

IN THE SUPREME COURT OF OHIO

**Regina Adams, et al.,**

**Relators,**

**v.**

**Governor Mike DeWine, et al.,**

**Respondents.**

**Case No. 2021-1428**

Original Action Filed Pursuant to Ohio  
Constitution, Article XIX, Section 3(A)

RESPONSE TO MOTION TO ENFORCE

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## **BACKGROUND**

On May 8, 2018, the voters of Ohio approved an amendment to Ohio’s Constitution that, for the first time in Ohio’s history, governs congressional redistricting. That amendment, Article XIX of the Ohio Constitution, was submitted to the voters by the general assembly. Similar to the amendments to Article XI that voters approved in 2015, Article XIX sets forth a detailed process for how a congressional district plan is to be adopted in Ohio.

Under Article XIX, the general assembly is initially tasked with the authority to adopt a congressional district plan. During this first stage of the process, the general assembly can only pass a plan that will be effective for ten years. To do that, the plan must be supported by at least two-thirds of the members of each house of the general assembly, including at least one-half of the members of each of the two largest political party represented in each house.

If the general assembly does not pass such a plan by the last day of September during a redistricting year, congressional districting authority then transfers to the Ohio Redistricting Commission (“Commission”). Any plan adopted by the Commission at this stage must be one that will be effective for ten years. To do that, a Commission congressional district plan must receive the support of at least four of the seven Commission members, including at least two Commission members from each of the two largest political parties represented in the general assembly. *See* Art. XIX, Section 1(B).

If the Commission does not adopt such a plan before the last day of October during a redistricting year, congressional redistricting authority returns to the general assembly. Article XIX, Section 1(C)(1). At this final stage, the general assembly must pass a congressional district plan no later than the last day of November during a redistricting year. Article XIX, Section

1(C)(1). For a congressional district plan to be effective for ten years at this stage, it must be supported by at least two-thirds of the members of each house of the general assembly, including at least one-third of the members of each of the two largest political parties in each house. If, however, a congressional plan is only approved by a simple majority of each house of the members of the general assembly, any such plan will remain in effect for only four years. Article XIX, Section 1(C)(2)-(3).

All congressional district plans must comply with the requirements of Article XIX, Section 2. These requirements include that districts be single member districts, that each district have equal population, that the plan complies with the Ohio Constitution and federal law, and that each district be contiguous. Article XIX, Section 2(A), 2(B)(1)-(3). All congressional district plans must also comply with criteria for the division of counties and townships and municipal corporations. Article XIX, Section 2(B)(4)-(8).

Article XIX also provides for additional criteria that apply solely to simple majority maps drawn by the general assembly. The relevant portions of Article XIX, Section 1(C)(3) state as follows:

- (a) The general assembly shall not pass a plan that unduly favors or disfavors a political party or its incumbents.
- (b) The general assembly shall not unduly split governmental units, giving preference to keeping whole, in the order named, counties then townships and municipal corporations.
- (c) Division (B)(2) of Section 2 of this article shall not apply to the plan. The general assembly shall attempt to draw districts that are compact.
- (d) The general assembly shall include in the plan an explanation of the plan's compliance with divisions (C)(3)(a)-(c) of this section.

Under Section 6(B) of Article XI, the Constitution describes an attempt to draw a plan that “corresponds closely” to the “statewide preferences” of Ohio voters in certain elections. Article XIX has no such provision.



Following this Court's invalidation of the first congressional plan that had been enacted by the general assembly, the general assembly failed to pass a new remedial congressional plan under Section 3 of Article XIX. Thus, that obligation passed to the Commission.

The Commission met on February 24, March 1, and March 2, 2022 to hear public testimony and to discuss adopting a new plan.<sup>1</sup> On March 1, Senate President Matt Huffman put forth for discussion a plan uploaded to the Commission website by his staff. (Exhibit 2, 3.1.22 Transcript 10:6-7). Senator Huffman indicated that the plan was uploaded pursuant to a request from Minority Leader Russo, who had examined the plan earlier in the day with Senator Sykes. (*Id.* at 10:18-23). Senator Huffman also commented that all members of the Commission and their staff had been invited to meet with his staff who had worked on the plan for the Senate. (*Id.* at 10:24-11:4). Senator Sykes confirmed that this was the case, and that there had been a meeting regarding the proposed congressional plan over the prior weekend. (*Id.* at 27:22-25).

Senator Huffman stated that in drawing the proposed congressional plan, the mapdrawers made no changes other than those needed to remedy defects in the previous plan identified by the Court. (*Id.* at 13:6-12). Senator Huffman testified that in the new District 13, that district now contained all of Summit and a portion of Stark Counties, thereby reducing the number of splits as compared to that district in the prior congressional plan. (*Id.* at 20:9-21:1). Senator Huffman also testified that the plan kept Montgomery and Greene counties together so that Wright-Patterson Air Force base could be in the same district. (*Id.* at 21:2-15). Senator Huffman also commented that this plan kept counties whole and minimized splits in Cuyahoga County, and expressed his belief that the districts making up the northeastern portion of the state (7, 11, 13, 14) were compact. (*Id.* at 24:15-26:24). Specifically, Senator Huffman testified that the number of splits had been

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<sup>1</sup> Transcripts of these hearings are attached as Exhibits 1-3 respectively.

minimized and now there were only two districts inside Cuyahoga county (3.1.22 Transcript 26:9-12).

When the Commission reconvened the next day, Senator Huffman moved to adopt a plan identical to the map discussed on March 1, with two changes. (Exhibit 3, 3.2.22 Transcript 11:24-12:2). The first change was to Franklin County regarding districts 3 and 15 in response to a request from Congresswoman Beatty to ensure that her district office and Congressman Carey's district office were within their respective districts. (*Id.* at 12:2-13:3). Senator Huffman also pointed out a change in Hamilton County that was made based on feedback from Democratic members to eliminate subdivisions splits in District 1. (*Id.* at 13:4-15). Speaker Cupp praised this change noting that Hamilton County was now only being split once. (*Id.* at 41:8-11).

Minority Leader Russo offered what she styled as four amendments (although it was essentially an entirely new plan) that would swap territory from one district into the other that would create more democratic leaning districts.<sup>2</sup> (*Id.* at 15:5-20:17). Senator Huffman discussed problems with those amendments and Minority Leader Russo's rationale for offering them noting that the "unduly favor" language that constrains a simple majority general assembly congressional plan did not apply to the Commission. (*Id.* at 23:11-29:17). Auditor Faber also questioned whether Leader Russo's proposed amendments regarding Columbus complied with Article XIX, Section 2(B)(4)(a)'s requirements that a "significant portion" of the municipality be contained in a single

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<sup>2</sup> These amendments are different than the amended whole state map offered by Senator Sykes during this meeting, which was the Yuko Map uploaded to the Commission website on February 8, 2022. In offering the amendment, Senator Sykes made no statement other than it was an 8-7 map. It is unclear how this map was developed, and if it follows the provisions of Article XIX. As such, this amendment was voted down without significant discussion. (Exhibit 3 at 5:2-25; 10:10-25).

district. (*Id.* at 36:24-38:19). When put forth for a vote, the plan was adopted by the Commission by a vote of 5-2 (the “Second Plan”). (*Id.* at 45:3).

## ARGUMENT

### **I. The Commission is Not a Party and this Court Lacks Jurisdiction to Grant Petitioners the Relief they Seek.**

Petitioners’ Motion seeks relief requiring the Commission to enact another redistricting plan within five (5) days of an order that would find the March 2, 2022 Plan is unconstitutional. (Motion p.39). The Commission, however, is not a party to this litigation, as the Court granted its Motion to Dismiss on December 3, 2021. *See* December 3, 2021 Case Announcements #2, 2021-Ohio-4237. As such, the Court no longer has jurisdiction over the Commission with respect to the claims in this case and cannot order it to act in the manner that Petitioners request. To the contrary, Petitioners must file a new case against the Commission and proceed in the normal course.

Once a case has been dismissed, the court lacks jurisdiction to proceed against the dismissed party. *See State ex rel. Welt v. Doherty*, \_\_\_ N.E. 3d \_\_\_, 2021 WL 4155982, 2021-Ohio-3124 ¶19 (holding that “in general, when a trial court unconditionally dismisses a case or a case [has] been voluntarily dismissed under Civ. R. 41(A)(1), the trial court patently and unambiguously lacks jurisdiction to proceed, and a writ of prohibition will issue to prevent the exercise of jurisdiction.”); *State ex rel. Fogle v. Steiner*, 74 Ohio St.3d 158, 164, 656 N.E.2d 1288,1295 (1995) (holding that the domestic relations court lacked jurisdiction over an issue of custody of children after the parents voluntarily dismissed the underlying divorce proceeding); *Schaefer v. Brokaw*, 10 Ohio Law Abs. 401, 1931 WL 2605 (Ohio Ct. App. 1931) (“It is apparent from the above quoted judgment entry that the court was in error in dismissing the defendants August Schaefer and Caroline Schaefer and then entering judgment against them.”). In addition, if a court dismisses claims against a party, it does not retain jurisdiction over that party unless the

court clearly indicates it intends to do so. *See Infinite Sec. Sols., L.L.C. v. Karam Properties, II, Ltd.*, 143 Ohio St. 3d 346, 353, 37 N.E.3d 1211, 1219, 2015-Ohio-1101, ¶ 30.

Here, the claims against the Commission have been dismissed by the Court and, in its December 3, 2021 order dismissing Petitioners' claims against the Commission, the Court did not indicate at all that it intended to retain jurisdiction over the Commission for any purpose, including for any potential remedial process.<sup>3</sup> *See* December 3, 2021 Case Announcements #2, 2021-Ohio-4237. As such, the Court is without jurisdiction over the Commission in this case, and Petitioners' Motion should be denied to the extent it seeks relief against the Commission.

Recognizing that the Court lacks jurisdiction over the Commission because it was previously dismissed from the case, Petitioners make several unavailing arguments that the Court can nonetheless award the relief they seek against the Commission. Petitioners first argue that the Court's inherent power to enforce its judgments and decrees is sufficient to entitle the Court to award relief against a party which it previously dismissed from the case. (Motion pp.33-34). The case law cited by Petitioners, however, does not support this proposition. Indeed, the *Infinite Security Solutions* case, which considered when a court may enter post-dismissal orders against parties in connection with enforcing settlement agreements, determined that courts could only award such post-dismissal relief where the court's dismissal order contains a "clear indication that the trial court intends to retain jurisdiction..." *Infinite Sec. Sols., L.L.C.* at ¶ 30. Here, the Court's December 3, 2021 Order did not clearly indicate that it intended to retain jurisdiction; thus, under

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<sup>3</sup> Petitioners argued, in opposition to the Commission's Motion to Dismiss, that it was important for the Court to deny the Motion to Dismiss due to the role of the Commission in any potential remedial process, and the Court nonetheless not only dismissed the Commission but also declined to retain jurisdiction over the Commission for any purpose. *See* December 1, 2021 Relators' Response to Respondents' Motion to Dismiss and to Stay Discovery pp.8-9; December 3, 2021 Case Announcements #2, 2021-Ohio-4237.

*Infinite Security Solutions* the Court did not retain jurisdiction over the Commission after its dismissal from the case.

The *Rieser* case likewise does not support Petitioners' inherent authority argument. It involved the question of whether the General Division of the Court of Common Pleas had jurisdiction to enter an order prohibiting a party to the litigation pending before it from proceeding as executor of an estate in concurrent federal litigation. *Rieser v. Rieser*, 191 Ohio App. 3d 616, 620, 947 N.E.2d 222, 226, 2010-Ohio-6227 ¶ 18. In discussing the jurisdiction of the General Division, the *Rieser* Court stated:

Courts have the inherent power to enforce the relief granted in their final judgments and decrees. More specifically, courts "possess the authority to enforce a settlement agreement voluntarily entered into by the parties to a lawsuit since such an agreement constitutes a binding contract." However, the subject-matter jurisdiction of the court of common pleas and its divisions exists pursuant to statute. Courts can exercise only the jurisdiction so granted them. A common pleas court may determine its jurisdiction in a matter before it but has no power to determine its jurisdiction as to matters in which it is not given jurisdiction by constitutional or statutory provisions. Neither may the parties to litigation by agreement confer jurisdiction on a court that by law it does not have.

*Id.* ¶ 19 (internal citations omitted). The *Rieser* Court ultimately determined that the General Division lacked jurisdiction to enter such an order, which was within the exclusive jurisdiction of the probate court. *Id.* ¶ 20. Thus, *Rieser* actually stands for the prospect that while Ohio courts do possess inherent authority to enforce their judgments, such authority exists only within the confines of the court's appropriate jurisdiction. Since the Court here lacks jurisdiction over the Commission, *Rieser* supports denial of Petitioners' requested relief against the Commission.

The last two cases cited by Petitioners in support of their inherent authority argument are also inapposite. The issue in *In re Whallon*, a case from 1915, involved whether the trial court retained jurisdiction over the defendant to enter a contempt order after the legislature removed its

jurisdiction over actions for divorce and alimony. See generally *In re Whallon*, 6 Ohio App. 80 (1915). The case did not involve a court attempting to enter an order against a party that was previously dismissed out of the case, and thus it is inapplicable to the present dispute. *Id.* at 82.

The issue in *Hale v. State*, from 1896, was whether the legislature's codification as offenses against public justice certain acts that were also punishable by contempt of court deprived the court of jurisdiction to enter a contempt order against a defendant who successfully solicited a witness to not show up for trial. *Hale v. State*, 55 Ohio St. 210, 213, 45 N.E. 199 (1896). The court found that it could hold the defendant in contempt, reasoning that it retained inherent "power to maintain order, to secure the attendance of witnesses to the end that the rights of parties may be ascertained, and to enforce process to the end that effect may be given to judgments...." Here, there is no allegation that the Commission has done anything unlawful to interfere with this case's process, and thus *Hale* does not support extension of jurisdiction to the Commission.

Petitioners next argue that the Court has the authority under Ohio Civil Rule 71 to enforce their requested relief against the Commission even though it was previously dismissed from the case. Rule 71, however, is an enabling rule which does not operate to extend the court's jurisdiction to where it does not already exist. Rule 71 provides, in its entirety:

When an order is made in favor of a person who is not a party to the action, he may enforce obedience to the order by the same process as if he were a party; and, when obedience to an order may be lawfully enforced against a person who is not a party, he is liable to the same process for enforcing obedience to the order as if he were a party.

