include a target or guidelines on when to split a precinct.

As for the maps, we appreciate the committee's reporting of at least some data on how

the proposed maps perform against their criteria, and we have used this information to -- to attempt to assess them ourselves. Since time is short, let me just hit on some of the highs and lows. The committee clearly made the right choice in adopting county groupings that conform to the North Carolina constitution, producing a map that improves on the current maps, but even if this does not, by itself, guarantee the districts -- that the districts also comply.

We also see some progress on compactness, with somewhat better average scores than last time when the Senate had [inaudible]. The House districts have fewer irregular [inaudible] boundaries; the new maps apparently will [inaudible]. This suggests that we are still falling short of fair districts.

The committee decided to avoid pitting incumbents against each other; this criterion simply has no place in a fair process. Elections should be all about protecting voters' ability to have their say, not protecting incumbents.

We haven't been able to assess how abusive political considerations of election results affected the maps, but misuse of these data

to predetermine election outcomes is what gerrymandering is all about. We share the legislature's belief in the power of competition to benefit -- benefit consumers and businesses. We believe it's good for democracy too.

Finally, the exclusion of racial data makes it impossible to say whether minority voters have a decent to elect their preferred candidates. So we can't say whether or not the League [inaudible]. Thank you.

MS. BRADY: Hello. My name is Ann Brady. I'm from Rockingham County, and I know we're all getting tired, so please forgive my redundancy. I'll try to be brief. I wanted to start with a quote I just found. Alice Ristroph is a professor at Brooklyn Law School and in the Atlantic, she published, quote, "We have figured out, more or less, how to count every person. We have not yet found a political system in which every person counts equally."

This redistricting process was non-transparent, was terrible. We had no time to analyze these maps so that we can give good feedback. We do know that Senator Berger's likely competitors were redistricted out of my district.

I do wish I felt my hour drive here would have an effect; is anybody listening?

Apparently 90 percent of the districts solidly are in favor of one party or the other where we aren't going to really have good elections. Overall, the new maps appear to be made to favor Republicans. Party favoritism should not be a factor in redistricting. So I also, as have most speakers, ask for these maps to be redone in a fair way, by the courts, by whomever.

Let me also mention, in 2015, House Bill 92 was introduced to establish a non-partisan, not bipartisan, non-partisan redistricting committee, and there were 83 bipartisan sponsors, and at least one is in here. It was killed in committee, never went to the floor, and so were subsequent attempts at legislation. If you won't do it now, please let a non-partisan redistricting commission bill get to the floor of the General Assembly, at least for debate.

At the beginning of this hearing, we were thanked for participating in the democratic process. Make our elections democratic. Every person should count equally. Thank you.

REP. STEVENS: Our next five speakers, we

have Walter Salinger, Mr. Salinger here? Walter Salinger. Lynn Bennett. Steve Cothran, and Sherry Conway Appel? Apple? Appel. Try to make an orderly line.

MR. SALINGER: How many folks are all more alert than I am? My name is Walter Salinger and I have to say that in my more than --

REP. STEVENS: Sorry, can I -- can I stop you for just a minute and -- and -- and we're just a little concerned. I'm going to let you have a whole three new minutes, but we're talking about needing to bring the mic that's -- the whole podium up here, because the actual recording devices are here. And there's just some concern that they're not getting a strong enough signal. He was watching the signals. I'm assuming they are.

(Discussion off record.)

REP. STEVENS: So please feel free to start over; you've got a whole new three minutes.

MR. SALINGER: Okay.

REP. STEVENS: And I'm sorry; I didn't mean to disrupt you.

MR. SALINGER: That's all right.

So, my name is Walter Salinger, and in my more than 75 years, I've watched a lot of politics

and a lot of politicians. I've seen elected officials who did things in office they knew weren't right, but what's going on right now in North Carolina's state -- court-ordered legislative redistricting process absolutely takes the cake, at least in my limited experiences.

What's so amazing about it is that usually when elected officials know that they're doing something wrong, they have the decency to try to hide it. But our brazen legislators don't even -- legislators don't even bother to try. The Supreme Court of the United States of America unanimously declared that our legislature is basically illegal; that current legislators held fake elections by creating and using unconstitutional voting districts.

Now, these same fake legislators are telling us that they've drawn fair maps; that they have finally created election districts that would allow us to elect real, not fake, legislators. Yet when they told us what kind of maps they were actually going to draw, they didn't even try to conceal the fact that one of their primary goals was to get themselves reelected. They called it incumbency protection, and somehow we the people

are supposed to believe these fake legislators when they now tell us that their new maps are fair. Personally, I find it easier to believe my lying eyes.

REP. STEVENS: Ms. Bennett.

MS. BENNETT: Hi, I'm Lynn Bennett. I live in Greensboro. Beginning in our school days, many of us elected class officers, voted for chairs of committees and chose leaders of teams. What we learned concerned the democratic process, the power of each person's voice, a fair way to choose direction.

Gerrymandering, the manipulation of the democratic process, dilutes individuals' voices in purposeful, unfair political practice. Gerrymandering is about partisan power, not about fair choice. Gerrymandering is not about what citizens need or prefer from their leaders, just the opposite. It is about what the leaders want for themselves. When one person's vote is diluted or denied, all of us feel the effect.

It's time for effective, fair, honest leadership by our political representatives. It is they who design the maps which determine for whom we can vote. It is they who have the

responsibility to uphold the principles of democracy. The newest political lines must permit every person to have an equal voice at the ballot box. Partisanship has no place in deciding voting districts.

At a recent community meeting, several retired judges discussed an exercise demonstrating nonpartisan redistricting. Their process took less than one half a day, and the result was a fair and easily-accomplished map for North Carolina. What is stopping our legislature from doing the same?

If they have listened to the people who have spoken today, the result will be a nonpartisan map which honestly, fairly, legally redistricts this state. Make our voting districts nonpartisan, fair and legal and put a stop to this manipulative process.

REP. STEVENS: Steve Cothran?

REV. COTHRAN: I am the Reverend Steve Cothran. I'm the associate pastor for youth and families at First Baptist Church in Greensboro. And I don't know if y'all heard about this, but there was a total solar eclipse yesterday. That means that the two celestial bodies that provide light to our world, in a rare event, worked

together yesterday, and the results were life-altering. Millions of Americans, millions, stood in awe just to catch a glimpse of that display of this incredibly rare phenomenon, and for many people, it was a once-in-a-lifetime opportunity.

Yesterday, I stood in the backyard where I grew up in South Carolina and during totality, we were able to stare directly at the sun for over two minutes. How on earth is that possible? It's possible because these two bodies worked together, and the world was amazed at the result.

You have that same power to amaze the world by working together. I know it's as rare -- sorry, more rare than a solar eclipse, but for the people of North Carolina, the people that you represent, or the people you should be representing, for those people, it will be truly even more life-changing. And it will be life-changing for you, our representatives, because that means you will have to give up some of your power. And that's scary, because you might not be the most powerful light in the sky anymore, but oh, what a wonderful opportunity that would open up for all of North Carolina whom you claim to serve.

But we don't even have time to ponder how

immoral it is for people elected by illegal, racially-gerrymandered maps to then be allowed to redraw those maps. It would be like coming home and your child has eaten your birthday cake and you say, "Son, that was wrong. You want some ice cream with that?" There are black brothers and sisters in this room today, thank God. And how is that possible? Because of the moral courage of four young men at a Woolworth lunch counter right up the road.