The staff notes to Rule 71 provide, in pertinent part:

The rule is merely an enabling rule which allows orders in favor of and against persons not parties. It is intended to eliminate the necessity of making persons technical parties to suits in order to reach a just and proper result. No substantive rights are enlarged. The rule is intended to operate only in cases where the person not a party is entitled to an order or where there may be enforcement of an order against a person not a party.

Notably, Petitioners cite no case law for the prospect that Rule 71 operates to extend the Court's jurisdiction to parties who were previously dismissed from the case. Rule 71 does not confer jurisdiction on the Court where none exists and, as discussed above, lacks jurisdiction over the Commission. Similarly, the Court's reference to the Commission in its January 14, 2022 decision also does not create jurisdiction over the Commission after its previous dismissal from the case. Properly applied, Rule 71 might allow a third party who is not a petitioner to move to enforce a Court's order, but what Rule 71 does not allow is a party to enforce a judgment against a separate entity or party who was not a party to the Court's order.

Petitioners' privity argument is also unsupported by Ohio law. Their argument is essentially that the Court should apply a part of law pertaining to *res judicata* – not at issue here – to extend the Court's jurisdiction to enable it to award affirmative relief against the Commission. The sole case Petitioners cite, however, does not support their argument. *State ex rel. Jackson v. Ambrose*, involved the issue of whether *res judicata* barred writs of prohibition and mandamus sought against the trial court judge who sentenced the petitioner. 151 Ohio St. 3d 536, 2017-Ohio-8784, 90 N.E.3d 922, ¶ 12. The petitioner argued, among other things, that the trial court judge never rendered judgment against him or sentenced him, an argument he had made in previous litigation. *Id.* at ¶ 12 The court held that while the parties were somewhat different (the state in the prior cases and the trial court judge in this case), for purposes of applying *res judicata*, “privity was present because they share a mutuality of interest, including an identity of desired result....” *Id.* (internal quotation marks omitted). At issue here, however, is not the application of *res judicata*, but rather Petitioners' argument that the Court's jurisdiction should be extended over an entity that was previously dismissed from this litigation. *State ex rel. Jackson* certainly does not support Petitioners' argument that the Court retains jurisdiction over a previously-dismissed party

under some concept of privity. Furthermore, the General Assembly is not in privity with the Commission; each are separate, legally-constituted bodies with separate interests, separate roles under Article XIX, and separate counsel. While both entities have a role in enacting a congressional redistricting plan, Petitioners' concept of "privity" between them is not recognized under Ohio law. As such, the Court should thus deny Petitioners' Motion to the extent that it seeks relief against the Commission.

**II. In any event, the Requirements Petitioners Complain About are Not Applicable to a Commission-drawn Map Under the Plain Language of Article XIX, Section 3.**

The text of Article XIX is clear: the Section 1(C)(3)/(F)(3) requirements do not apply to Commission-drawn plans—ever. The Commission is first mentioned in Section 1 at Section 1(B), when the general assembly has failed in the month of September to pass a plan by bipartisan supermajorities. Under Section 1(B), at that time it is the Commission's opportunity to adopt a plan with a bipartisan majority. If a plan is passed by a bipartisan supermajority (general assembly) or bipartisan majority (Commission), then the Section 1(C)(3)/(F)(3) requirements never come into play.

Section 1 then turns to a situation where bipartisan majorities cannot be achieved by the general assembly or the Commission. Section 1(C)(1) describes the handoff from the Commission to the general assembly: if the Commission is unable to achieve a bipartisan majority the mapdrawing is handed back to the general assembly. It is only here where the Section 1(C)(3)/(F)(3) requirements begin to come into play. If the general assembly cannot again achieve bipartisan supermajorities to pass a plan, the general assembly may pass its plan by a simple majority, but in doing so, the following "shall apply":

- (a) The *general assembly* shall not pass a plan that unduly favors or disfavors a political party or its incumbents.



- (b) The *general assembly* shall not unduly split governmental units, giving preference to keeping whole, in the order named, counties then townships and municipal corporations.
- (c) Division (B)(2) of Section 2 of this article shall not apply to the plan. The *general assembly* shall attempt to draw districts that are compact.
- (d) The *general assembly* shall include in the plan an explanation of the plan's compliance with divisions (C)(3)(a)-(c) of this section.

Section 1(C)(3) (emphasis added). These requirements expressly apply to the general assembly and are contained in the section describing the adoption of a plan by the *general assembly* by a simple majority vote.

Perhaps a later section of Section 1 applies these requirements to the Commission? Not so. Sections 1(D), (E), and (F) describe the process of passing a new plan upon the expiration of a four-year, simple majority plan. Again, the general assembly gets the first try (Section 1(D)) and again needs a bipartisan supermajority in order for the plan to remain in effect through the rest of the decade. If it does, none of the Section 1(C)(3)/(F)(3) requirements apply. If it does not, the mapdrawing then moves to the Commission under Section 1(E) to try and adopt a plan with a bipartisan majority. Here again, the Section 1(C)(3)/(F)(3) requirements do not apply to a Commission-drawn plan. If the general assembly is unable to again achieve bipartisan supermajorities to pass a plan, the general assembly may pass a plan by a simple majority for the remainder of the decade, but in doing so, the following "shall apply":

- (a) The *general assembly* shall not pass a plan that unduly favors or disfavors a political party or its incumbents.
- (b) The *general assembly* shall not unduly split governmental units, giving preference to keeping whole, in the order named, counties then townships and municipal corporations.
- (c) Division (B)(2) of Section 2 of this article shall not apply to the plan. The *general assembly* shall attempt to draw districts that are compact.
- (d) The *general assembly* shall include in the plan an explanation of the plan's compliance with divisions (F)(3)(a)-(c) of this section.

Section 1(F)(3) (emphasis added). Again, these requirements expressly apply to the general assembly and are contained in the section describing the adoption of a plan by the *general assembly* by a simple majority vote. Nothing in Article XIX applies these requirements to Commission drawn plans. Petitioners' arguments to the contrary are incorrect.

Nothing in Section 3 of Article XIX, which pertains to the remedial process after an invalidated plan, requires a Section 3 Commission-drawn plan to comply with the Section 1(C)(3)/(F)(3) requirements. Section 3 simply sets up the timing of and procedure for providing a remedy for an invalidated plan. When a plan is invalidated the general assembly gets the first opportunity to pass a remedial plan "in accordance with the provisions of this constitution that are then valid". Section 3(B)(1). Thus, the Section 1(C)(3)/(F)(3) requirements would apply here to any simple majority remedial plan drawn by the general assembly.

If the general assembly is unable to pass a remedial plan under Section 3, the Commission must then pass a remedial plan. Petitioners claim the boiler plate language in the last sentence of Section 3—that a "congressional district plan adopted under this division shall remedy any legal defects in the previous plan"—actually means that the Section 1(C)(3)/(F)(3) requirements do in fact apply to the Commission despite absolutely no reference or even a hint at those requirements.

Petitioners' interpretation collapses under its own weight. The boiler plate language referenced above is present in Section 3 with respect to both a general assembly remedial plan and a Commission remedial plan. Under Article XIX there could be times when an invalidated plan was drawn in the first instance by the general assembly or by the Commission. Section 3 simply requires the map-drawing authority whose plan was invalidated to address the reasons why its map was invalidated. Moreover, Petitioners' argument would have the boilerplate language in the last sentence of Section 3 override the specific language directing the mapdrawing authority to "adopt

a congressional district plan in accordance with the provisions of this constitution that are then valid”, none of which apply the Section 1(C)(3)/(F)(3) requirements to a Commission-drawn plan.

To hold that the cited language in Section 3 suddenly subjects the Commission to the Section 1(C)(3)/(F)(3) requirements would be to judicially amend the Constitution and add words that do not exist. That cuts against the grain of decades of precedent in this Court. *See Northeast Ohio Regional Sewer Dist. v. Bath Twp.*, 144 Ohio St.3d 387, 44 N.E. 3d 246, 250, 2015-Ohio-2705 at ¶¶ 13-14 (“[I]t is well known that our duty is to give effect to the words used, not the delete words used or to insert words not used.”) (internal quotations omitted); *Columbus–Suburban Coach Lines, Inc. v. Pub. Util. Comm.*, 20 Ohio St.2d 125, 127, 254 N.E.2d 8 (1969) (it is the Court’s duty to “give effect to the words used, not to delete words used or to insert words not used”); *see also State ex rel. Carmean v. Hardin Cty. Bd. of Edn.*, 170 Ohio St. 415, 422, 165 N.E.2d 918 (1960) (“It is axiomatic in statutory construction that words are not inserted into an act without some purpose”).

This interpretation does not render the Section 1(C)(3)/(F)(3) requirements surplusage as Petitioners argue. Instead, it enforces those requirements against those to whom they are expressly directed to in the Ohio Constitution—the general assembly. Any time the general assembly passes a plan with a simple majority, whether in a remedial phase or otherwise, it will have to comply with the Section 1(C)(3)/(F)(3) requirements. That the language of the Constitution does not require the same of the Commission is not surprising. Indeed, as written, Section 3 sets up a final Commission plan as a safety valve of sorts. Ohio must have congressional elections at some point and a congressional redistricting plan is a necessity. Requiring enhanced majorities for or similar requirements at this final stage of the mapmaking process could lead to an impasse and give the minority party incentive to simply vote against every plan except their own. In the event of an

impasse, however, this Court lacks the authority under both the Ohio and United States Constitutions from drawing the plan itself. Ohio Const. art. XIX, Section 3; U.S. Const. art. I, Section 4 (see *infra* at Section V). Rather than create a situation that could create an impasse and cede the mapdrawing to a federal court, see *Upham v. Seamon*, 456 U.S. 37, 44, 102 S. Ct. 1518, 1522, 71 L. Ed. 2d 725 (1982), the Ohio Constitution ensures that a plan drawn by the entity with legislative authority will be enforced.

### **III. The Second Plan is Constitutional.**

Assuming arguendo that the Court's prior order and Section 1(C)(3) applied to the Commission, the Second Plan satisfies both.

As an initial matter, neither of the Petitioners' two paid experts, Dr. Rodden or Dr. Chen, have been subject to discovery or cross examination. Regarding Dr. Chen in particular, there has been no examination of how he programmed the algorithm used to generate his simulated maps and no review of his backup data or computer output. We are not aware of other court decisions where a congressional plan has been declared unconstitutional based solely upon affidavit testimony from paid experts. Regardless, the evidence that is available from both Dr. Rodden and Dr. Chen demonstrates that the Commission's plan complies with both this Court's prior order and the provisions of Section 1(C)(3) to any extent they are applicable to the Commission.

In *Adams v. DeWine*, 2022-Ohio-89 ("*Adams I*"), the Court did not hold that proportionality was required from any Ohio congressional plan, but instead that under Section 1(C)(3), "gross departures from proportionality" could not be "ignore[d]." ¶ 103 (O'Connor., concurring). The Court also acknowledged that Ohio's political geography favored Republican voters but stated that Section 1(C)(3) was violated when general assembly plans "favor the

Republican Party and disfavor the Democratic Party to a degree far exceeding what is warranted by Article XIX's line drawing requirements and Ohio's political geography." *Id.*, ¶ 41.

As explained below, Petitioners' own expert evidence demonstrates the constitutionality of the Second Plan. Ohio's political geography strongly favors Republicans because of the residential patterns of Ohio voters, which mirrors the way Republican and Democratic voters are dispersed throughout the country. As explained by Dr. Michael Barber, Ohio Democrats tend to be heavily concentrated in cities and urban areas while Republican voters are more evenly dispersed throughout the entire state. *See* Affidavit of Dr. Michael Barber (7 December 2021) ("Barber Report") at HC781-788. None of Petitioners' experts have disputed Dr. Barber's testimony regarding the residential patterns of Ohio voters. In fact, Dr. Rodden and Dr. Chen authored a scholarly article confirming this phenomenon. (See Chen and Rodden, *Unintentional Gerrymandering: Political Geography and Electoral Bias in Legislatures*, Quarterly Journal of Political Science, 2013, 8:239-269).<sup>4</sup> Because of Ohio's political geography, every congressional plan that complies with Section 2 of Article XIX will have at least 6 safe Republican seats and only 2 safe Democratic seats. Barber Report at HC794-800. In other words, 40% of Ohio's 15 congressional districts will be created as safe Republican districts and only 13% will be created as safe Democratic districts.

Both of Dr. Chen's reports illustrate that Ohio's political geography favors Republicans, and eviscerate Petitioners' argument that the Commission's plan unduly favors the Republican Party and its incumbents. While impossible to verify, Dr. Chen has testified that his algorithm was programmed to comply with all of the requirements of Section 2. He then generated 1000 simulated maps based upon this algorithm. Using the same set of elections used by the Commission, Dr.

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<sup>4</sup> <https://web.stanford.edu/~jrodden/wp/florida.pdf>

Chen's simulated maps always result in 8 districts that favor Republicans and only 2 districts that always favor Democrats. Affidavit of Dr. Jowei Chen (4 March 2022) Figure A1. This means that under Dr. Chen's simulations, 53% of his districts always favor Republicans while only 13% always favor Democrats. Dr. Chen's simulations therefore conclusively demonstrate that Republicans enjoy a significant political advantage over Democrats in congressional plans because of residential patterns.

Dr. Chen demonstrates that at least 10 Ohio Congressional districts will naturally lean in favor of one party or the other. What about the other five districts resulting from Dr. Chen's simulations? For two of those districts, a large majority of Dr. Chen's simulations result in Republican leaning districts while three of Dr. Chen's simulations show a majority of Democratic districts. Thus, under Dr. Chen's analysis, out of 15 total districts, 10 of his simulated districts are more than likely to lean Republican while 5 are more than likely to lean Democratic. This is the precise political lean found in the Commission's plan. Affidavit of Dr. Jonathan Rodden (4 March 2022) ¶ 14.

Petitioners' other arguments regarding the Commission's plan are without merit. In *Adams I*, the Court ruled that the general assembly's congressional plan unduly divided Hamilton and Cuyahoga counties into three instead of two congressional districts. *Adams I*, ¶¶ 84, 89. It did not order the general assembly to eliminate one of the splits in either county simply to draw more Democratic leaning districts without regard to Section 2 and Ohio's political geography. Petitioners have admitted that both Hamilton and Cuyahoga are now located in only two congressional districts under the Commission's plan. (Motion p. 31). Next, Petitioners argue that the Commission's plan fails to comply with Section 1(C)(3)(d) because other plans are very slightly more compact under the "Reock", "Polsby-Popper" and "Area/Convex Hull"

mathematical tests for compactness. However, the slight differences in compactness scores cannot possibly be evidence that the “general assembly” failed to “attempt” to draw districts that are compact. This logical conclusion is reinforced by the text of Section 1(C)(3)(d), which does not define how compactness must be calculated, and this Court’s prior order, which did not require plans to maximize compactness in order to comply with Section 1(C)(3)(d).

One final question remains- given Dr. Chen’s report, how exactly must the Commission satisfy the requirements of Section 1(C)(3), assuming the Commission’s current plan is unconstitutional? Would a Commission plan comply if the adopted districts fell exactly within the mid-point calculated by Dr. Chen for each of his simulated districts? If so, a review of Dr. Chen’s report will show that the end result remains 8 safe Republican districts and two districts that favor Republicans. *See* Chen Aff. Figure A1. This would also result in 2 safe Democratic seats and 3 districts that lean Democratic. In other words, the political leans of any such modified map would result in the same number of Republican/Democratic leaning districts found in the Commission’s plan. Given the decision by the voters to exempt congressional plans from the requirements of Article XI, Section 6, it is hard to see how these slight differences in the percentage of Republicans or Democrats found in any congressional district could possibly violate Section 1(C)(3), much less any provision of Section 2.

#### **IV. The Congressional Election Cycle is Underway and this Court Should Defer any Action on the Second Plan Until After the 2022 Election.**

In a normal election cycle, “[r]unning elections state-wide is extraordinarily complicated and difficult.” *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring in grant of applications for stays). Elections officials must navigate “significant logistical challenges” that require “enormous advance preparations.” *Id.* But, admittedly, the 2022 election cycle has been far from a “normal” cycle in Ohio. In addition to the challenge of needing to draw new districts

and conduct elections under these new districts, this is the first redistricting cycle conducted under Ohio's new constitutional provisions. Navigating these new provisions has proven difficult, with different interpretations of the new constitutional amendments, and changes to Ohio's political geography over the last decade making the difficult work of drawing new election districts even more challenging. Exacerbating this already challenging scenario, the Covid-19 pandemic delayed the results of the 2020 census and, in turn, Ohio's redistricting efforts. In fact, due to these converging factors, the Second Plan was adopted only days before the close of Ohio's filing period for the May primary. That filing period has now passed.

In 2006 the United States Supreme Court held in *Purcell v. Gonzalez*, “[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.” 549 U.S. 1, 4-5 (2006) (per curiam).

In the wake of this seminal opinion, the United States Supreme Court has consistently admonished courts not to alter state election laws and processes in the period close to an election. *Andino v. Middleton*, 141 S. Ct. 9, 10 (2020) (Kavanaugh, J., concurring in grant of stay application) see also *Milligan*, 142 S. Ct. at 879; *Merrill v. People First of Ala.*, 141 S. Ct. 25 (2020); *Merrill v. People First of Ala.*, 141 S. Ct. 190 (2020); *Clarno v. People Not Politicians*, 141 S. Ct. 206 (2020); *Little v. Reclaim Idaho*, 140 S. Ct. 2616 (2020); *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 140 S. Ct. 1205 (2020) (per curiam); *Democratic Nat’l Comm. v. Wisc. State Legislature*, 141 S. Ct. 28 (2020) (declining to vacate stay); *Benisek v. Lamone*, 138 S. Ct. 1942 (2018) (per curiam); *Veasey v. Perry*, 574 U.S. 951 (2014).

The 2022 election cycle already underway is no exception. Over a month ago, the United States Supreme Court in *Milligan* issued a stay of the district court's opinion that enjoined the use



of Alabama’s congressional redistricting plan. In his concurring opinion, Justice Kavanaugh invoked the *Purcell* doctrine for the proposition that courts “should not enjoin a state’s election laws in the period close to an election.” 142 S. Ct. at 879-880. This is because, “filing deadlines need to be met” candidates need to “be sure what district they need to file for” or even determine “which district they live in.” *Id.* Three weeks after the *Milligan* opinion was issued, the Georgia district court in *Alpha Phi Alpha Fraternity, Inc., v. Raffensperger*, followed suit, declining to enjoin the State’s redistricting plan due to the *Purcell* doctrine. \_\_\_ F.Supp.3d \_\_\_, 2022 WL 633312, 1:21-cv-05337(N.D. Ga. Feb. 28, 2022). Later that same week, Judge McAllister who is assigned to the New York state court challenge to the state Senate and Congressional redistricting plans also indicated that the 2022 elections will proceed under the current redistricting plans on March 3, 2022. See <https://www.nytimes.com/2022/03/03/nyregion/ny-judge-redistricting-maps.html>; <https://news.yahoo.com/ny-elections-maps-amid-redistricting-192447324.html>. Just yesterday the Supreme Court denied a stay application that would have resulted in different congressional districts in North Carolina after the close of their March 4 filing deadline and ahead of North Carolina’s May 17 primary. *Moore v. Harper*, No. 21A455, 595 U.S. \_\_\_\_ (Kavanaugh, J. concurring).

Courts in Ohio have also routinely abided by the *Purcell* doctrine to not meddle with state election laws in a period close to an election. See *Ohio Democratic Party v. LaRose*, 2020-Ohio-4664, ¶ 82, 159 N.E.3d 852, 879 (reversing lower court’s grant of preliminary injunction on new election law because “issuing an injunction close to an election increases the harm to the boards of elections and, as a result, the general public by placing the security and administration of the election at risk.”); *League of Women Voters of Ohio v. LaRose*, 489 F. Supp. 3d 719, 740 (S.D. Ohio 2020) (noting that the Supreme Court has “repeatedly emphasized” that courts should not

alter election rules “on the eve of an election.”) citing *Kishore v. Whitmer*, No. 20-1661, 972 F.3d 745, 751, 2020 U.S. App. LEXIS, at \*11 (6th Cir. Aug. 24, 2020); *Boustani v. Husted*, No. 1:06CV2065, 2012 WL 5414454, at \*3 (N.D. Ohio Nov. 6, 2012) (declining to grant Plaintiffs relief requiring posting of election notices because court orders on the eve of an election “can themselves result in voter confusion”).<sup>5</sup>

This precedent is designed to prevent 11<sup>th</sup> hour judicial intervention which risks impinging upon an individual’s right with the “most fundamental significance under our constitutional structure”—the right to vote. *Burdick v. Takushi*, 504 U.S. 428, 433 (1992); see also *Purcell*, 549 U.S. at 4-5. Additionally, when a Court makes changes close to the election, these changes “can themselves result in voter confusion and consequent incentive to remain away from the polls.” *Purcell*, 549 U.S. at 4-5. Late intervention can also impose significant burdens on state and local elections staff, as well as unfairly impact candidates or political parties. *Milligan*, 142 S. Ct. at 881 (Kavanaugh, J., concurring in grant of applications for stays).

Petitioners ask this Court to eschew this well-reasoned precedent and create election chaos. Petitioners ultimately ask this Court to strike down the Second Plan, and replace it with a map of the Court’s choosing, while simultaneously suggesting that the Court take additional time to receive perhaps dozens of other plans from “interested *amici*” before ultimately choosing a plan. Even assuming *arguendo* the Court had the power to simply substitute its own

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<sup>5</sup> Other state courts routinely apply the *Purcell* doctrine as well. See e.g. *In re Khanoyan*, 637 S.W.3d 762, 764 (Tex. Jan. 6 2022) (detailing the precedent of Federal and Texas Courts in support of refusal to interfere in imminent election through mandamus); *Alliance for Retired Americans v. Secretary of State*, 240 A.3d 45, 54 (Me. 2020) (denying injunctive relief while holding that a court should not alter election rules close to an election in order to “avoid judicially created confusion”); *Singh v. Murphy*, Doc. No. A-0323-20T4, 2020 WL 6154223, at \*14-15 (N.J. App. Div. 2020) (declining to grant an injunction based in *Purcell*); *League of United Latin American Citizens of Iowa v. Pate*, 950 N.W.2d 204, 216 (Iowa 2020) (same).

congressional plan for the Commissions’ plan, which it does not, Petitioners’ suggested relief would take weeks to adjudicate. And Petitioners demand this relief despite essentially filing a new suit, disguised as a motion, eight weeks before the May 3<sup>rd</sup> primary date, and two weeks before the start of absentee and overseas voting. (Exhibit 1, 2.24.21 Transcript at 45:14-46:13).<sup>6</sup>

This is the sort of relief the *Purcell* doctrine encourages courts to decline on the eve of an election. And this is true even if the Court believes the underlying election laws at issue may be constitutionally circumspect, which, as shown above, is not the case here. *See Merrill*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring in grant of applications for stays of enforcement where lower court found VRA violations in Alabama’s Congressional redistricting plan); *Covington v. North Carolina*, 316 F.R.D. 117, 177 (M.D.N.C. 2016), *aff’d*, 137 S. Ct. 2211, 198 L. Ed. 2d 655 (2017) (refusing to enjoin election 2.5 months away despite holding certain North Carolina legislative districts were racial gerrymanders because “such a remedy would cause significant and undue disruption to North Carolina’s election process and create considerable confusion, inconvenience, and uncertainty among voters, candidates, and election officials.”); *Raffensperger*, 2022 WL 633312 (noting that the Court’s denial of the preliminary injunction on the basis of the *Purcell* doctrine “should not be viewed as an indication of how the Court will ultimately rule on the merits at trial”); *Upham v. Seamon*, 456 U.S. 37, 44, 102 S. Ct. 1518, 1522, 71 L. Ed. 2d 725 (1982) (holding that even though there was error by the lower court the interim plan should be used because the filing date for candidates had “come and gone” and the primary was looming.) Therefore, even assuming *arguendo* the Court were inclined to believe Petitioners

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<sup>6</sup> The Federal Uniformed Overseas Citizens Absentee Voting Act of 1986 also requires that ballots be transmitted to overseas military personnel no later than 45 days before a federal election. 52 U.S.C. § 20302(a) (formerly 42 U.S.C. §§ 1973ff(1)-(7), as amended by Pub. L. No. 111-84, subtitle H, 575-589, 123 Stat. 2190, 2318-2335 (2009)).

arguments that the Second Plan violates Article XIX, Sections 1(C)(3)(a) or (b), which it does not, the Court should allow the 2022 elections to go forward under the Second Plan while adjudicating the merits of Petitioners' claims.

If Petitioners' expansive relief is granted at this 11<sup>th</sup> hour, the prejudice to voters, and especially absentee and overseas voters will be immense. This is exactly the "increased risk" of confusion the Supreme Court warned about in *Purcell*. See also *Democratic Nat'l Comm. v. Wisc. State Legislature*, 141 S. Ct. 28, 42 (2020) (*DNC*) (Kagan, J., dissenting) ("Last-minute changes to election processes may baffle and discourage voters..."). This in addition to jeopardizing state and local election officials' ability to prepare for and administer the May 3 primary.<sup>7</sup> This Court should follow *Purcell* and its progeny and decline to create election chaos in Ohio.

**V. This Court Lacks Authority under the United States Constitution to Draw a Congressional Plan.**

Plaintiffs argue that the absence of an express restraint on the actions of this Court in Article XIX permit this Court to legislate a congressional plan from the bench. Such an argument is misguided, however, because it ignores the application of the Election Clause in the federal constitution. The text of the Elections Clause is clear: "[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the *Legislature* thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators." U.S. CONST. art. I, § 4, cl. 1 (*emphasis added*). The word "Legislature" in the Elections Clause was "not . . . of uncertain meaning when incorporated into the Constitution." *Hawke v. Smith*, 253 U.S. 221, 227 (1920). And "the Legislature" means now

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<sup>7</sup> This is a fact Petitioners and their counsel know quite well, as counsel for Petitioners successfully argued just last week to the US Supreme Court that the *Purcell* doctrine should prevent a change to North Carolina's congressional districts even though North Carolina's primary is two weeks after Ohio's.

what it meant then, “the representative body which ma[kes] the laws of the people.” *Id.* The Election Clause’s limitation on who could draw congressional plans was well established by 2018 when the people of Ohio adopted Article XIX regarding *congressional* apportionment. *See City of Centerville v. Knab*, 162 Ohio St.3d 623, 2020-Ohio-5219, 166 N.E.3d 1167, ¶ 28 (“[W]e presume that the voters who approved an amendment were aware of existing Ohio law.”). The Elections Clause prevents this Court from enacting a congressional plan of its own.

This Court was one of the first to tackle the interpretation of the federal Elections Clause in *State ex rel. Davis v. Hildebrant*, 94 Ohio St. 154, 160, 114 N.E. 55, 57 (1916). There, interpreting Ohio’s referendum check on legislative power, this Court answered the question of how far the definition of “Legislature” goes. The United States Supreme Court affirmed this Court’s decision. It viewed the issue “from three points of view—the state power, the power of Congress, and the operation of the provision of the Constitution of the United States.” *State of Ohio ex rel. Davis v. Hildebrant*, 241 U.S. 565, 567 (1916). As to the validity of this application of the referendum as a matter of Ohio’s “Constitution and laws,” the Court held that “the decision below” in this Court upholding the challenged use of the referendum “is conclusive.” *Id.* at 568. With respect to “the power of Congress,” the Court cited legislation establishing Congress’s view “that where, by the state Constitution and laws, the referendum was treated as part of the legislative power, the power as thus constituted should be held and treated to be the state legislative power for the purpose of creating congressional districts by law.” *Id.* And with respect to the constraints imposed by the U.S. Constitution itself, the Court reasoned that the plaintiffs’ challenge “must rest upon the assumption that to include the referendum in the scope of the legislative power is to introduce a virus which destroys that power,” an assumption the Court rejected. *Id.* at 569.