Do we think that you will do the right thing and fix this? You are fast creating a lot of cynics here, but we wouldn't be here if we didn't believe that you can and will repudiate racism instead of eclipsing equality. Otherwise, it's just about white supremacy. And you'll be redrawing those maps not by the bright light of freedom, but by the dim wit of a tiki torch while you mutter, we will not be replaced.

REP. STEVENS: Cheri Conway Appel. While she's on her way up, next will be Martha Shafer and Dominic Patofee.

MS. APPEL: Hi. I'm Sherry Conway Appel, and I'm a resident of Hillsborough. Can you hear me? All right. I wanted to thank the

representative and those here today who are here. We did not get to -- to speak in front of all the other committee members, but I do hope you will take our message, which is pretty loud and clear, I think, from -- not everyone, but from many of us.

I once worked for a member of Congress, and I know and understand the importance of public hearings and getting the public input on issues as critical as redistricting. But today's hearing, however, doesn't really meet the standard. We've had challenges with sound quality, with visual quality. This is the Research Triangle. Can't we do better?

But I think that's because of the speed of how this was put together, which was one of my big concerns. The lack of adequate notice, the lack of time, the lack of data that we got -- where we got this information. The criteria, as you have heard, is flawed.

We feel very strongly that the Court did not imply that race should not be considered. In fact, we believe the Court ruled that no voter should be disenfranchised because of their race. I am sure that someone -- and I hope someone now is looking at how these new proposed districts will be

represented in terms of -- so that each of these North Carolina voters can say they have a vote. But due to the rushed nature of this hearing, we don't have that information right now. Will we have that information in time before the legislature takes action? It's very important that we understand that.

Representation in the House and Senate should really roughly represent the way people vote in elections and others have talked about this.

In the case of 20 -- of 2016, we had a 20 -- 50 percent Rs to 47 percent Ds of the vote. The gubernatorial race was even closer. Clearly with these maps, you will continue to dilute the Democratic vote. You will -- through these maps you are already disenfranchising 20 percent of the voting public in your effort to keep the Republican stronghold on the House and Senate. This is pure gerrymandering by political affiliation. You may think it is legally right, but it is morally wrong.

When you think about Hillsborough, which is my area, this has been changed, and it's now combined with the rest of Orange County and Caswell County. One of the criteria that's used in other states is that districts represent a similar

community of interest. I would guess that the good people of Caswell may not feel as connected to those in Hillsborough, since only the connection is Route 86. By the way, the Senate map groups Orange and Chatham County together in one district.

In Maryland, I saw how the Democrats use political gerrymandering to this -- to their end. It was wrong there, and it's wrong here. Thank you.

REP. STEVENS: Ms. Shafer.

MS. SHAFER: Hi. I'm Martha Shafer. I'm a native North Carolinian. I live in Summerfield now, which is a rural community north of Greensboro within Guilford County. I'm going to tell a little bit of a personal story.

I was upset when I went to vote in 2016, finding that I had no alternative on my ballot to my incumbents, Phil Berger and John Blust. Why did they run unchallenged? Because my districts are so gerrymandered that no sane person would attempt a run against the Republican incumbents. Is this what democracy looks like? So I set out to advocate for my values with my representatives.

I have written John Blust 62 times. I am persistent. He has responded to me exactly once.

Why is he so unresponsive? Because he knows he can be. He doesn't need to listen to me or any other Democratic constituents in his district.

I've written Phil Berger seven times and received no responses from him. I've written numerous letters to the editor -- letters to the editor in the Greensboro News & Record, which have been published with various criticisms of him. Those letters won't matter much to Berger's new constituents, who live in the even safer district he is moving to. Berger is eluding accountability to his former constituents in northwest Guilford County by drawing himself out of my district. Is this what democracy looks like?

I was so excited when I learned that the legislative maps would be redrawn, hoping for even some small incremental improvement in the competitiveness of my districts. I naively hoped that as the unconstitutional districts became unpacked, there would be some spillover of Democrats whose -- whose votes had been previously wasted. Clearly, that is not the case. In the very short time I have had to look at the data since it's been made public, it appears that these new maps show that the redistricting committee is

collectively thumbing its nose at the federal judges.

What you have proposed is not a real remedy. By not considering race as a criterion, you use partisanship as a tool to increasingly waste the votes of people of color. I'd be surprised if any Democratic candidate is willing to run in my districts, which are even less competitive than they were before. Is this what you were trying to accomplish? Is this what democracy looks like? I implore the Court to not accept these maps and to remember that North Carolina has been said to not be a -- a -- a democracy anymore. That'll be doubly true now if the judicial branch does not intervene to put a stop to this malfeasance. This legislature is running hog wild.

REP. STEVENS: And you are welcome to submit your comments in writing to the committee.

MS. SHAFER: Thank you.

REP. STEVENS: Dominic Patofie? I -- I've called that three times. I don't think he's here. Gay Dillard? Gay Dillard? Okay. Miles Jones. Miles Jones. Tina Forsberg? Tina Forsberg. Todd Warren. Todd Warren. Lawrence

Cormier? You have the floor.

MR. CORMIER: Okay. Thank you. My name is Larry Cormier. I am a resident of Jamestown. And first a quote from the movie FM. "I'm mad as hell and I'm not going to take it anymore." This is 2017. We should not be here to demand racial equity. We should be fighting for honeybee survival. What is this? And alls I can say is shame, shame, shame.

You implement racially-gerrymandered districts, white supremists -- supremacists, excuse me. Shame. You fought and fought until the highest court in the land said unconstitutional. Any idiot could see this was immoral in addition to unconstitutional. Shame. You refuse to assemble in a timely manner per our governor's request. The courts had to demand action. Shame.

You released your maps on Saturday. Of course, we could not get any information in a timely manner. Shame. You set up inadequate facilities for three days. Here's three-day notice. What the heck could we find in three days? Actually, less than three days because most of the data wasn't there.

These few days, this process is like

taking a liquid oozing from pig farms, spraying it with aerosolizers all over us, just like someone in this room wants to do to us. You propose these maps in secret in an unbelievably partisan manner. Shame. The lovely lady early had to ask you if she could use her crayons to do a better job, and I'm sure she would. Shame.

You've shown your hatred and immorality towards minorities and marginalized citizens like HB2, the -- the monuments, refusal to -- to take those down, gerrymandering, to the extent that you would rather lose billions of dollars to the state than do the right, moral, legal thing. Shame.

HB200 is held up. I -- I'm not sure if HB200 is the right one, but it is the bill for gerrymandering. It is -- it has overwhelming bipartisan support. Move it forward. In response to previous speakers, congratulations on having teachers' pay to what? Number 47 in the nation? Come on, we can do a hell of a lot better than that. I'm so sick of the Republican Party using the I-know-you-are-but-what-am-I argument with the gerrymandering. And of course, the person who brought suit previously, of course, is here. Everything you're doing is illegal. Thank you.

REP. STEVENS: Joan Bars. I didn't mean to skip you if I did. Joan Bars. William Porter. Mr. Porter. Then Bill Doom. Bill Doom, you'll be next.

MR. PORTER: Good evening. It -- it is evening now almost. My name is William Porter. I'm from Thomasville, North Carolina. That's Davidson County, and I believe it is -- what, Montgomery County now for our senatorial district, but Davidson County for our House district.

I'm not going to presume to think that either of you are white supremacists or any of the other citizens who are here today representing our state, but I will say as a son of a US Marine veteran, deceased, who was trained at a segregated base down east, once upon a time, in North Carolina and now a -- a father-in-law of a soldier who's serving at Fort Bragg, I'd like to say that gerrymandering is wrong.

It's not good for the citizens. It's not good for the state. I moved here from North Carolina in 1980 -- I mean, from Texas in 1989, and I have phone calls almost daily -- at least weekly -- from my friends around the nation who look at North Carolina and see a sad situation, and

I'd like that to change as soon as possible. Thank you very much for your time.

REP. STEVENS: Thank you. Mr. Doom. Bill Doom.

MR. DOOM: My name is Bill Doom. I'm from Davidson County, and William and I are good friends, and I don't want to speak about these maps. I want to speak about the process.

We need an independent board, and these maps make it pretty clear why. Legislation has been submitted to create an independent board that could have a nonpartisan solution, but that just languishes. I suspect that most of the precinct, town and county issues that have been raised earlier this evening were created because the map was seeking favorable combinations of voters. An independent, nonpartisan solution could avoid those problems.

We have the same biased process run by the same people as before, with the same goal of disenfranchising as many people from other parties as possible. So these maps may be a little less racist than they were before in hopes that the Court won't notice, but otherwise, they're designed to accomplish the same purpose.

The maps are an insult, but this hearing is set up as an insult with the timing, the lack of data, the lack of space, the lack of electronic facilities, et cetera. All tell me that nobody really wanted any feedback, that they're going to do the minimum requirements by law and let it go. That is certainly a disrespect for self-rule. It is a disrespect for one citizen, one vote. It is a disrespect for democracy itself.

The argument that well, the Democrats did it before -- true, they did. But that is a middle school excuse for continuing to do the wrong thing. I don't remember Lincoln saying a government of some of the people, by some of the people, for some of the people, so let's stop the charade and do the right thing. Thank you.

REP. STEVENS: Rachel Samuels and Sam Sullivan. Is Sam Sullivan here? Then after Rachel Samuels will be Roxanne Griffin.

MS. SAMUELS: My name is Rachel Samuels and I am from Greensboro, North Carolina. I was a marcher on 4th and Water Street in Charlottesville, North Carolina [sic], on August 12th. I hold the Republican Party complicit and culpable with inspiring my attacker with their intolerant and

dog-whistling rhetoric.

I would have been -- I have been a voter since 1996, and I was voting with people who -- who represented Charlottesville Black Lives Matter. They were desperate to be heard. They urged us to run towards our attacker. I will never forget those calls for a medic and help and the terrified faces that I saw that I could not help. That is why I am here today.

The Republican General Assembly in the State of North Carolina has a vested interest in disenfranchising minority voters in this state. When have they delivered an open, fair, transparent and equitable process for minority voters? They haven't and they won't, because they want to preserve their privilege. When they don't -- when people are not able to vote, they win every time. But I've been 20 -- voting for 21 years. And they will not change. They never change their colors and they don't change their stripes.

So I am urging you in this General Assembly -- you are moral and if you are decent, prove me wrong. Prove me wrong. I'm 39 years old, and all you ever did was prove me right. But y'all ain't up to it. If you ain't up to it, get out of

the way. Because I'm part of an impatient generation, and our impatience is going to take over and make waves. Thank you for letting me speak.

REP. STEVENS: Roxanne Griffin. After Ms. Griffin will be Jocelyn Tsai and Georene Jones. It's okay, Roxanne. We won't start until you talk.

MS. GRIFFIN: Okay. Sorry about that. This country was founded as a result of a revolution over representation or lack thereof. But in nine -- in 1812, the great premise -- that great premise was undermined when Elbridge Gerry signed into law partisan districting for the advantage of his Democratic-Republican Party. So for the next 200 years, we have suffered the tit for tat of our two-political system.

Our Constitution does not say, we the politicians. It does not say, we the funders of politicians. It says, we the people. Our Constitution and amendments call for one citizen, one vote. Our Constitution and amendments are supposed to protect us from discrimination. But what it does not protect us from is engineered partisan advantage. Our Republican-dominated General Assembly readily admits that they used

racial demographics to allow them to achieve partisan advantage. It's legal.

The Swiss cheese of the new maps that we just got on Friday display the clear intent to maintain power, not fair representation. The division of communities for the sake of one party or the other maintaining power may be legal, but it is deplorable and dishonorable practice. One look at our voter rolls where -- where unaffiliated statistics continue to climb shows that there's a -- a clear loss of -- of faith in our government based on partisanship. It's past time that we reject gerrymandering. I urge you to live up to the -- whoops -- I urge you to live up to the ideals that our country was founded upon, representation and fairness.

That we only received these maps on Saturday and did not receive documentation to back up the justification for those new lines is unreasonable. This information should have been presented to us long before then so that we had an opportunity to digest it and understand what is being presented. This is not representation.

We have had bills presented, or -- or proposals, for nonpartisan districting. Our

birthright is the right to vote, the right to be represented. And when we gerrymander, regardless of who does it, and it's wrong no matter who does it, we are short-changing ourselves, all of us. Republican, Democrat, it makes no difference if we undermine our country. Thank you.

REP. STEVENS: Just -- just one thing. For the record, make sure to give your name.

MS. GRIFFIN: Oh, sorry. Roxanne Griffin, Rockingham County.

REP. STEVENS: Thank you. I know I said it a couple of times, but I needed you to be clarifying for me. Jocelyn Tsai. And after her, GeoRene Jones.

MS. TSAI: Quick question. Where is the microphone that is actually recording?

REP. STEVENS: GeoRene.

MS. TSAI: Where is the microphone that is actually recording?

REP. STEVENS: Right -- right there. Well, they're recording over here, yes.

MS. TSAI: Okay. All right. So I'm going to walk a little bit closer here. So my name is Jocelyn Tsai, and I drove from Carrboro, North Carolina, to say that I am against the proposed

maps on the grounds that I cannot trust them. The first reason is the Republican state legislature hired Thomas Hofeller to draw the current proposed maps. Mr. Hofeller drew the original unconstitutional maps in 2011 and is largely known for drawing unfair maps in other states.

As somebody trained personally in geospatial analysis, I personally know that there are plenty of mapmakers out there and cartographers without the stained work history. Why did state Republicans hire repeat -- a repeat offender? Well, it appears that Republicans have no interest in creating fair maps to represent the people of North Carolina.

A second problem I have with those maps is that they don't consider race. Our current and unconstitutional voting maps disenfranchises black people with surgical precision by creating districts with over 50 percent black voting age populations. As a way to seemingly avoid this issue, the Republicans have claimed for that -- for this round, race will not be used to draw maps. And that sounds awfully nice, but honestly, if you aren't explicitly addressing race, then you aren't showing how you're mitigating the original problem.

How do I personally know that the districts are no longer designed to concentrate black voters and thus disenfranchise people of color? In short, I can't trust these maps, because I don't know if they will continue to perpetuate institutional white supremacy.

Finally, I want to voice my dissent in the process itself. I'm upset that I did not hear about this meeting until late last week. And I personally called my state senator to complain that the people don't have enough time to prepare or respond to the maps. I also said that I'm upset that a person from Orange County, I have to drive to Guilford or to Raleigh to make sure that my voice is heard. We need open meetings like this in every county at different hours so that all citizens can be heard.