Later in *Wilson v. Kasich*, 2012-Ohio-5367, ¶¶ 19-22, 134 Ohio St. 3d 221, 227–28, 981 N.E.2d 814, 821–22 (2012), this Court held that it would treat the redistricting plans of the apportionment board as part and parcel of the legislative process for three reasons: (1) the apportionment board was performing a legislative function, (2) a presumption of validity attaches to the adopted plans, and (3) “because the people of Ohio placed apportionment authority in the hands of the board, the apportionment plan should be accorded the same, if not greater, consideration as a statute enacted by the General Assembly.” *Id.* Just recently, in a separate case, this Court noted that the work of the Redistricting Commission is legislative and the subject of highest standard of deference. See *League of Women Voters of Ohio v. Ohio Redistricting Comm'n*, 2022-Ohio-65 ¶76 (summarizing the holding of *Wilson*, in part, that “apportionment is a legislative task (albeit now delegated by the Ohio Constitution to the redistricting commission) and that the public officers are presumed to have properly carried out their duties.”). Upholding a commission charged with redistricting in Arizona as being consistent with the federal Elections Clause, the United States Supreme Court held that its “precedent teaches that redistricting is a legislative function, to be performed in accordance with the State's prescriptions for lawmaking[.]” *Arizona State Legislature v. Arizona Independent Redistricting Com'n*, 576 U.S. 787, 808 (2015). Consistent with this Court’s holding in *Wilson* and the United States Supreme Court’s holding in *Arizona Independent Redistricting Commission*, Ohio’s Redistricting Commission undoubtedly falls comfortably within the ambit of the Elections Clause.

At no point, however, has this Court or the United States Supreme Court held that the judiciary, exercising judicial review, is part of the legislative process. To the contrary, “[a] fundamental principle of the constitutional separation of powers among the three branches of government is that the legislative branch is the ultimate arbiter of public policy.” *Arbino v.*

*Johnson & Johnson*, 2007-Ohio-6948, ¶ 21, 116 Ohio St. 3d 468, 472, 880 N.E.2d 420, 428 (2007). “It necessarily follows that the legislature has the power to continually create and refine the laws to meet the needs of the citizens of Ohio.” *Id.* If a court determines that a statute, or in this case a plan, is unconstitutional, it cannot make the policy choices to rewrite the plan itself; rather, it must hold the act unconstitutional and allow the policy-makers, under Article XIX either general assembly or the Commission, to redraw. Even if there was a basis for determining that the Commission’s congressional plan was unconstitutional, this Court, consistent with the Elections Clause of the federal constitution could not redraw the plan on its own.

Long ago this Court held that “in this state the validity of an act passed by the legislature must be tested alone by the constitution, and that the courts have no right or power to nullify a statute upon the ground that it is against natural justice or public policy.” *Probasco v. Raine*, 50 Ohio St. 378, 390–91, 34 N.E. 536, 538 (1893). “When the legislature, within the powers conferred by the constitution, has declared the public policy, and fixed the rights of the people by statute, the courts cannot declare a different policy, or fix different rights.” *Id.*

Accordingly, “[t]he only provision in the Constitution that specifically addresses” the crafting of congressional districts “assigns [the matter] to the political branches,” not to judges. *Rucho v. Common Cause*, 139 S. Ct. 2484, 2506 (2019). What is more, the Elections Clause is the *sole* source of state authority over congressional elections. Regulating elections to federal office is not an inherent state power. Instead, the offices of Senator and Representative “aris[e] from the Constitution itself.” *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 805 (1995); *see also Cook v. Gralike*, 531 U.S. 510, 522 (2001). And because any state authority to regulate election to federal offices could not precede their very creation by the Constitution, such power “had to be delegated to, rather than reserved by, the States.” *U.S. Term Limits, Inc.*, 514 U.S. at 804; *cf.* 1 JOSEPH

STORY, COMMENTARIES ON THE CONSTITUTION § 627 (1833). (“It is no original prerogative of state power to appoint a representative, a senator, or president for the Union”). Thus, whatever power a state government has to craft congressional districts *must* derive from—and be limited by—the Elections Clause. Any other exercise of power is *ultra vires* as a matter of federal law.

Cases cited by Petitioners are unpersuasive. Foremost, Ohio’s Constitution is different than that of other state’s constitutions, and often there is little value in comparing a different state’s interpretation of a different state constitution. Moreover, other cases cited by Petitioners do not involve congressional redistricting plans. *See, e.g., Scott v. Germano*, 381 U.S. 407 (1965) (Illinois state senate). In *Grove v. Emison*, 507 U.S. 25, 34 (1993), the United States Supreme Court was looking at federal court intervention, but nonetheless noted that absent evidence a state legislature or other body “will fail timely to perform that duty [of redistricting], a federal court must neither affirmatively obstruct state reapportionment nor permit federal litigation to be used to impede it.” Here, the Commission timely drew a congressional plan. The Court in *Grove* actually noted that lack of time *for appeal* before the election was an immaterial concern to federal court involvement:

We fail to see the relevance of the speed of appellate review. *Germano* requires only that the state agencies adopt a constitutional plan “within ample time ... to be utilized in the [upcoming] election,” 381 U.S., at 409. It does not require appellate review of the plan prior to the election, and such a requirement would ignore the reality that States must often redistrict in the most exigent circumstances—during the brief interval between completion of the decennial federal census and the primary season for the general elections in the next even-numbered year.

*Id.* at 35, 113 S. Ct. 1075, 1081–82, 122 L. Ed. 2d 388 (1993). In short, the cases cited by Petitioners do not alter the necessary limitations on this Court consistent with the Elections Clause.

In Ohio, redistricting plans are written by the general assembly or the Commission, not by the courts. The Elections Clause does not permit this Court—a judicial body, not a legislative



body—to vest itself with the authority to draw congressional boundary lines. Article XIX, Section 3(A) provides this Court with jurisdiction, and intimates that it might invalidate a congressional district or group of congressional districts. However, the Constitution expressly places the remedy for that invalidation squarely either with the lawmaking, policy-making branch, general assembly, *see* Article XIX, Section (B)(1), or the Commission, Article XIX, Section (B)(2), and not with the court. While acts of the Commission or the general assembly are consistent with the Elections Clause, a plan adopted by this Court would violate federal law.

### **CONCLUSION**

For the foregoing reasons, Respondents request that the Motion to Enforce be denied.

Respectfully submitted this the 8<sup>th</sup> day of March, 2022.

By:

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# **Exhibit 1**

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OHIO REDISTRICTING COMMISSION

FEBRUARY 24, 2022

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1                   SPEAKER CUPP: The Ohio Redistricting  
2 Commission will reconvene pursuant to the  
3 recess. I will ask first that the staff please  
4 call the roll.

5                   THE CLERK: Co-Chair Speaker Cupp.

6                   SPEAKER CUPP: Present.

7                   THE CLERK: Co-Chair Senator Sykes.

8                   SENATOR SYKES: Present.

9                   THE CLERK: Governor DeWine.

10                  GOVERNOR DEWINE: Here.

11                  THE CLERK: Auditor Faber.

12                  AUDITOR FABER: Here.

13                  THE CLERK: President Huffman.

14                  PRESIDENT HUFFMAN: Here.

15                  THE CLERK: Secretary LaRose.

16                  SECRETARY LAROSE: Here.

17                  THE CLERK: Leader Russo.

18                  Mr. Co-Chair, a quorum is present.

19                  SPEAKER CUPP: With a quorum present,  
20 we will resume our meeting as a full commission.

21                  At this time, the commission will hear;  
22 public testimony from sponsors of complete  
23 statewide congressional plans. These  
24 proceedings will be recorded and broadcast by  
25 the Ohio Channel so the board, in its

1 deliberations, may consider things that are said  
2 here today.

3 We ask our audience to refrain from  
4 clapping or other loud noise out of respect for  
5 the witnesses and persons that may be watching  
6 the proceedings remotely because that sort of  
7 noise does interfere with the sound for those  
8 who are listening remotely.

9 If you are here to testify, and have  
10 not done so already, please complete a witness  
11 slip and give it to one of our staff. If you  
12 have written testimony, please submit a copy to  
13 our staff so it can be included in the official  
14 record of proceedings.

15 As previously agreed with the co-chair,  
16 a witness may testify before the commission for  
17 up to ten minutes on the plan. They are  
18 testifying about subject to any further  
19 limitation by the co-chairs. Witnesses should  
20 limit their testimony to the complete statewide  
21 congressional plan that they submitted.

22 We'll now begin with our first witness  
23 here today whose name is Trevor Martin. So  
24 please come forward. Is Trevor Martin here?

25 THE CLERK: He's not here yet.

1                   SPEAKER CUPP: Not here yet. Okay.  
2                   Okay. We'll skip over him and come back later.

3                   So our first witness will be Linus  
4                   Beatty. Mr. Beatty, come forward and please  
5                   state and spell your name for the record, speak  
6                   clearly, loudly enough for this panel to hear  
7                   and for the audience as well. So welcome.

8                   LINUS BEATTY: Thank you so much.

9                   My name is Linus Beatty. L-I-N-U-S  
10                  B-E-A-T-T-Y.

11                  First, I'd like to thank all of the  
12                  commissioners, the media that's present, and all  
13                  of the public for giving us your time today to  
14                  hear my plan.

15                  Like many in our state, I've been  
16                  deeply disappointed in how the process has  
17                  worked so far for redistricting. However, I'm  
18                  not here today to talk about the process so far.  
19                  Instead, I'd like to talk about a plan that I  
20                  have that can help move the state forward that I  
21                  believe is fair and compliant with the  
22                  constitution.

23                  This map which I have submitted has a  
24                  9/6 breakdown which I believe is in line with  
25                  what the supreme court has asked this commission



1 to do. Furthermore, it avoids double-bunking  
2 any incumbents who have -- who have signaled  
3 that they are seeking reelection.

4 I believe that my map does an excellent  
5 job of maintaining communities of interest  
6 particularly when compared to the map from last  
7 decade. The example that I would give is  
8 examining last decade's 12th and 15th districts,  
9 both of which went into Franklin county before  
10 going eastward into Appalachia. I don't need to  
11 tell you guys that these communities aren't that  
12 similar in their culture and the economic  
13 realities that they face. And as a result of  
14 that not being what it is, several parts of  
15 Appalachia were represented by two members from  
16 Franklin county for a decent chunk of the  
17 decade.

18 My map, however, splits Franklin county  
19 only twice, the minimum number needed to comply  
20 with the constitution. It keeps the 15th  
21 district, which is currently occupied by Joyce  
22 Beatty, entirely within Franklin county. And  
23 the 12th district, which goes up into Delaware  
24 county and slightly over into Licking, stays  
25 entirely within the Columbus metropolitan area.

1                   Furthermore, the 10th district, which  
2                   would be occupied by Charlie Balderson right  
3                   now, is about half contained within Appalachia  
4                   and the other half is in rural and exurban  
5                   communities near Columbus. This, in addition to  
6                   keeping the sixth district entirely within  
7                   Appalachia and the second district mostly within  
8                   Appalachia, will help ensure that this region is  
9                   accurately represented in Washington.

10                   I don't know if you guys have the  
11                   district statistics. I submitted them, but --

12                   SPEAKER CUPP: I believe they have been  
13                   distributed to members' folders. Yes, we have  
14                   them.

15                   LINUS BEATTY: So as you can see, it  
16                   will most likely function as a 9/6 map, nine  
17                   Republican, six Democrats. The statistics there  
18                   are from a 2016 to 2020 composite. And I  
19                   believe that this map avoids splitting counties  
20                   whenever possible. There are only 14 county  
21                   splits, the minimum needed, and there are only  
22                   13 counties that are split, with Cuyahoga being  
23                   split twice.

24                   As I wrap up my opening statement, I  
25                   would like to leave this commission with one

1 thought that I feel justifies where we're at  
2 right now. I ask each and every one of you: Do  
3 you weigh your own political future and your own  
4 political fortune over the values of our  
5 republic and the strength of our democracy?

6 I think that is a question that every  
7 single public servant should ask themselves  
8 before any action, and I ask that before every  
9 single vote, whether it's for my map or another  
10 map, you will do the same.

11 Thank you very much. And I yield for  
12 any questions related to my map.

13 SPEAKER CUPP: Thank you very much for  
14 taking the initiative to draw a map and come  
15 here and submit it and to testify. I don't know  
16 if you watched the hearing yesterday, but we do  
17 have some basic questions that are just  
18 requirements to go through to see whether your  
19 map -- to ask you whether your map complies with  
20 those.

21 LINUS BEATTY: Yes.

22 SPEAKER CUPP: The first is the  
23 congressional ratio of representation, and that  
24 is in Article XIX, Section 2(A)(2). The ratio  
25 of representation is 786,630. Did you apply a

1 standard of strict mathematical equality for the  
2 population of each district, or did you deviate  
3 from the ratio of representation?

4 LINUS BEATTY: No district deviates  
5 more than two people from that. And if I had  
6 better software, I could probably make it less.  
7 I did it on Dave's.

8 SPEAKER CUPP: Two is pretty good, and  
9 one yesterday was pretty good too.

10 Do you believe your district population  
11 meets the constitutional standard set out in the  
12 federal case law for one person, one vote?

13 LINUS BEATTY: I believe so.

14 SPEAKER CUPP: All right. Next is  
15 regarding the splits of political subdivisions.

16 Prior to drawing districts, did you  
17 determine which counties had populations that  
18 exceeded the ratio of representation pursuant to  
19 Article XIX, Section 2(B)(4).

20 LINUS BEATTY: Yes.

21 SPEAKER CUPP: And can you tell us what  
22 those are.

23 LINUS BEATTY: They are Franklin  
24 county, Cuyahoga county, and Hamilton county.

25 SPEAKER CUPP: In any of those

1 counties, were there any cities or townships  
2 whose population exceeded the congressional  
3 ratio of representation?

4 LINUS BEATTY: Columbus does.

5 SPEAKER CUPP: And therefore, did you  
6 follow the rules in section 2(B)(4)(a) to  
7 include a significant portion of that political  
8 subdivision in one district?

9 LINUS BEATTY: Yes.

10 SPEAKER CUPP: I think you testified to  
11 that.

12 Returning to those counties whose  
13 population exceeded the ratio of representation,  
14 were there any cities or townships that were  
15 larger than 100,000 persons but less than the  
16 congressional ratio of representation?

17 LINUS BEATTY: Parma would be, I  
18 believe, above that. And Cuyahoga county, I did  
19 not split that. And then -- oh, wait. Over  
20 100,000?