As a North Carolina resident that wants fair representation, I cannot accept these maps. I need new maps drawn by a nonpartisan organization with race explicitly addressed. I also need more time and transparency on the overall process so that North Carolina citizens all have the opportunity and time to analyze and comment on the proposed maps. Thank you very much.

REP. STEVENS: Interesting spelling, but I will get it right now. GeoRene Jones, please come up.

MS. JONES: Thank you. My name is GeoRene Jones. I am a resident of Rowan County, North Carolina, and I serve as the coordinator of social justice and advocacy ministries for the North Carolina Synod of the Evangelical Lutheran Church in America.

Today, I have heard citizens overwhelmingly beg you to find a way to toss the old maps, these newly redrawn maps, and establish new district maps with neutrality and fairness. This reminds me of my grandmother's solution when my cousins and I used to argue over the same toy. Since, she would say, you cannot figure out how to play with it together, it's mine now.

After reviewing this same issue in 13 different states across this country, I've found that those who are successful in ending gerrymandering chose to hand off responsibility for drawing maps to a completely independent, nonpartisan commission. This has been suggested numerous times today, and I support it entirely. Yes, this method pushes against our time limit, but

it provides to the Court a significant showing of good faith, particularly since this record of this meeting shows wide-ranging support for such an independent process.

I've heard it argued that this would cost us a lot of money. It would be way too expensive. And yet without reasonable independent solution, our litigation costs continue to mount. If we had done this earlier, how much healthier would we be as a state financially, emotionally and spiritually. And I've heard the argument, well, they -- well, if they jumped off a bridge, would you do it, too?

As a North Carolina citizen, I am always in favor of North Carolina showing good faith. And in this case, I hope we will place ourselves humbly at the mercy of the Court if necessary in order to provide all North Carolina's voters the unfettered opportunity to exercise the right to cast their sacred vote. Thank you.

REP. STEVENS: I'm going to try this name and hope I don't butcher it. Chris Buczynski.

MR. BUCZYNSKI: Close enough.

REP. STEVENS: Buczynski. All right. I'll let you pronounce it for the record.

MR. BUCZYNSKI: Yeah, my name's Chris Buczynski.

REP. STEVENS: Buczynski.

MR. BUCZYNSKI: Yeah. I'll make this quick. For the last federal legislative election, which is the only legislative election it's impossible to gerrymander, Senator Burr got about 51.1 percent of the vote. But somehow Republicans got 77 percent of federal House seats, 69 percent of the state Senate seats and 61 percent of state House seats. How are you doing [inaudible] that is what our representative democracy looks like?

It's bullshit. I know it's bullshit. You know it's bullshit. We know what you're doing. The Supreme Court told you to fix it. So fix it. Don't hire the same asshole that drew the last racist-ass map. Give us this new map that says nothing, has no real information on it and give the entire state two hours to discuss it. This whole process is a farce.

REP. STEVENS: And our final speaker, the final one I have listed is Leslie Martin. Ms. Martin.

MS. MARTIN: So my name is Leslie Martin. I'm from Oak Ridge, and I'm here to speak tonight

because, clearly, our legislature is up to the same shenanigans that got us here. A cursory look at the data they provided less than 24 hours ago shows -- and a look at the races that were within 10-point margins -- and by the way, that's not particularly competitive in my book. If I just lost a race by 10 points, I don't think I would go home, like, go to bed that night thinking, man, I just missed it. But that's what we're reduced to in terms of thinking about a race in competitive terms now.

Looking at the 2012 Presidential election, only 12 of the 120 proposed House districts met that criteria. So it's literally 10 percent. Okay? And I know Republicans think they're winning right now because their legislators have drawn themselves into more seats in power, but the only people winning right now are politicians, okay? Because the way that legislators are compacting these districts, the least competitive seats are actually held by Democrats, okay?

So there are 10 districts that had 50-plus-point margins, 50-point-plus margins in the aforementioned 2012 elections. And nine of those 10 seats were Democratic. The safest district in

the state is held -- is right here in Guilford County. It's District 57. It's represented by Pricey Harrison, and I love me some Pricey Harrison, okay? And why wouldn't I? 'Cause I'm a liberal Democrat. But if you're a Republican living in Pricey Harrison's seat, in her district, I guess you can just suck it up, buttercup. All right? Because her newly drawn district voted for Obama by 75 points, 75. And if you need to wrap your head around that, that was 87 to 12, 87 to 12. Okay? All right.

And as much as I want to see Pricey stay in the House, I don't think she should be given a golden ticket to stay there for the rest of her life. She should compete. Politicians should compete for their seats. The fact is in more than 80 districts, if you survive your primary, which is often uncontested, you could walk out in the streets and moon your constituents and get elected in November, and that ain't right. It's not right.

That's not democracy. It's not representative government, and it has to change. In Guilford County last year, only one out of six House seats even had a challenger. That's three Democrats and three Republicans, one challenged

seats. Because our seats are so uncompetitive that nobody thinks it's worth the effort to run.

These maps are just the same. They're not any better. All right? So it's clear that the legislators in Raleigh have no intentions of changing. They're up to the same shenanigans. These maps are an attempt to instill hopelessness in voters, to make citizens of both parties feel that they have no voice, and it is imperative that our judiciary take this responsibility away from the legislators and end this ridiculous nonsense. I'm done.

REP. STEVENS: Okay. I want to thank you all for staying with us. I want to thank you all for your comments. I want to thank you for your demeanor, because we've seen some of the others break out much more viciously. The last thing I want to do for the record is to indicate that I have been given certain written statements that will be put into the record. Mr. Buczynski --

MR. BUCZYNSKI: I -- I just said what I wrote.

REP. STEVENS: Okay. And I -- I've got that in writing. I've got something from the League of Women Voters. I have Anna Fesmire's

statement. I have Chanelle Darlene James, who submitted a two-paged typewritten statement. And then I have something from -- I think that says Roberta Lang. It is a two-page printed document from Democracy NC. Are there any other written statements coming forward, anything else we want to receive?

MALE SPEAKER: Could I ask a question?

REP. STEVENS: Yes, sir.

MALE SPEAKER: There was something on the web page that we could send something in. Can we still do that? And submit what we said?

REP. STEVENS: You can still submit written statements, and they can be considered by the committee. And -- and -- and again, thank you. And we will declare this meeting adjourned.

(End of proceedings.)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings held on August 22, 2017, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 28th day of August, 2017.

Brad Worley

Brad Worley, transcriptionist
Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070
brad@worleyreporting.com

NORTH CAROLINA GENERAL ASSEMBLY
JOINT SELECT COMMITTEE ON REDISTRICTING

TRANSCRIPT OF THE PROCEEDINGS
PUBLIC HEARING CONCLUSION - WELDON SATELLITE SITE

In Raleigh, North Carolina
Tuesday, August 22, 2017
Transcribed by Brad Worley

Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070

(Transcriptionist's note: the following transcript is of proceedings held at the satellite hearing site following disconnection of the communications feed from the central Raleigh site.)

REP. J. BELL: For those who couldn't understand what was said, due to some of the technical difficulty and the length of time between sites, we're going to actually conduct our own public hearing here for the people that are here. We will go through the list that's already been signed up according the rules put forth by the Committee. The Sergeant-at-Arms from the House and Senate will also start recording devices. If you give us just a minute to make sure everything is on go, we will run through everybody. Same rules apply, maximum of three minutes, and then we will go through the list, and then the court reporters will transcribe after the -- the hearing.

(Discussion off record.)

REP. J. BELL: I have six people left to speak. We will go in the order as they signed up. I have speaker number 10, Kim Castle, will be up first, and then Tom Metzger -- I apologize if I do mess up your name. Tom Metzger will be second, and then we will have on Jennifer Smyth, Gwen Wilkins,

John Horton and Ernestine Goldsberry will this finish us up.

So the Sergeant-at-Arms will be sitting right here; he'll start when you're ready. You'll hold up one-minute when you have one minute left, then stop when your times up. So y'all, what I do ask is that you state your name -- state your full name for the record, first and last name for the record, and the microphones and everything are up here. So you stand right here.

MS. CASTLE: I stand here?

REP. J. BELL: Yup, right up here.

MS. CASTLE: Good evening; my name is Kim Castle. I'm the vice president of African American caucus of the Hertford County, North Carolina, Democratic Party. I just want to speak on behalf of all the constituents who -- and everyone who worked so hard and so endlessly and gave the hard-earned monies to elect our senators -- or our legislators just for us to find out that we would be receiving -- we are being forced to have legislators that we don't know. We had no idea in -- who they are, we -- we know absolutely nothing about them.

Our legislators said to Erica

Ingram-Smith [sic], she worked so hard with us. We have a rapport with her, and just to know that she will be -- have -- she will be -- we will be [inaudible] this year. It's tragic, in of itself it's heartbreaking, it's basically speechless, and to me is strictly voter suppression, 'cause we gave so much of our time and -- you know, we -- it -- I mean myself personally, I have not slept, you know, certain nights, you know, with strategies trying to make sure, you know, that, you know, we -- we represent her and that we -- we make sure that she get a win, and now y'all are taking it away from us. Thank you.

REP. J. BELL: Tom Metzger will be the next speaker. Please step to the podium. Pronounce your name correctly if I messed it up; I apologize, and you have up to three minutes. Thank you, sir.

MR. METZGER: My name is Tom Metzger, and I'm here as a citizen who loves his state and democratic processes.

North Carolina's motto is, to be and not to seem. Well, let's live up to that and not be a poser. Let's be a democracy based on the will of the people, not an oligarchy based on the will of a

privileged select few. The most essential element of a shift toward democracy in North Carolina is for the people to elect their representatives, not the way -- the other way around. Enough, enough, enough.

The current General Assembly, due to the history of gerrymandering, is not a duly-elected body, and is therefore not legitimate. They cannot serve. How could they expect us, we the people, to accept these new maps that represent more of the same blatant, partisan, racist behavior perpetuated by illegitimate, aspiring oligarchs? No. Unacceptable.

By the way, even a moderately socialized five-year-old doesn't try to give away by misbehavior by saying, he or she started it. Democrats' past misbehavior does not justify Republicans' current misbehavior. Any group of people, for instance, North Carolinians, can be expected to have different opinions and perspectives. When those differences are cynically exploited by those who abuse power to divide and conquer, we all lose -- all lose.

Better to wisely utilize the diversity of perspectives to come up with creative, workable

solutions that most folks can accept as fair. A purple state that's ruled from the far right is a recipe for trouble. Unfair, illegal gerrymandering is at the core of the problem. I call for fair, reasonable, nonpartisan districting. They won't erase our differences, nothing will or should, but it's my opinion that it is the right thing to do and will make things better for us all. Thank you very much.

REP. J. BELL: Thank you. Next speaker, Jennifer Smyth.

MS. SMYTH: Gentlemen, I apologize. I missed the part where you introduced yourselves. I'd like to know who I'm speaking with, if you don't mind.

REP. J. BELL: I'm Representative John Bell.

MS. SMYTH: Okay.

SERGEANT-AT-ARMS: And I'm a staff -- I'm a Sergeant-at-Arms.

REP. J. BELL: And he's a Sergeant-at-Arms staff. So you also have Senator Don Davis, Representative Bobbie Richardson, and Senator Smith-Ingram here as well.

MS. SMYTH: Thank you.

REP. J. BELL: You have up to three minutes to speak, and please state your name for the record.

MS. SMYTH: All right. My name is Jennifer Smyth, and I live in a teeny, tiny, little corner of Bertie county, known as the town of Roxobel. I'm about a half an hour from Scotland Neck, which is in Halifax County. I'm about a half an hour from Jackson, which is in Northampton county. I'm about a half an hour from Ahoskie, which is in Hertford County, and which is where I'm proud to work for the last 12 years. And I'm about half an hour from my county seat in Windsor. That's my community of interest.

In order to get anything, to go anywhere, I've got to drive a half an hour, which, to those of you who spend a lot of time in Raleigh, it's going to sound like it's a whole lot, but really, it's -- it's as easy as getting on and off the beltline and going where you need to go.

It's a great place to live, to work and to learn, but that's my community of interest, right there: Northampton County, Halifax County, Hertford County, Bertie County. We have familial ties there, we have geographic ties, we have

economic ties.

Bertie County shops at the Super Wal-Mart in Hertford County. There's a lot of our money going into Hertford County, and now we've been separated from Hertford County in both the House and the Senate redistricting plans, and there is not but one reason for that; Bertie County is 61 percent black. It's racism, pure and simple, and it's nothing but a blatant attempt to minimize and dilute the black vote in Northeastern North Carolina. We see you. We know who you are. We believed you the first time. So that's the House plan. Instead of having me with my community of interest, I'm now with Chowan County.

Let me tell you about Edenton right now. The most prominent realtor in Edenton is Sotheby's -- Sotheby's. They sell off antiques for rich folks. That's the most prominent realtor in my county -- 25 percent of the county is in poverty, and the way they've drawn this district, I'm going to be represented by a transplant from Virginia, a retiree who can afford to buy real estate in Edenton, and my black neighbors are going to be represented by a man who can afford to buy real estate in Edenton. And if I'm shaking, it's

cause I'm mad, and that's just the House map.

This Senate redistricting plan -- y'all think we don't know what you did? That man in Beaufort County doesn't know. That man in -- in Beaufort County has no idea he's a sacrificial lamb. That the Republican Party was willing to give up 15,000 GOP votes to make it look cute, when they double-bunked two black women. The same two black women that they went after in that 3 a.m. budget bill, and y'all is going to tell me that's not racist -- I am not done.

REP. J. BELL: Ma'am -- ma'am, your three minutes are up.

MS. SMITH: Uh-uh -- yeah. Uh-uh.

REP. J. BELL: Ma'am, your three minutes are up.

MS. SMITH: Go ahead and take me --

REP. J. BELL: Sergeant-at-Arms.

MS. SMITH: -- cause I'm not done.

SERGEANT-AT-ARMS: Ma'am, thank you. Thank you.

MS. SMYTH: There a whole lot of white folks' tip-toe around the fact that this is racist, and I'm not having it.

(Interruption by applause.)

REP. J. BELL: Sergeant-at-Arms, please remove the people that are clapping. Ma'am. Sergeant-at-Arms, please remove the gentleman. Please remove the lady, thank you.

(Pause in proceedings.)

REP. J. BELL: Next speaker, Gwen Wilkins.

MS. WILKINS: Okay. My name is Gwen Wilkins; I'm from Nash County. Good evening. It is a fact we would not be here this evening if some lawmakers had not forced the hand of a federal court and made them rule that those very lawmakers that control the House and Senate gave too much emphasis to race when drawing our district lines, but here we are, and here I stand.