21 SPEAKER CUPP: Yes.

22 LINUS BEATTY: Oh, then I guess it  
23 would just be Cincinnati and then Cleveland  
24 which are all kept whole. Sorry. My bad.

25 SPEAKER CUPP: And did you follow the

1 rule about not splitting?

2 LINUS BEATTY: Not splitting. No.  
3 Those cities are not split.

4 SPEAKER CUPP: All right. Thank you.  
5 How many counties in your plan are  
6 whole in one congressional district?

7 LINUS BEATTY: It would be 75.

8 SPEAKER CUPP: And how many counties in  
9 your plan are split once?

10 LINUS BEATTY: It would be 12.

11 SPEAKER CUPP: And how many counties in  
12 your plan are split twice?

13 LINUS BEATTY: One.

14 SPEAKER CUPP: That would be Cuyahoga?

15 LINUS BEATTY: Yes, Cuyahoga.

16 SPEAKER CUPP: How many counties in  
17 your plan are split more than twice?

18 LINUS BEATTY: None.

19 SPEAKER CUPP: And so do you believe  
20 these numbers comply with Article XIX,  
21 Section 2(B)(5) regarding county splits?

22 LINUS BEATTY: I do.

23 SPEAKER CUPP: In regard to the  
24 contiguity of -- contiguity -- yeah, keeping  
25 them together, does your plan comply with

1 Article XIX, Section 2(B) in that if a district  
2 contains only part of a county, the part of the  
3 district that lies in that district is  
4 continuous within the boundaries of that county?

5 LINUS BEATTY: It does.

6 SPEAKER CUPP: All right. And then  
7 portions relating -- question relating to the  
8 portions of the territory in more than one  
9 county.

10 Prior to drawing the districts, did you  
11 determine which counties had populations that  
12 exceeded 400,000 in population?

13 LINUS BEATTY: Yes.

14 SPEAKER CUPP: And those would be?

15 LINUS BEATTY: They would be -- let's  
16 see if I can remember all of them. They would  
17 be Lucas, Montgomery, Hamilton, Cuyahoga,  
18 Franklin, and then Summit, I believe, are all of  
19 them.

20 SPEAKER CUPP: Does your plan comply  
21 with Article XIX, Section 2(B)(7) in that no two  
22 congressional districts shall share portions of  
23 the territory of more than one county except for  
24 those counties whose population exceeds 400,000  
25 persons?

1 LINUS BEATTY: Yes.

2 SPEAKER CUPP: And did you attempt to  
3 include at least one whole county in each  
4 congressional district in compliance with  
5 Article XIX, Section 2(B)(8).

6 LINUS BEATTY: Yes, I did.

7 SPEAKER CUPP: All right. That's all  
8 the questions I have.

9 Are there any members of the commission  
10 that have further questions?

11 Hearing none, thank you very much for  
12 your testimony.

13 Oh, I'm sorry. Auditor Faber.

14 AUDITOR FABER: I just had one. And I  
15 appreciate your work in putting this together  
16 because I know this took you a lot of time,  
17 especially with the detail you paid to try and  
18 keep communities of interest and it looks like  
19 incumbents and minimize the splits.

20 But as I look at District 9, it looks a  
21 lot like the famed Snake on the Lake that we've  
22 heard a lot about. Can you explain that  
23 distinction and why we heard so much concern  
24 about that but yet this isn't it.

25 LINUS BEATTY: So one thing that I



1 would note is that the Snake on the Lake  
2 does -- it splits Ottawa and Erie to go  
3 basically very narrowly along the lake, and does  
4 the same in Lorain before growing out and taking  
5 western Cleveland, which is very strongly  
6 Democrat, to make it into a vote sink.

7 When I designed my map, I tried to  
8 avoid splits, and furthermore, I looked at  
9 previous maps, including ones before this last  
10 congressional map, to see what counties were  
11 often kept together. For example, I put  
12 Sandusky county with the 5th because that had  
13 been with the 5th going back to the '70s prior  
14 to this configuration.

15 Does that answer your question, or  
16 would you like more clarity?

17 AUDITOR FABER: I guess it's as good as  
18 any. I can't tell the details, but it looks  
19 like you chose to slice Lorain county in half  
20 and made some other adjustments, but again, I am  
21 just curious --

22 LINUS BEATTY: I would note that this  
23 is pretty much the 9th district that existed  
24 prior to this decade. It's the same one that  
25 was on the 2000s. Lorain's not split the exact

1 same way, but that is where that comes from.

2 SPEAKER CUPP: All right. Is there any  
3 further questions? There being no further  
4 questions, we thank you for coming and making  
5 your presentation.

6 LINUS BEATTY: Thank you.

7 SPEAKER CUPP: So we also have Trevor  
8 Martin checked in. Is Trevor Martin here today?  
9 Trevor.

10 TREVOR MARTIN: Good afternoon. Thank  
11 you, co-chairs, members of this commission, for  
12 giving me this opportunity to speak.

13 My name is Trevor Martin. I'm a  
14 community organizer and member of the  
15 Fair Districts Ohio coalition. I have trained  
16 over 80 individual community members to use  
17 mapping software, specifically Dave's  
18 Redistricting tool and Districtr, to participate  
19 in the '22 Ohio redistricting process by  
20 creating informative, descriptive, and  
21 meaningful community maps that Ohio citizens can  
22 share and thereby advocate for fair and  
23 representative districts.

24 In addition, I have either facilitated  
25 or sat in on dozens of community-mapping

1 sessions organized and hosted by community  
2 members throughout Ohio. In doing so, I've  
3 heard from hundreds of community members from  
4 all over the state, and I've seen hundreds of  
5 community maps made by Ohio citizens that  
6 reflect a vision of their community, how they  
7 define that community, and how they would like  
8 to see these communities represented.

9 I was hoping to address some of the  
10 critiques made yesterday, February 23, 2022, in  
11 front of this body regarding the  
12 Fair Districts Ohio Model Map. First and  
13 foremost, the assertion that the Fair Districts  
14 Model Map is least fair of all proposals  
15 submitted to this commission. The fact is that  
16 the Fair Districts Model Map scores the highest  
17 of all submitted proposals on Dave's  
18 Redistricting cumulatively and in nearly every  
19 metric of fairness that we can observe, scoring  
20 very high in proportionality, splitting, and  
21 minority representation. It is the most compact  
22 and the most competitive of any plan that has  
23 been presented to this body during public  
24 testimony.

25 I would like to point out that the

1 Fair Districts Ohio Model Map is the only truly  
2 nonpartisan map that had been presented to this  
3 commission yesterday, February 23, 2022.

4 Unlike other proposals that had been  
5 presented on behalf of a particular party, the  
6 Fair Districts Model Map is a product of many  
7 people from across many walks of life. It is a  
8 matter of fact that voting members of the  
9 Republican Party in Ohio had participated in our  
10 community mapping and in our district drawing  
11 competitions. I myself sat in on a mapping  
12 session in Wyoming, Ohio, down by Cincinnati,  
13 that had several Republicans in attendance,  
14 including the chair of the Wyoming, Ohio,  
15 Republican Club. I was also present at a heated  
16 discussion in Portage county that was attended  
17 by both liberal and conservative Ohio voters.

18 The Fair Districts Model Map is a  
19 collaboration of multiple community maps created  
20 by self-proclaimed Democrats, Republicans, and  
21 unaffiliated Ohio citizens. To say that it  
22 unduly favors any party is preposterous.

23 More specifically, the district  
24 variance calculations presented by witness Paul  
25 Miller at the February 23, '22, meeting of the

1 Ohio Redistricting Commission should not be used  
2 to determine the constitutionality of any  
3 district plan being considered by this  
4 commission. In short, statistical variance  
5 measures the proximity of each data point, in  
6 this case a congressional district, in relation  
7 to an identified target outcome.

8 In the case of Mr. Miller's analysis,  
9 his target outcome is a 50/50 Republican-to-  
10 Democrat vote total per district and what he  
11 categorizes as a fair district. This is how  
12 Mr. Miller concluded that the GOP congressional  
13 plans were the fairest because those maps  
14 gerrymandered certain communities to produce a  
15 map with a higher number of districts with a  
16 relatively low partisan index split.

17 This argument was rightly struck down  
18 by the Supreme Court as a map that unduly  
19 favored the GOP because it was specifically  
20 Democratic counties that were split in such a  
21 way to create an artificially competitive  
22 environment.

23 This is a highly-flawed metric for  
24 identifying gerrymandering for several reasons.  
25 First, Ohio's political geography is not

1           conducive to a 15 district 50/50 split map.  
2           This is obvious to anyone who has spent even a  
3           marginal amount of time looking at the state.  
4           In fact, producing a map with little variance  
5           between districts requires gerrymandering.  
6           Think about it. How do you produce a 50/50  
7           district in Cuyahoga county or along Ohio's  
8           western border? You can't unless you  
9           specifically crack and pack together distant  
10          communities to construct a single district.

11                        We know some districts in Ohio are  
12          going to be solid Republican and others will be  
13          solid Democrat. That's just reality. A higher  
14          level of variance between districts is a sign  
15          that communities of interest are being  
16          respected.

17                        The Fair Districts Model Map inherently  
18          scores lower using Mr. Miller's approach  
19          precisely because it does represent communities  
20          of interest, keeping them together and within a  
21          given district. To be sure the Fair Districts  
22          Model Map does address competitiveness, but it  
23          does so within the areas of the state where the  
24          natural distribution of population and partisan  
25          spread of voters is competitive rather than the

1 artificial application of competitiveness across  
2 all districts.

3 Second, statistical variance analysis  
4 was never put forth as evidence during any of  
5 the court proceedings challenging the  
6 constitutionality of either the general assembly  
7 maps or congressional maps. This is striking  
8 considering Mr. Miller's analysis concluded the  
9 GOP maps were the fairest. If the methodology  
10 of statistical variance had even a fraction of  
11 legitimacy of other measures for identifying  
12 gerrymandering, for example, the efficiency gap,  
13 the vote-seat ratio, or mean-median analysis,  
14 then I'm sure lawyers representing the  
15 defendants in these cases would have made this  
16 analysis a central component to their legal  
17 arguments. Instead, they did not even mention  
18 this form of analysis in their court filings.

19 I would also like to confront the  
20 accusation made yesterday that the Fair  
21 Districts Model Map is racist. I and my fellow  
22 colleagues and citizen mapmakers who put much  
23 work into this map found it to be utterly  
24 disrespectful, offensive, and patently false.  
25 The Fair Districts Model Map is a product of

1           dozens, if not hundreds, of diverse individuals  
2           and organizations throughout the state,  
3           including members of black fraternities and  
4           sororities, including Alpha Kappa Alpha in the  
5           Cleveland area.

6                     The model map scores a 50 for minority  
7           representation in Dave's Redistricting tool  
8           which is equal to or higher than any other map  
9           that has been presented to this commission that  
10          I am aware of.

11                    The Fair Districts Model Map preserves  
12          the majority-minority district in CD 11 and  
13          creates a second opportunity district in CD 1 in  
14          Hamilton county in addition to the already  
15          present opportunity district in Franklin county,  
16          Congressional District 3.

17                    In comparison, other proposals  
18          submitted to this body yesterday dilute CD 11 so  
19          that it is downgraded from a majority-minority  
20          district to an opportunity district which could  
21          run afoul of the federal Voting Rights Act.  
22          They also provided fewer or weaker opportunity  
23          districts than the Fair Districts Model Map  
24          does. Therefore to say that the  
25          Fair Districts Model Map is racist, though very



1 offensive, that declaration is laughable and  
2 demonstrably false.

3 Furthermore, the claim that the model  
4 map is out of compliance with the Court's  
5 opinion in Adams v Dewine is also incorrect.  
6 The assumption is based off a misreading of the  
7 text. Splitting Summit county is permissible.  
8 The Court found that the struck down  
9 Senate Bill 258 splits of Summit and Cuyahoga  
10 counties unduly favored Republicans, conferring  
11 a partisan advantage, thus it was not that these  
12 counties were split but rather how they were  
13 split. The splits that are present in the  
14 Fair Districts Model Map confer no such  
15 advantage for either party and are there solely  
16 to preserve community boundaries, school  
17 districts, or other such nonpartisan criteria.

18 Now, as a community member -- or  
19 community organizer myself, I have a keen  
20 interest in keeping communities of interest  
21 together and to advocate for fair representation  
22 of those communities.

23 The definition of community can mean a  
24 lot of different things to a lot of different  
25 people, and each individual can be a member or

1 multiple communities. Believe me, this came up  
2 often in my discussions with Ohio voters about  
3 community and who the people were supposedly  
4 representing these communities.

5 what these community made maps do show  
6 is where these people live, where they work,  
7 where their children go to school, where they  
8 shop, where they eat, their parks, their trails,  
9 their community centers, their places of  
10 worship. These community maps tell stories of  
11 community concerns, what they considered  
12 important to them, and how decisions should be  
13 made when drawing district lines that will  
14 affect their day-to-day lives.

15 In conclusion, I would like to assert  
16 that the Fair Districts Model Map keeps  
17 political subdivisions and communities together  
18 as much as possible and more accurately reflects  
19 the partisan balance of this great state of  
20 Ohio. Fair Districts Ohio urges you to adopt  
21 this nonpartisan constitutionally compliant map  
22 that prioritizes voters. And please remember  
23 that Ohio voters overwhelmingly approved a new  
24 process to put an end to partisan  
25 gerrymandering. Thank you.

1                   SPEAKER CUPP: Are there questions for  
2 Mr. Martin?

3                   I do not believe there are. So thank  
4 you for coming and making your presentation. I  
5 think I asked about the map yesterday, the  
6 constitutional requirements, so we don't need to  
7 repeat that today.

8                   TREVOR MARTIN: I appreciate it. Thank  
9 you.

10                  SPEAKER CUPP: That is all of the  
11 witnesses that we have checked in to testify to  
12 submitted whole state congressional  
13 redistricting maps.

14                  At this time, is there further business  
15 to come before the commission?

16                  The chair recognizes Senator Huffman.

17                  PRESIDENT HUFFMAN: Yeah. Thank you,  
18 Mr. Speaker and members of the commission.

19                  As I think all commissioners know,  
20 we've been working a lot of these past several  
21 days to try to resolve the general assembly  
22 maps. We have had a map which we believe  
23 comports with all of the requirements of the  
24 Supreme Court, 54 -- well, we will call I think  
25 the Republican 54/18 map that I believe that's

1           been presented at -- in a session with the  
2           Democratic commissioners and their various  
3           experts.