I am here to voice my concerns and disappointment with the way these district maps have been drawn, and I pray those concerns do not fall on deaf ears. I pray you all are keeping an open mind and have a genuine concern for the people you serve -- all of them, and I pray your mind is not already made up.

I have a concern. I question how you, in good conscience, could schedule public hearings when you have just released the maps a day or two

before the hearing. The voters of this state have not had ample time to review them, and you know it. You should be ashamed. You then schedule these hearings knowing full well many of us would have to leave work early or not be able to participate at all.

From what I could see of the newly drawn maps, you have certainly drawn them to favor one political group over another and have made some lawmakers' district almost impossible for them to return to. You should be ashamed. You may have been elected in a certain House or Senate district, but you serve all the people of North Carolina, or at least you are supposed to.

I am of the opinion your mind is already made up, though, and the public hearings going on across this state are just a farce to appease us, so you can satisfy the requirement of the federal court. If elected officials of any party have to result to partisan gerrymandering to win elections, I can only determine that they are doing so because they do not have the confidence or the self-esteem to win an election the old-fashioned way, that is, presenting their platform to and interacting with the voters. Partisan gerrymandering is a crutch.

Stand on your own merits rather than on leaning on wrongfully drawn districts to win a race.

Lastly, the lines you have drawn intentionally protect the supermajority of the political party already in power, rather than the people of this state. Sure, you used a few sacrificial lambs of your own party when redrawing the lines to make it appear that the lines were drawn fairly. Do you really think that voters are that naive? I urge Republican Senator Ralph Hise, Chief of the Redistricting Committee, to work with House and Senate colleagues from opposite sides of the political spectrum to draw lines that are reflective of a democracy North Carolina can be proud of. Thank you.

REP. J. BELL: Our next speaker is John Horton. Mr. Horton, please state your name for the record, and you have up to three minutes.

MR. HORTON: Thank you, sir. Good afternoon -- afternoon. It's evening now. Good evening. My name is John Horton. Life resident of Hertford County for 65 years, been active in the local politics, been elected to eight, four-year terms.

Gentleman, I'm not here to bash the

Republicans tonight, 'cause you all have been bashed and probably deserve it, but I'm here to appeal to your sense of political dignity. I've seen gerrymandering before. The Democrats tried that, it didn't work, to the satisfaction to a lot of the citizens. The Republicans tried that, it didn't work. Here we are again.

We're in the 21st century, and it is time that we move towards a computer-based model of redistricting. We're too intelligent not to be able to do that. I'd rather be angry over a computer and calling it a racist before I will call you one -- I will not call you one. You're representing all the citizens of Hertford County. Move where people can't say you got a personal interest, and the only way I see out of this, is a computer-based model with one of the variables in that model, not to split not one county. Thank you, very much.

REP. J. BELL: Our last speaker is this evening, Eustice Goldsberry.

MS. GOLDSBERRY: Ernestine.

REP. J. BELL: Ernestine, excuse me. I apologize. Ernestine, please state you name for the record, and you have up to three minutes.

Thank you.

MS. GOLDSBERRY: My name is Ernestine Goldsberry, and I learned to vote -- began voting in 1965, which I had to learn the Preamble to the Constitution of the United States of America, but by time it was time to vote, they had demolished it, because they had passed the Civil Rights Act.

I have been away from Northampton County for 50 years. I moved back here three years, and I thought it had changed, but I see, from what I see now, it has not. It says, look at us now. We're back in the same predicament 50 years ago that you're doing now. The same hatred, the same prejudice is here. There's no need for to divide these counties like this and take them away. Take them away from the economics of the counties that are trying to bring businesses into the different counties and being the people -- the older people.

You got -- you have to think of someone but yourself, and I'm not going -- I'm not going, like, the gentlemen before me, I'm not going to call you prejudiced. Because you've -- every one of us know what's in our hearts. You can believe it or not. I'm ashamed. I'm appalled to say that I came back to Northampton County, and it's still

the same way. Fifty years have not prospered us, and that is a shame.

We're in the 21st century, and I'm not going to get up here and try to tell you what you should do, 'cause everybody in their hearts knows what's right and wrong, but this is choice that you make, and I'm ashamed to say I'm a North Carolina citizen, because the country is looking at us. Every time you turn the TV on, it's North Carolina this, North Carolina that, so I'm -- that's all I have to say. I'm just ashamed that I ever moved back here.

REP. J. BELL: Thank you, ma'am. Ladies and gentlemen, that concludes our -- and the people that have signed up for the public hearing. I want to thank Representative Bobbie Richardson, Senator Don Davis and Senator Smith-Ingram for attending. I'd thank our Sergeant-at-Arms, our -- our law enforcement here locally -- our General Assembly law enforcement. I want to thank the staff from the General Assembly, and I also want to thank Halifax Community College and the staff here at Halifax Community College.

If you'd like to -- to listen to other comments, I believe the -- the Committee hearing in

Raleigh, you can go through the North Carolina General Assembly website and log into the committee room there and finish hearing the comments, and all of this will be transcribed by the court reporters as soon as possible for the record. With that said, this committee hearing is closed. Thank you.

(End of proceedings.)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

CERTIFICATION OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings held on August 22, 2017, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 28th day of August, 2017.

Brad Worley

Brad Worley, transcriptionist
Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070
brad@worleyreporting.com

1415 West Highway 54, Suite 101
Durham, NC 27707
P: 919-323-3380
F: 919-323-3942

SOUTHERN COALITION
for SOCIAL JUSTICE

VIA ELECTRONIC MAIL

August 23, 2017

Thomas Farr
Phillip Strach
Michael D. McKnight
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100
Raleigh, NC 27609

Alexander Peters
James Bernier
NC Department of Justice
P. O. Box 629
Raleigh, NC 27602

Senate Committee on Redistricting
House Select Committee on Redistricting
North Carolina General Assembly
16 West Jones Street
Raleigh, NC 27601

Re: 2017 Proposed Remedial Maps – House and Senate

Dear Counsel and Members of the Redistricting Committees,

On behalf of Plaintiffs in *Covington v. North Carolina,* we write you today to offer alternative plans for the North Carolina State House and State Senate that remedy the constitutional violations identified by the three-judge court in *Covington* and also comply with the state and federal constitution in all other regards. Additionally, based on our initial analysis, your proposed plans do not offer an adequate remedy and do not represent appropriate remedies free from other state and federal constitutional flaws. We would like to take this opportunity to highlight some of those flaws for you.

Constitutional Flaws in the State House and Senate Remedial Plans

First, it is plain that in several areas of both the House and Senate proposed maps, the constitutional violations are not cured and, indeed, the racially gerrymandering continues. For example, proposed Senate District 21 retains the same odd shape as invalidated Senate District 21, with the edges of the protrusion into Cumberland County only slightly smoothed out. Dr. Hofeller obviously does not need access to racial data to know that if he draws the district in approximately the same way the racially gerrymandered district was drawn, it would achieve the same effect—the illegal separation of black from white voters in Cumberland County and the packing of black voters into the district, thus limiting their political impact.

In the House, we observe the same phenomenon in Guilford County, where House Districts 57, 58 and 60 are centered right over their locations in the 2011 map—Dr. Hofeller again does not need access to racial data to know that he if he puts the new district in exactly the same location as it was in their unconstitutional form, they will have the same effect. Likewise,

while House District 21 is now in only two counties, as opposed to three, it is still very non-compact and appears to us to be drawn in a way to capture black populations in those two counties.