4                     My understanding is that all of the  
5           Republican commissioners have had an opportunity  
6           to review that and look at it. Unfortunately,  
7           at the moment, there are not paper copies.  
8           We're doing this as quickly as we can.

9                     And also, I understood that at the  
10          request of Senator Sykes there was going to be  
11          some sort of break between this hearing and full  
12          consideration of that map.

13                    So I don't have anything more than that  
14          other than we believe it comports with  
15          everything in the constitution and in the  
16          dictates that the Court has given us. So at  
17          that -- at the point in time when I have -- at  
18          6:00, after the requested three-hour break, I'll  
19          present that and talk in detail.

20                    SPEAKER CUPP: Any further questions?  
21          Comments?

22                    SENATOR SYKES: One question,  
23          Mr. Co-Chair. Has this map or plan been  
24          distributed or made available to the public?

25                    PRESIDENT HUFFMAN: It's my

1 understanding is it's not been. It's about to  
2 be shortly. It's kind of getting in final form,  
3 and I'm not sure how quickly it can be loaded up  
4 to the website, but hopefully that will be  
5 in -- oh, apparently, in the next half an hour  
6 or so, so well before the hearing here in a few  
7 hours.

8 SENATOR SYKES: We're all the  
9 members -- if I can make --

10 SPEAKER CUPP: Go right ahead.

11 SENATOR SYKES: Have all the members,  
12 majority members of the commission, were they  
13 involved in the drafting of this -- of this  
14 plan?

15 PRESIDENT HUFFMAN: Senator, I  
16 don't -- I don't have a daily log or diary of  
17 what each of the other six members of the  
18 commission did. Everyone's had a chance to see  
19 it, make comments, suggestions, whatever it may  
20 be. So I don't -- I don't know the detail of  
21 what everybody said and did and when they did  
22 it.

23 SENATOR SYKES: Okay.

24 SPEAKER CUPP: All right. Without  
25 objection, the commission will recess until

1 6:00. In the meantime, the proposed map will be  
2 uploaded to the public website and maps will be  
3 printed and made available as quickly as  
4 possible. So the committee will recess until  
5 6:00 p.m.

6 (Recess.)

7 SPEAKER CUPP: The redistricting  
8 commission will come back to order pursuant to  
9 the recess earlier today. I would note for the  
10 record that all members of the commission are  
11 present here as we have reconvened.

12 Is there business to come before the  
13 commission? The chair recognizes Senator  
14 Huffman.

15 PRESIDENT HUFFMAN: Thank you, Co-Chair  
16 Cupp.

17 At this time I would move that the  
18 commission adopt the plan that is submitted on  
19 the commission's website known under the name  
20 Paul DeSantis. And that is my motion, and I'd  
21 like to speak to the motion.

22 SPEAKER CUPP: I'll second the motion.  
23 Senator Huffman.

24 PRESIDENT HUFFMAN: Thank you,  
25 Mr. Chair.

1           Just briefly, and obviously happy to  
2           answer any questions, this plan is a plan that  
3           designates 18 Republican Senate seats and 54  
4           House Republican seats, or an 18/15, 54/45 map  
5           which was designated in the Supreme Court's  
6           decision.

7           I would note that the Democratic map  
8           submitted last week had the same number as I  
9           believe the Rodden map referred to in the  
10          Supreme Court's decision at an 18/57 map.

11          I did want to comment that this --  
12          these maps, all of them, were drawn -- or at  
13          least I think the Glassburn map, Democratic map  
14          and ours, were done pursuant -- or with the data  
15          that was provided by Ohio University pursuant to  
16          the contract that was issued by the  
17          redistricting committee and the commission, in  
18          other words, the census data sent to Ohio  
19          University, and that's the data that was used  
20          and agreed to be used by everyone. I think  
21          since -- at least in the last few hours some  
22          folks have said, well, there may be districts on  
23          third party websites -- or opinions on third  
24          party websites that use different data. I think  
25          we've had a lot of testimony about how a lot of

1 that is inaccurate or not quite according to  
2 Hoyle. So these are -- this -- the indexes in  
3 the total are pursuant to the official data from  
4 Ohio University that the mapmakers on both sides  
5 of the aisle have been using, so it's an 18/54  
6 map.

7 The other requirement that the Supreme  
8 Court indicated in its second opinion is the  
9 issue regarding symmetry. I'm going to talk a  
10 little bit more about the Senate map. I'll  
11 allow Speaker Cupp to talk about the House map.  
12 But there are -- the issues or the districts  
13 regarding asymmetry are two in the Senate and  
14 five in the House. This is identical to, again,  
15 to the Democratic map that was submitted last  
16 Thursday.

17 And otherwise, this map follows all the  
18 other technical line-drawing rules provided in  
19 the constitution.

20 And I think that's the extent of my  
21 remarks. Obviously, we're all interested in  
22 getting this done quickly and -- as we've got a  
23 May 3rd primary. I'll let Secretary LaRose talk  
24 about that, if he chooses, regarding the  
25 urgency, perhaps talk even more than he already



1 has. I think he's put the commission in a  
2 pretty good place knowledgewise about it.

3 So those are the extent of my remarks  
4 now, Mr. Speaker. I'd be happy to answer any  
5 questions at this time.

6 SPEAKER CUPP: Before you do that, let  
7 me just talk a bit about the House map.

8 So I want to first say that I honestly  
9 believe that all members of the redistricting  
10 commission have worked long and hard to achieve  
11 a new General Assembly District Plan that is in  
12 compliance with all the requirements of the Ohio  
13 Constitution. The fact is that it is a new  
14 constitutional provision that has never before  
15 been utilized or navigated or litigated. And as  
16 such, it naturally results in differing opinions  
17 and understanding about what is required.

18 Decisions of the Ohio Supreme Court  
19 have subsequently filled in some of the meaning  
20 of certain constitutional provisions, thus the  
21 map -- this map before us now starts anew, with  
22 a goal of meeting those provision as  
23 adjudicated.

24 The House districts in this new General  
25 Assembly plan proposal I believe meets the

1 requirements of the Ohio Constitution as  
2 interpreted by the Ohio Supreme Court, including  
3 these requirements that the Court has ordered  
4 beyond those expressly stated in the text of  
5 Article XI.

6 In regard to partisan proportionality,  
7 the Supreme Court has held that the appropriate  
8 ratio based on the percentage of statewide votes  
9 for each major political party in statewide  
10 elections over the last ten years translates  
11 into 54 Republican-leaning House districts and  
12 45 Democrat-leaning House districts provided  
13 other requirements of the Ohio Constitution are  
14 not violated in drawing districts to meet this  
15 proportionality. The district plan approved by  
16 the commission in January of this year included  
17 57 Republican-leaning districts and 42  
18 Democrat-leaning districts.

19 The proposed new district map before us  
20 has 54 Republican-leaning seats and 45  
21 Democratic-leaning seats. I would point out  
22 that this was very difficult to achieve, and it  
23 was time-consuming to navigate the  
24 constitutional limitations on splits and  
25 divisions of political subdivisions in the

1 state, but after months of trying and retrying  
2 and trying again, and after several court  
3 decisions refining the meaning of the terms of  
4 the constitution, the target partisan  
5 proportionality as determined by the Court has  
6 been achieved in this proposed map.

7 The House plan, House part of this plan  
8 approved by this commission in January included  
9 12 so-called asymmetrical districts as defined  
10 by the Court. This new plan includes only five  
11 asymmetrical districts which is the same number  
12 of asymmetrical districts as contained in the  
13 House plan that Representative Russo moved to  
14 adopt and have this commission -- asked this  
15 commission to adopt on February 17th.

16 I have used the term new plan several  
17 times because this General Assembly District  
18 Plan has been developed anew. Approximately  
19 70 percent of the House districts are different  
20 from the districts approved by the commission in  
21 January and, taken together, approximately  
22 73 percent of all 132 general assembly districts  
23 are new.

24 That will conclude my overview of the  
25 House districts of the plan, and I would be

1 happy to respond to any questions that I may be  
2 able to answer.

3 So the floor is open.

4 SENATOR SYKES: Mr. Co-Chair, you know,  
5 I am just disappointed, you know, not so much  
6 for myself but disappointed in the -- for the  
7 court and for the people of the state of Ohio  
8 particularly as it relates to, you know, just  
9 the process. You know, I'm the sponsor of  
10 Ohio's open meetings law, and you know, we have  
11 some guidelines to try to make sure that the  
12 people's business, that they have access to it,  
13 have information about it, they have a chance to  
14 petition us, to hold us accountable, to give  
15 input whether that's through a public hearing or  
16 even just a telephone call.

17 We've been told that you've been  
18 working on this since February 11th, and we have  
19 not had a chance, an opportunity to give any  
20 input or have any knowledge about what you're  
21 doing.

22 So we're just wondering, do you expect  
23 us to vote on this? We just got it, the  
24 information about this, just a few hours ago.  
25 We've been deliberating over districts and

1           redistricting issues since the summer, but now,  
2           with just a few hours' notice, you want us -- do  
3           you want us to vote on this today?

4                   SPEAKER CUPP:  What's the pleasure of  
5           the commission?

6                   PRESIDENT HUFFMAN:  Mr. Chair.  Yeah,  
7           well, a couple of things.  I mean, I don't  
8           think -- and I appreciate what you're saying.  
9           And, you know, Senator Sykes, there are many,  
10          many, many meetings that are productive meetings  
11          that don't take place -- our -- you and I talked  
12          about this issue in your office, and the press  
13          and the public weren't a part of that.  We've  
14          had phone conversations, things like that, so  
15          sometimes those are productive meetings.

16                   I don't think these issues are new to  
17          anyone sitting here on the commission.  
18          Much -- you know, much of this plan are actually  
19          adoptions from the Democratic map and not in  
20          whole but at least in concept.  And I would  
21          prefer to vote on the plan tonight for a couple  
22          of reasons.  One is the Supreme Court has made  
23          it clear as to the urgency of responding to  
24          them.  And more importantly, I think, or as  
25          importantly is that we have a May 3rd election

1 and the secretary has made clear -- again, I'll  
2 let him speak to the specifics of it -- about  
3 the importance of having this -- and hopefully  
4 still possible, having these general assembly  
5 district elections on May 3rd.

6 And, you know, all of the other options  
7 are bad. Two primaries, bad idea because I  
8 happened to suggest it and people let me know  
9 pushing back the primary, people are not in  
10 favor of that also.

11 So I don't know. You know, I think at  
12 this point, a while ago days matter, at this  
13 point hours matter, and so I would prefer to  
14 vote on it tonight, and those are the reasons  
15 why. So those are my comments about the timing.

16 SENATOR SYKES: Mr. Co-Chair, the Court  
17 has instructed us to work on a commission plan  
18 and have the commission work on a plan, not to  
19 have a Democratic plan or a Republican plan.

20 And so what is your rationale since we  
21 have reached out to you to be involved to offer  
22 input, but we haven't been given any  
23 information, just the map once you finished and  
24 completed. How is that compliant with the  
25 directive of the Court?

1           PRESIDENT HUFFMAN: Well, if I could,  
2 we're here now and we can talk about it. I'm  
3 not sure how else the commission can meet and  
4 talk about it unless we notice up a meeting and  
5 we're all here to do that. So we have a  
6 meeting, we can talk about it now, things you  
7 like or dislike or whatever it may be.

8           SENATOR SYKES: Well, you know, we did  
9 have an opportunity in the last few hours to  
10 take a look at the map, and it looks like it  
11 puts the minority party in a more inferior  
12 position than before, with only six -- 26  
13 districts that are -- that would be most likely  
14 won by Democrats in the House and only eight  
15 districts that would most likely be won by  
16 Democrats in the Senate.

17           And so, you know, we don't believe that  
18 this -- we appreciate the idea that you maybe  
19 embrace the concept that you need to comply with  
20 the proportionality guidelines, but the Court  
21 also indicated that symmetry was also important,  
22 and we don't believe that you've complied with  
23 that. We believe that you've made that worse.

24           SPEAKER CUPP: If I might ask, what is  
25 your rationale for that?

1                   SENATOR SYKES: Rationale, you  
2                   have -- in the plan that was turned down by the  
3                   Court, in the House, districts that had a DPI  
4                   from 50 to 52, there were 14 leaning Democrat.  
5                   In this plan you have 19 for the House. And for  
6                   the Senate you have in fact five in the plan  
7                   that was turned down by the Court and then you  
8                   have seven in the one being presented here  
9                   today, between 50 and 52. And so we believe  
10                  that that placed the minority party in a more  
11                  inferior position.

12                  SPEAKER CUPP: Well, if I might respond  
13                  to that, I actually -- I read the Supreme Court  
14                  decision again today, Decision Number 2, and  
15                  specifically looked at the asymmetry question.  
16                  And when the Court addressed asymmetry, they  
17                  discussed the districts that were 51 percent or  
18                  less Democrat-leaning, and that's the -- that is  
19                  my understanding is the point where the Court  
20                  took issue. It did not take issue with any of  
21                  the districts that had a greater than 51 percent  
22                  partisan lean.

23                  In this map, as I've already indicated,  
24                  it does have five districts that are  
25                  asymmetrical. That is the same number of



1           asymmetrical districts that were in the map that  
2           Representative Russo moved and you seconded just  
3           a week ago to adopt. So I'm not sure I  
4           understand your issue unless you're saying that  
5           you don't believe districts that are over  
6           51 percent leaning Democratic based on the ratio  
7           that we're required to use are not winnable. So  
8           I completely don't understand because clearly  
9           the percentage is leaning Democrat. It's  
10          certainly not leaning Republican, and it's  
11          certainly not neutral.

12                    SENATOR SYKES: Well, the point that  
13           we're making is that all of these districts, 52  
14           or less, 52 percent with the Democratic index or  
15           less are all Democratic districts. There are  
16           none -- there are zero in the Republican area,  
17           and so we're just concerned, we're concerned  
18           about it.

19                    SPEAKER CUPP: Is this a new issue  
20           you're raising? Because that was not --  
21           52 percent was not something that the Court  
22           addressed, between 51 and 52. They addressed it  
23           between, you know, 50 and 51 is what I read.

24                    Representative Russo, did you --

25                    LEADER ELECT RUSSO: Thank you,

1 Mr. Co-Chair.

2 I'm just going to be frank here. I  
3 think this discussion and claiming that you  
4 addressed asymmetry as smoke and mirrors. Here,  
5 I am going to read paragraph 40 from the  
6 decision itself so that we're not interpreting  
7 what the Court said. We're actually reading the  
8 words.

9 In paragraph 40, it says.

10 "Article XI, Section 5(B) provides that  
11 the commission shall attempt to draft a plan in  
12 which the statewide proportion of districts  
13 whose voters favor each political party shall  
14 correspond closely to the statewide preferences  
15 of the voters of Ohio. (Emphasis added.)

16 "Yet the commission knowingly adopted a  
17 plan in which all the House districts whose  
18 voters favor Republicans do so at vote shares of  
19 52.6 percent and above, while more than a  
20 quarter (12 of 42) of the House districts whose  
21 voters favor Democrats do so at a vote share  
22 between 50 and 51 percent (meaning that a  
23 1 percent swell in Republican vote share would  
24 sweep 12 additional districts into the  
25 Republican column). Nine of those districts

1 favor Democrats at a level under 50.5 percent."

2 So that has been pointed out, but it  
3 goes on further to say:

4 "while the Constitution does not  
5 require exact parity in terms of the vote share  
6 of each district, the commission's adoption of a  
7 plan in which the quality of partisan favoritism  
8 is monolithically disparate is further evidence  
9 of a Section 6(A) violation. In other words, in  
10 a plan in which every toss-up district is a  
11 Democratic district, the commission has not  
12 applied the term favor as used in Section 6(B)  
13 equally to the two parties.

14 "The commission's adoption of a plan  
15 that absurdly labels what are by any definition  
16 competitive or toss-up districts as  
17 Democratic-leaning -- at least when the plan  
18 contains no proportional share of similar  
19 Republican-leaning districts -- is demonstrative  
20 of an intent to favor the Republican Party."

21 So I will go back to the maps that you  
22 have submitted claiming that you have addressed  
23 this issue of symmetry, and in fact, what you  
24 have proposed is a 26/54 split for the House  
25 because you have 19 districts that fall between

1 50 and 52. Amazingly, you've actually created a  
2 bigger problem because previously you only had  
3 14 that fell within that range. Now, you've  
4 created 19 and claim that you have addressed  
5 symmetry.

6 The same is true in the Senate  
7 districts. You created a map that has seven  
8 districts that fall between 50 and 52, amazingly  
9 expanding the issue whereas previously there  
10 were five in the map that was declared  
11 unconstitutional and thrown out by the courts.

12 So, you know, this argument that you  
13 somehow have addressed asymmetry by creating  
14 fewer districts between the 50 and 51 percent  
15 range seems to ignore what the Court was saying  
16 in its decision.

17 So I ask the question: How have you  
18 addressed asymmetry given the full reading of  
19 the Court's decision in paragraph 40?

20 SPEAKER CUPP: Representative Russo,  
21 I'd ask you how many Democrat-leaning districts  
22 are between 50 and 51 percent which is what the  
23 Court addressed?

24 LEADER ELECT RUSSO: In which map?

25 SPEAKER CUPP: The House map.

1 LEADER ELECT RUSSO: In the House map  
2 that has been moved to be adopted, it is five.  
3 And you are correct that there were five in the  
4 Democratic district, but again, the Court  
5 decision is pretty clear that when you have  
6 monolithic asymmetry, regardless of whether  
7 we're using a threshold of 50.5, 50.8, 51, 51.5,  
8 52, the important piece of this is that you have  
9 zero Republican districts that fall within those  
10 ranges: 19 on the House side versus zero on the  
11 Republicans. And in the Senate, seven that are  
12 between 50 and 52 for Democrats and zero on the  
13 Senate.

14 So in my view, I don't think that this  
15 at all addresses what the Court noted was the  
16 issue as a violation of section 6(A) and 6(B) in  
17 their decision.

18 SPEAKER CUPP: I guess you and I are  
19 reading it differently.

20 Any further discussion? Questions?

21 I think the issue you threw out is, you  
22 know, when do we vote. So shall we go ahead and  
23 vote now or what?

24 LEADER ELECT RUSSO: Mr. Speaker, I do  
25 have another question.

1 SPEAKER CUPP: Sure.

2 LEADER ELECT RUSSO: Thank you.

3 I would ask to the commissioners, do  
4 the majority of the commissioners believe that  
5 this map which actually worsens partisan  
6 asymmetry, it does not improve it, will satisfy  
7 the Court and show that the commissioners, each  
8 member of this commission, when we appear on  
9 Tuesday before the Court, is not contemptuous of  
10 the Court and does not remain in contempt or  
11 possibly in contempt?

12 SPEAKER CUPP: Well, as I've indicated  
13 to the press, I'm not commenting on pending  
14 litigation, and I don't think it's wise for  
15 anybody to do that.

16 LEADER ELECT RUSSO: Mr. Co-Chair, I'm  
17 sorry, but we're sitting here because of pending  
18 litigation discussing these maps, so I would  
19 disagree with that assessment.

20 SPEAKER CUPP: All right. If there's  
21 no further discussion, is there a motion on the  
22 floor and a second? Are we --

23 Staff call the roll.

24 THE CLERK: Co-Chair Speaker Cupp.

25 SPEAKER CUPP: Yes.

1 THE CLERK: Co-Chair Senator Sykes.

2 SENATOR SYKES: No.

3 THE CLERK: Governor Dewine.

4 GOVERNOR DEWINE: Aye.

5 THE CLERK: Auditor Faber.

6 AUDITOR FABER: No.

7 THE CLERK: President Huffman.

8 PRESIDENT HUFFMAN: Yes.

9 THE CLERK: Secretary LaRose.

10 SECRETARY LAROSE: Yes.

11 THE CLERK: Leader Russo.

12 LEADER ELECT RUSSO: No.

13 THE CLERK: Co-Chair, it's 4-3.

14 SPEAKER CUPP: The vote is four to  
15 three. The motion does pass. It is not passed  
16 by the required majority to be a ten-year  
17 district plan, so it passes as a four-year  
18 district plan.

19 Secretary LaRose, did you have a  
20 motion?

21 SECRETARY LAROSE: Yeah, I do. Thank  
22 you, Mr. Co-Chair.

23 And I do want to reemphasize that which  
24 I have said many times from this seat and that  
25 which I have said many times in letters that

1 I've sent to the members of the general assembly  
2 and to the leadership that we are in one heck of  
3 a time crunch. And as it relates to conducting  
4 the election on May 3rd, I'm duty bound to make  
5 sure people understand really what's at peril  
6 for any further delay. I'm glad that we've just  
7 conducted this vote, by the way.

8 But one other thing that I thought we  
9 should consider here as we wrap up the work of  
10 this commission, having just adopted what I  
11 believe are constitutional maps, is to take a  
12 look at the section 9(C) provision that says, in  
13 part, "A General Assembly District Plan made  
14 pursuant to this section shall allow" -- again,  
15 shall allow -- "30 days for persons to change  
16 residence in order to be eligible for election."

17 My read of that is that the plan that  
18 we just adopted shall allow 30 days for persons  
19 to change residence in order to be eligible for  
20 the election. Of course, what that means is  
21 that a candidate who filed their petitions back  
22 on February 2nd to run for the House or Senate  
23 must now from today, from adoption of this plan,  
24 have an additional 30 days to notify the Board  
25 of Elections that they intend to move and then



1 to in fact move to a new residency and be  
2 eligible for the ballot. Because of that  
3 provision, the county boards of elections may  
4 read that to mean that they just have to wait  
5 30 days now for that to happen. My hope is to  
6 give them more clear guidance than that and, in  
7 fact, ask candidates to notify the Board of  
8 Elections of their intention to move. My guess  
9 is there may be very few that do so, but in the  
10 case where your county has somebody who has  
11 notified you that there's that intention, then  
12 the board would know how to deal with that based  
13 on the directive I would give them.

14 of course, that would take -- if they  
15 did just simply wait for 30 days, that would  
16 mean that they can't certify any petitions until  
17 March 26th. March 26th is a date long after the  
18 overseas and military ballots are required to go  
19 out. In fact, I'll remind us that we have three  
20 weeks until overseas and military ballots go  
21 out. That's three weeks from tomorrow until I'm  
22 required by law to mail out overseas and  
23 military ballots to our men and women serving  
24 overseas and to their families and those who are  
25 studying abroad, et cetera.

1           That is effectively the beginning of  
2           the election. Of course, election day is on  
3           May 3rd, but voting begins starting three weeks  
4           from now, and that is the time crunch that we're  
5           operating under, and to get this work done in  
6           those three weeks is nearly unimaginable,  
7           perhaps possible with some real amazing work by  
8           our county boards of elections.

9           So back to the matter at hand. Because  
10          of the severely compressed timeframe, we now  
11          have to hold primaries for these races  
12          potentially, you know, under a very compressed  
13          the timeframe.

14          What I'm asking the members of the  
15          commission to consider is simply adopting a  
16          statement that I have distributed to all of you,  
17          and I'll read it. It says:

18                 "The General Assembly District Plan  
19                 that this commission just adopted would  
20                 authorize me as Secretary of State to issue to  
21                 the boards of elections directives by which  
22                 House and Senate candidates who have filed to  
23                 run shall comply with Article XI, Section 9(C)  
24                 if any candidates wish to do so."

25                 Again, that they would have the

1 opportunity to meet that 30-day residency  
2 requirement under the rules that I would send to  
3 the boards of elections by directive and that we  
4 are adopting this as part of the plan that we  
5 just passed.

6 UNIDENTIFIED SPEAKER: Second.

7 SENATOR SYKES: Point of order.

8 SPEAKER CUPP: Mr. Co-Chair.

9 SENATOR SYKES: Yeah. Mr. Co-Chair,  
10 you know, I don't think we have the authority to  
11 authorize the Secretary of State to do anything.  
12 This motion exceeds the authority of the  
13 commission. The residency deadline is both a  
14 constitutional and a statutory issue, and I  
15 don't believe that the commission has the  
16 authority to change the election law to  
17 accommodate the 30-day residency requirement.  
18 This motion will not resolve the issue raised by  
19 the Secretary of State and Attorney General.

20 SECRETARY LAROSE: I'd like to respond  
21 to that, Mr. Co-Chair.

22 SPEAKER CUPP: Secretary LaRose.

23 SECRETARY LAROSE: First of all,  
24 arguably, I have the directive authority already  
25 to tell the boards of elections how to comply

1 with this part of the constitution, but I would  
2 argue that we as a commission have the duty to  
3 include this language in the plan that we're  
4 adopting right now because what the constitution  
5 says, again, is that a general assembly plan  
6 adopted pursuant to this section, the plan that  
7 we just adopted pursuant to this section shall  
8 allow 30 days for persons to change residence.

9 By adopting the statement that I just  
10 read into the record, we are allowing, as part  
11 of this plan that we just adopted, the 30 days  
12 for candidates to change residence in order to  
13 be eligible for election.

14 SPEAKER CUPP: Auditor Faber.

15 AUDITOR FABER: Thank you.

16 I tend to believe the secretary already  
17 has this authority. I believe the constitution  
18 makes it clear without regard to whether we give  
19 authority or don't give authority that somebody  
20 gets 30 days to move into the district once the  
21 district maps are final regardless of when  
22 they're on the ballot. And candidly, I suggest  
23 that the secretary could just issue guidance  
24 saying that file a statement if you intend to  
25 relocate and then verify that relocation when

1           you certify the election. I think that  
2           certainly would be within his discretion and  
3           certainly compliant with the constitution.

4                     And for that reason, I support this  
5           motion because I think it just makes it clear to  
6           everybody that that is the intent of what should  
7           happen to comply with the constitution. So in  
8           that regard, I think this is only a statement of  
9           intent. I don't know that it gives him any new  
10          authority, but I think it certainly is  
11          appropriate to make it clear to everybody that  
12          we believe people who may have already filed for  
13          one district and something got changed in a line  
14          adjustment, I think it's only fair for them to  
15          know that they can move under the constitution,  
16          which the constitution already gives them that  
17          right, within 30 days, so I have no problem  
18          putting in that statement for that reason.

19                    SPEAKER CUPP: Senator Sykes.

20                    SENATOR SYKES: Yes. If I could ask a  
21          question on the motion.

22                    What about those persons who had not  
23          filed already but based on the new configuration  
24          of the districts decided they want to run? Will  
25          they be given a constitutional right to 30 days

1 to move into the -- to file?

2 SECRETARY LAROSE: That's a question,  
3 Co-Chair, that only you and your colleagues in  
4 the general assembly can answer. I don't have  
5 the power to do that right now. As you know, my  
6 Boy Scout handbook is Title 35. I do what you  
7 all tell me to do and that is follow the law.

8 The law currently says that the  
9 petitions that were filed are the only ones that  
10 are being filed, and those were filed back on  
11 February 2nd.

12 SPEAKER CUPP: Senator Sykes.

13 SENATOR SYKES: How does that comply  
14 with the constitution giving someone 30 days in  
15 fact to move into the district?

16 SECRETARY LAROSE: Mr. Co-Chair, two  
17 separate matters. One relates to residency.  
18 The other one relates to declaring yourself a  
19 candidate for the ballot.

20 The candidates -- those who declared  
21 themselves a candidate for the ballot on  
22 February 2nd are a fixed group of people, we  
23 know who those are. What the constitution says  
24 is that group of people now have the ability to  
25 move if they find themselves living in a place

1 that is not where they intended to run or the  
2 district for which they intended to run. That's  
3 what 9(C) of Article XI allows for.

4 SENATOR SYKES: I respectfully  
5 disagree.

6 SPEAKER CUPP: The chair recognizes  
7 Senator Huffman.

8 PRESIDENT HUFFMAN: Thank you,  
9 Co-Chair.

10 I think some similar questions were  
11 raised last Thursday. There was a creation --  
12 and I'm not sure, there might have been some  
13 House districts, but at least one Senate  
14 district, where there would have been no one who  
15 had filed and no one who had the correct number  
16 in signatures, and I think Representative Russo  
17 raised a number of potential solutions,  
18 including write-in ballots and other perhaps  
19 legislative fixes.