We anticipate there may be other examples of this problem that we may determine with some additional time to review the proposed maps. What is clear is that these districts do not fully correct the constitutional violations identified by the three-judge panel, whose findings were unanimously affirmed by the United States Supreme Court. We request that these errors be remedied immediately and in full. Absent such action, we believe the court will have to draw a plan itself that fully remedies the violations, as it will not be able to approve these districts as an appropriate remedy.

Additionally, analyses performed by the Campaign Legal Center ("CLC") and submitted to the Committees on August 22, 2017, confirm that these proposed remedial plans are in fact, grossly unconstitutional partisan gerrymanders. Redistricting plans are unconstitutional where they treat voters unequally, diluting the electoral influence of one party's supporters in violation of the Equal Protection Clause. CLC performed an efficiency gap analysis of the committee's proposed plans after the data was releasted late Monday morning (August 21, 2017). The efficiency gap analysis employed by CLC has: (1) been endorsed by federal courts, *see, e.g., Whitford v. Gill*, 218 F. Supp. 3d 837 (W.D. Wis. Nov. 21, 2016); (2) is a peer-reviewed methodology, *see* Eric McGhee, *Measuring Efficiency in Redistricting*, 16 ELECTION L.J. (forthcoming 2017), *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=30 07401; and (3) can be used prospectively (and accurately) to predict the efficiency gap in proposed plans. *Compare LWVNC v. Rucho*, 1:16-cv-01164, ECF No. 1 at ¶9 (M.D.N.C. Sept. 22, 2016) (Complaint) *with* Plaintiffs' Response in Opposition to Motion to Dismiss, *LWVCNC v. Rucho*, ECF No. 34 at 4 (M.D.N.C. Dec. 19, 2016). The legislature may not remedy constitutional violations by enacted plans with new constitutional violations.

State Constitutional Flaws in the House Remedial Plan

Our initial analysis also reveals that several areas in the State House proposed remedial map additionally violate the North Carolina state constitution—both its plain language and as it has been interpreted by the North Carolina Supreme Court.

First, the configurations of House districts in Wake and Mecklenburg County violate the state constitutional prohibition on mid-decade redistricting. Article II, Sections 3 and 5 prohibits the legislature from redrawing districts, once enacted, until after the next decennial census. This prohibition controls unless a district has been invalidated by a court. House Districts 36, 37, 40 and 41 in Wake County were not declared unconstitutional, and do not touch a district that was ruled unconstitutional. The same is true for House District 105 in Mecklenburg County. These districts are modified in the proposed remedial House maps in those counties, but it is not necessary to alter those districts in order to correct the two districts in Wake County (33 and 38) and the three districts in Mecklenburg County (99, 102 and 107) that were declared

unconstitutional. Plaintiffs have demonstrated that with a remedial map introduced at the public hearing on August 22, 2017. Thus, the proposed Wake and Mecklenburg County House district configurations violate the state constitution and cannot be enacted or approved by the *Covington* court.

Second, Article II, Sections 3(3) and 5(3) state that "[n]o county shall be divided in the formation of a senate district" and "[n]o county shall be divided in the formation of a representative district," respectively. These prohibitions are collectively referred to as state's Whole County Provision [WCP]. At least two areas in the House map violate the North Carolina Supreme Court's interpretation of the WCP.

In 2002, the North Carolina Supreme Court explained how the legislature should draw state legislative districts to comply with the WCP. *Stephenson v. Bartlett*, 355 N.C. 354, 383-84, 562 S.E.2d 377, 396-97 (N.C. 2002) ("*Stephenson I*"). First, the Court noted the "long-standing tradition of respecting county lines during the redistricting process in this State," 355 N.C. at 366, 562 S.E.2d at 386. The Court went on to establish nine criteria for validly-constructed state legislative redistricting. Three of the criteria are particularly relevant here:

- When two or more non-VRA legislative districts may be created within a single county…single-member non-VRA districts shall be formed within said county. Such non-VRA districts shall be compact and shall not traverse the exterior geographic boundary of any such county.

- […] Within any [] contiguous multi-county grouping, compact districts shall be formed, consistent with the at or within plus or minus five percent standard, whose boundary lines do not cross or traverse the "exterior" line of the multi-county grouping; provided, however, that the resulting interior county lines created by any such groupings may be crossed or traversed in the creation of districts within said multi-county grouping but only to the extent necessary to comply with the at or within plus or minus five percent "one-person, one-vote" standard."

- The intent underlying the WCP must be enforced to the maximum extent possible; thus, only the smallest number of counties necessary to comply with the at or within plus or minus five percent "one-person, one-vote" standard shall be combined.

355 N.C. at 383-84, 562 S.E.2d at 397.

In 2007, the Supreme Court further explained these rules in application when examining how a state house district in Pender County was drawn. *Pender County v. Bartlett*, 361 N.C. 491, 649 S.E.2d 364 (N.C. 2007). There, at that time, Pender County did not have the population to warrant an entire state house district, and New Hanover County had the population to warrant more than two state house districts, but not three. 361 N.C. at 494, 649 S.E.2d at 366. The two counties grouped together were assigned three state house districts. *Id.* The legislature drew a house district between Pender and New Hanover counties that did not keep either county whole (House District 18). *Id.* Because there was not Voting Rights Act justification for this drawing of House District 18, the Court held that the state was required to perfectly comply with the WCP, and that configuration of the district did not do so because it did not keep Pender County whole. 361 N.C. at 507, 649 S.E.2d at 374. Instead, the Court said "a voting district that includes Pender County must add population across a county line, but only to the extent necessary to comply with the at or within plus or minus five percent 'one-person, one-vote' standard." 361 N.C. at 509, 649 S.E.2d at 376 (internal quotations omitted).

In Cabarrus County, the house district configuration plainly violates the *Stephenson I* criteria. That county has the population to justify more than two non-VRA districts. As such, two whole districts must be drawn in the county, with only enough population in a neighboring county added to the remainder of the Cabarrus County population to bring it to within plus or minus five percent of the ideal district population. What the proposed map does instead is draw only one district, House District 82, in Cabarrus, and then two additional districts are drawn in the county, but neither is contained wholly within the county. Specifically, HD 83 traverses the county line to include a portion of Rowan County with Cabarrus County, when it is possible to draw both HD 82 and HD 83 entirely within Cabarrus County. Even though doing so does create a traverse elsewhere in the county grouping, the failure to draw two districts entirely within Cabarrus County, even though the overall number of county traverses is unchanged, violates the Supreme Court's instructions from *Stephenson I* on maximum compliance with the WCP. Our version of this cluster keeps two counties wholly within Cabarrus County and does not increase the number of traverses when compared to your version of the cluster. As such, this portion of your proposed remedial House map is unconstitutional.

Likewise, the configuration of House District 10 also does not comply with the North Carolina Supreme Court's instructions from *Stephenson I*. House District 10 is at one end of a seven-county cluster. Greene County, where that district is based in the proposed remedial plan, does not have enough population to support a House District on its own. Enough population could be added from the adjacent and larger county, Wayne County, to satisfy the equal population requirement with only one county traverse. That construction would be consistent with the state constitutional commands as defined by the North Carolina Supreme Court and as Dr. Hofeller, the state's mapdrawer, explained in sworn testimony. *See Stephenson I*, 355 N.C. at 384, 562 S.E.2d at 397 ("only the smallest number of counties necessary to comply with the at or within plus or minus five percent "one-person, one-vote" standard shall be combined); *see also*, Hofeller Testimony, *Covington* Trial Tr. Vol V, at 10:18-23 (Apr. 15, 2016) ("Also, if you have, for instance, a two-county group, the smaller county with the smallest population should be

left intact, and the larger county should make up the share that the smaller county needs to bring it to the proper population."). Instead of simply adding the population from Wayne County necessary to bring a Greene County-based district up to within plus or minus five percent of the ideal population, House District 10 traverses two counties—Wayne County and then stretches into Johnston County. This configuration is not permissible under the state constitution if it is possible to construct HD 10 comprised of only Greene and Wayne, which it is. Our version of the this county grouping has the same number of total county traverses, but constructs the Greene County-based district (House District 21 in our plan) as instructed by the North Carolina Supreme Court: adding population from a neighboring county to a county too small to warrant its own House district, but only adding as much as necessary from one neighboring county as necessary to achieve acceptable population in the district. Thus, this portion of your proposed remedial House map is also unconstitutional.

Plaintiffs' Alternative Map

Plaintiffs have developed alternative maps for House and Senate that correct the unconstitutional racially gerrymandered districts identified by the three-judge court, do not constitute unconstitutional partisan gerrymanders, and fully comply with the North Carolina state constitution.

We can immediately provide the block assignment files for these plans to counsel and chairs of the redistricting committees, and any other individuals you to whom you request that we send the files.

If you have any questions about these proposed alternative plans, please do not hesitate to contact us.

Sincerely,

/s/ Anita S. Earls
Anita S. Earls
Allison J. Riggs
Emily S. Seawell
Southern Coalition for Social Justice

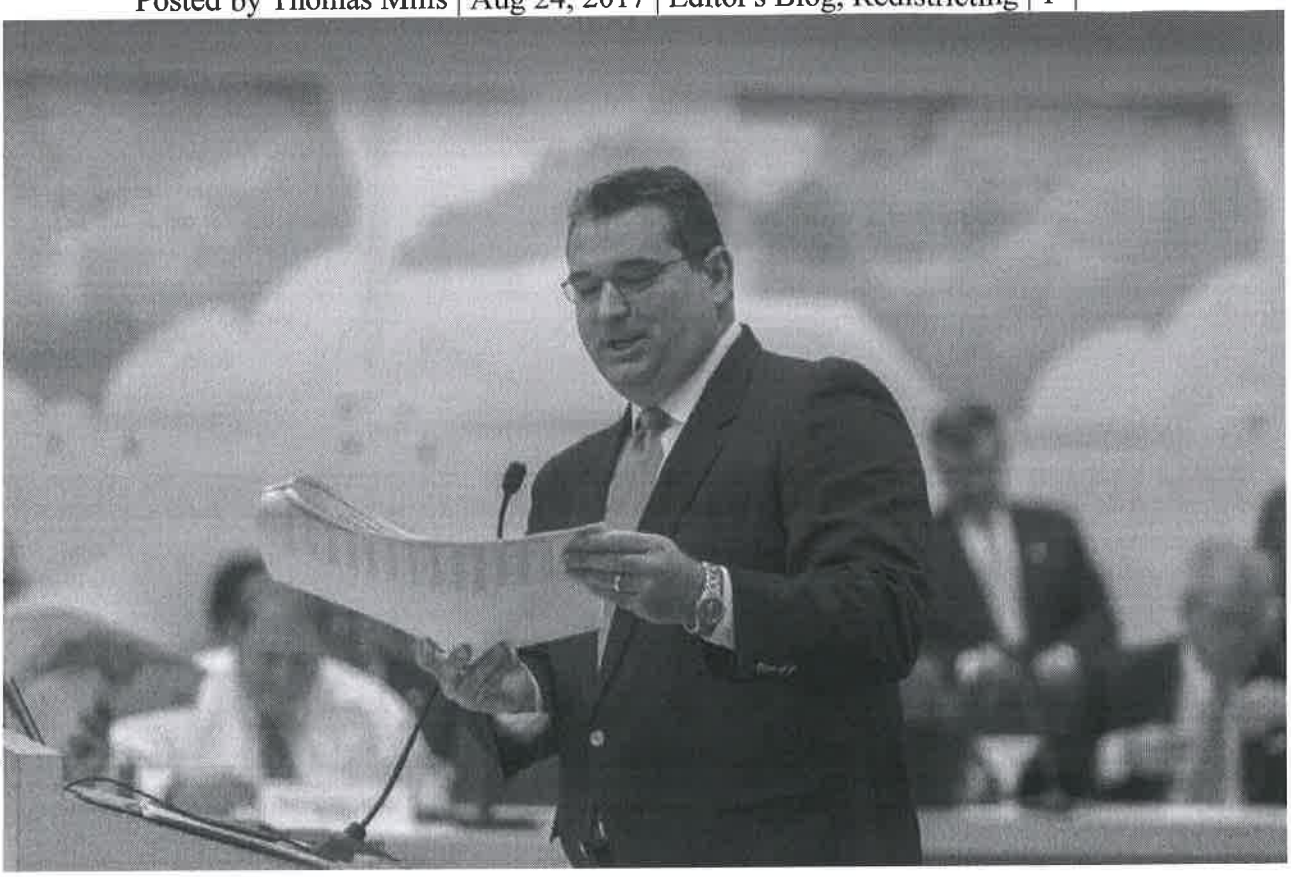
Edwin M. Speas
Caroline Mackie
Poyner Spruill, LLP

John W. O'Hale

Counsel for Plaintiffs

REDISTRICTING HEARINGS ARE A SHAM

Posted by Thomas Mills | Aug 24, 2017 | Editor's Blog, Redistricting | 1 |



FacebookTwitterShare

The public hearings on the new legislative maps bought for the GOP with taxpayer money are little more than a ruse. The Republicans in the House and Senate are going to pass the maps without any real discussion and without considering alternative maps. It's so clear, that according to people in Lee County, Republican Representative John Sauls has already sent out letters to his prospective new constituents. He wouldn't have done that if the maps were in question.

At the public hearings, legislators dismiss criticism out of hand. They've got veto proof majorities and most incumbents are in extremely safe districts. They're not really interested in input. They're interested in saying they had public hearings. So, really, this whole process is a waste of time and taxpayer money.

Yesterday, the Southern Coalition for Social Justice released its own maps. They're more favorable to Democrats so they won't get serious consideration from the Republicans who control the legislature. However, they do show that alternative maps are possible and set the stage for another challenge to the districts the GOP bought.

The districts are certainly drawn to give Republicans maximum representation and to reduce competition in elections. That said, some of what Republicans say is true. Democrats have basically ceded rural America, giving the GOP an advantage in district configurations here and across the country. Democrats might be able to garner majorities in statewide and national elections, but they win with large margins in highly concentrated areas.

To win back majorities, Democrats need a two-front strategy. They should contest the extreme gerrymandering brought about by professional mapmakers to rig elections. They also need to broaden their appeal to build a bigger tent. If they want to win legislative majorities in states like North Carolina or Virginia, they need to redefine themselves with an economic message that has broad appeal. Right now, most rural residents see them as a party consumed with pushing an agenda of social change while ignoring the huge hurdles facing working-class families outside of major urban areas. For Democrats to win control of legislative bodies, that perception must change.