20 And I guess I would say regarding these  
21 kinds of issues, you know, from my  
22 perspective -- I can't speak for the other 32  
23 members of the Senate, but perhaps I can  
24 tentatively speak for my caucus, we would be  
25 certainly interested and willing to draft

1           legislation on an emergency basis next week to  
2           make whatever rules are necessary for basic  
3           fairness to allow folks to go ahead and file for  
4           the various districts. Obviously, the timing of  
5           this has been difficult on everyone. So if  
6           there are changes, you know, maybe we can even  
7           get to work on that this weekend.

8                   SPEAKER CUPP: Okay. The motion has  
9           been made and seconded. I believe it's been  
10          seconded.

11                   UNIDENTIFIED SPEAKER: Yes, it has  
12          been.

13                   SPEAKER CUPP: Okay. Thank you.  
14           Any further discussion? If not, the  
15          staff will call the roll, please.

16                   THE CLERK: Co-Chair Speaker Cupp.

17                   SPEAKER CUPP: Yes.

18                   THE CLERK: Co-Chair Senator Sykes.

19                   SENATOR SYKES: No.

20                   THE CLERK: Governor DeWine.

21                   GOVERNOR DEWINE: Aye.

22                   THE CLERK: Auditor Faber.

23                   AUDITOR FABER: Yes.

24                   THE CLERK: President Huffman.

25                   PRESIDENT HUFFMAN: Yes.



1 THE CLERK: Secretary LaRose.

2 SECRETARY LAROSE: Yes.

3 THE CLERK: Leader Russo.

4 LEADER ELECT RUSSO: No.

5 THE CLERK: Five to two, Mr. Co-Chair.

6 SPEAKER CUPP: The vote is five to two.

7 The motion has carried.

8 SENATOR SYKES: Mr. Co-Chair, I move  
9 that we accept the written testimony for  
10 Kathleen Clyde who had planned on testifying  
11 here today, but we changed the time period and  
12 she was not able to stand around and wait, and  
13 so I respectfully submit it on her behalf.

14 SPEAKER CUPP: And I would second that  
15 and, without objection, it will be submitted  
16 into the record from the testimony for this  
17 afternoon.

18 Now, is there any further business to  
19 come before the commission this evening?

20 Auditor Faber.

21 AUDITOR FABER: Thank you.

22 Do we have an intention to set dates to  
23 continue our work on the congressional for next  
24 week, or do we have an idea of what we're  
25 looking at?

1           SPEAKER CUPP: I think probably next  
2           Tuesday. That doesn't prevent any plan from  
3           being circulated before that time.

4           Does that sound satisfactory, or do you  
5           have something else in mind?

6           SENATOR SYKES: That's fine.

7           SPEAKER CUPP: All right. We'll  
8           schedule a commission meeting for next Tuesday,  
9           and we may do it -- well, we have session next  
10          Wednesday as well so we can get this  
11          congressional districts done, wrap that up, at  
12          least our end of it, very quickly.

13          LEADER ELECT RUSSO: Mr. Speaker.

14          SPEAKER CUPP: Yes.

15          LEADER ELECT RUSSO: Are we going to do  
16          8(C)(2) statements from the majority and from  
17          the minority?

18          SPEAKER CUPP: We will, but I think  
19          we're going to need to recess to prepare the  
20          statement.

21          How much time do we think we're going  
22          to need?

23          I am advised that it will probably take  
24          one hour.

25          LEADER ELECT RUSSO: To clarify, you're

1 going to recess for an hour?

2 SPEAKER CUPP: Yes. I'm hoping to so  
3 we can comply with that portion that we're  
4 required to comply with.

5 LEADER ELECT RUSSO: Okay. Great. So  
6 we're reconvening this evening to read this.

7 SPEAKER CUPP: Yes. Yes.

8 All right. Without objection, the  
9 commission will be in recess for one hour. By  
10 my clock, that means it would be ten minutes  
11 till 8:00 and we'll reconvene.

12 (Recess.)

13 SPEAKER CUPP: Pursuant to the recess,  
14 the Ohio Redistricting Commission will come back  
15 to order.

16 I would note that all members of the  
17 commission are present.

18 Is there any -- we have a motion for  
19 the required statement? Well, we don't have one  
20 yet. All right. Well, in order to -- all  
21 right. Well, I guess there's nothing wrong with  
22 doing this in what might be considered reverse.

23 So, Representative Russo, are you ready  
24 with your statement?

25 LEADER ELECT RUSSO: Yes. Thank you,

1 Mr. Chair.

2 First I'd like to say that the maps  
3 approved by the majority commissioners tonight  
4 yet again fail to meet the Ohio Constitution and  
5 fail to meet the directive of the Ohio Supreme  
6 Court. We have had several opportunities to  
7 work together as a commission to draw maps, and  
8 each time the majority commissioners have  
9 squandered the chance to do so.

10 We would ask the commission: Have we  
11 learned nothing after two court orders? We have  
12 been directed to work together and put aside  
13 partisan interest in order to draw maps that  
14 meet the constitution of the state of Ohio,  
15 something that we are both duty and oath bound  
16 to uphold.

17 Instead of working together, this map  
18 that was passed this evening was drawn entirely  
19 by Republican legislators on the commission  
20 without our involvement and without allowing  
21 feedback or changes.

22 The Court has told us that this is  
23 problematic and a sign of partisan intent. In  
24 fact, they state in their decision in  
25 paragraph 31:

1            "We observed that when a single party  
2 exclusively controls the redistricting process,  
3 it should not be difficult to prove that the  
4 likely political consequences of the  
5 reapportionment were intended."

6            We should not repeat the same mistake  
7 again. And while the majority commissioners may  
8 claim that these maps meet the requirements of  
9 Article XI, Section 6, in reality, they fall  
10 short of that metric. Unequivocally, the Ohio  
11 Supreme Court has directed us to draw that  
12 closely -- maps that closely match statewide  
13 voter preferences.

14            And as the Court noted in paragraph 40,  
15 in fact, the most recent invalidated  
16 unconstitutional map had 14 Democratic-leaning  
17 House seats in the 50 to 52 percent Democratic  
18 index range. Today's plan has 19, five more.  
19 There are zero Republican-leaning House seats  
20 that are in the 50 to 52 percent range. The  
21 most recent invalidated unconstitutional map had  
22 five Democratic-leaning Senate seats in that  
23 range, and today's plan actually increases that  
24 asymmetry with seven districts between 50 and  
25 52 percent. There are zero Republican-leaning

1 Senate seats that are in the same 50 to  
2 52 percent range.

3 It is not hard to see that these maps  
4 do not meet the Court's direction on partisan  
5 symmetry and are yet again in violation of  
6 Article XI, Section 6.

7 Even with a contempt hearing on the  
8 horizon, the majority commissioners continue to  
9 show their contempt for the Court, the  
10 constitution, and the rule of law.

11 And to go back and state exactly what  
12 the language is in paragraph 40, it says:

13 "While the constitution does not  
14 require exact parity in terms of the vote share  
15 of each district, the commission's adoption of a  
16 plan in which the quality of partisan favoritism  
17 is monolithically disparate is further evidence  
18 of a section 6(A) violation. In other words, in  
19 a plan in which every toss-up district is a  
20 Democratic district, the commission has not  
21 applied the term favor as used in section 6(B)  
22 equally to the other two parties.

23 "The commission's adoption of a plan  
24 that absurdly labels what are by any definition  
25 competitive or toss-up districts as

1 Democratic-leaning -- at least when the plan  
2 contains no proportional share of similar  
3 Republican-leaning districts -- is demonstrative  
4 of an intent to favor the Republican Party."

5 Again, those are not my words. Those  
6 are the words from the Court's decision.

7 With time and collaboration, we could  
8 amend these maps to make them compliant with the  
9 law and the Court's orders. We know that it is  
10 possible to put forward constitutional maps for  
11 this body to consider. We developed these maps  
12 in a process where we continually -- we being  
13 the Democrats -- continually invited feedback  
14 from other members of the commission.

15 Unfortunately, the majority members of the  
16 commission voted them down and would not work  
17 with us.

18 The public has been completely shut out  
19 of any meaningful opportunity to analyze these  
20 maps, let alone provide testimony. This was not  
21 the process contemplated by Ohio voters in  
22 passing this constitutional reform. Instead of  
23 proportional and fair maps, Ohioans are once  
24 again left with maps that fail to meet the  
25 constitution. It is disappointing that instead

1 of simply working together, the majority  
2 commissioners are flagrantly ignoring Ohio  
3 voters and the Supreme Court of Ohio in an  
4 attempt to tighten their unyielding grasp on  
5 their supermajority power.

6 Thank you, Mr. Chair.

7 SPEAKER CUPP: Without objection, the  
8 statement that is authorized by the constitution  
9 will be considered submitted for the record.

10 Is there further motion?

11 PRESIDENT HUFFMAN: Mr. Chairman, the  
12 Section 8(C)(2) statement has been presented to  
13 the commissioners for their review, and I would  
14 move that it be accepted.

15 SPEAKER CUPP: I'll second that.

16 Is there any discussion on that  
17 statement?

18 All right. I guess in the interest of  
19 symmetry, I probably should read this statement.  
20 So it's the Section 8(C)(2) statement required  
21 under the Ohio Constitution.

22 In the League of Women Voters versus  
23 Dewine, Slip Opinion Number 2022-Ohio-342, the  
24 Ohio Supreme Court ordered the commission to  
25 draft and adopt an entirely new General Assembly



1 District Plan that conforms with the Ohio  
2 Constitution including Article XI, Section 6(A)  
3 and 6(B). The redistricting commission did so.

4 The commission drew an entirely new  
5 plan in which the statewide proportion of  
6 Republican-leaning to Democrat-leaning districts  
7 precisely corresponds to 54 percent  
8 Republican-leaning and 46 percent  
9 Democrat-leaning districts.

10 In doing so, the commission was mindful  
11 that all of Section 6, Article XI of the Ohio  
12 Constitution was to be complied with, not just  
13 certain sections. Plus no one division of  
14 Section 6 is subordinate to another.

15 The commission was also mindful that  
16 compliance with Section 6 shall not result in  
17 violations of Section 2, 3, 4, 5, or 7 of  
18 Article XI of the Ohio Constitution.

19 All members of the commission, through  
20 their respective staff and individually, were  
21 given the opportunity to meet with the map  
22 drawers to express concerns, make suggested  
23 edits and otherwise participate in the mapmaking  
24 process in a collaborative fashion. The final  
25 adopted plan contains input from those members

1 of the commission directly or through their  
2 staff who chose to participate.

3 The final adopted House district plan  
4 contains 54 Republican-leaning districts. This  
5 corresponds to approximately 55 percent of the  
6 total number of House districts.

7 The final adopted Senate district plan  
8 contains 18 Republican-leaning districts. This  
9 corresponds to approximately 54 percent of the  
10 total number of Senate districts.

11 In total, the final adopted General  
12 Assembly District Plan contains a total of 72  
13 Republican-leaning districts and 60  
14 Democrat-leaning districts. This corresponds to  
15 approximately 54 percent Republican-leaning  
16 districts and approximately 45 percent  
17 Democratic-leaning districts. These percentages  
18 meet strict proportionality.

19 The redistricting commission addressed  
20 the asymmetry holding -- asymmetry holding  
21 identified in League of Women Voters 2. Only  
22 five of the 99 House districts have a partisan  
23 lean between 50 and 50.99 percent. All other  
24 districts have a partisan lean greater than  
25 51 percent.

1           In the Senate map, only two districts  
2           have a partisan lean between 50 and  
3           50.99 percent. This is the exact same number of  
4           asymmetric House and Senate districts found in  
5           the Sykes-Russo House proposal map.

6           The commission believes that the number  
7           of Republican-leaning districts and  
8           Democrat-leaning districts meets the strict  
9           proportionality despite the distribution of  
10          voters and geography of Ohio.

11          Moreover, the final adopted General  
12          Assembly Plan does not contain any violations of  
13          section 2, 3, 4, 5, or 7 of Article XI of the  
14          Ohio Constitution and complies with Section 6 of  
15          Article XI of the Ohio Constitution.

16          Any objection to submitting this as the  
17          8(C)(2) statement? Hearing no objection, it's  
18          considered admitted.

19          You object.

20          SENATOR SYKES: Yes.

21          SPEAKER CUPP: All right. The clerk  
22          will -- the secretary will call the roll.

23          THE CLERK: Co-Chair Speaker Cupp.

24          SPEAKER CUPP: Yes.

25          THE CLERK: Co-Chair Senator Sykes.

1 SENATOR SYKES: No.

2 THE CLERK: Governor DeWine.

3 GOVERNOR DEWINE: Yes.

4 THE CLERK: Auditor Faber.

5 AUDITOR FABER: For the purposes of  
6 having that submitted as a statement, I guess my  
7 answer is yes.

8 THE CLERK: President Huffman.

9 PRESIDENT HUFFMAN: Yes.

10 THE CLERK: Secretary LaRose.

11 SECRETARY LAROSE: Yes.

12 THE CLERK: Leader Russo.

13 LEADER ELECT RUSSO: No.

14 THE CLERK: 5-2, Mr. Co-Chair.

15 SPEAKER CUPP: The vote is five to two.  
16 The statement is adopted and submitted with the  
17 record.

18 Any further business come before the  
19 commission this evening?

20 Auditor Faber.

21 AUDITOR FABER: Thank you, Mr. Speaker.

22 I want to make it clear on the record  
23 that the minority report issued by Senator Sykes  
24 and House minority leader is not a report that I  
25 concur with.

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SPEAKER CUPP: Any further business?  
Hearing no further business, the  
commission is adjourned for tonight.

(End of recording.)

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R E P O R T E R ' S C E R T I F I C A T E

STATE OF NORTH CAROLINA

--o0o--

I, DENISE MYERS BYRD, Court Reporter,  
do hereby certify that the transcription of the  
recorded OHIO REDISTRICTING COMMISSION held on  
February 24, 2022, was taken down by me  
stenographically to the best of my ability and  
thereafter transcribed under my supervision; and  
that the foregoing pages, inclusive, constitute  
a true and accurate transcription of said  
recording.

Signed this the 2nd day of March 2022.

*Denise Myers Byrd*  
Denise Myers Byrd  
CSR 8240, RPR, CLR 102409-2

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# **Exhibit 2**

RETRIEVED FROM DEMOCRACYDOCKET.COM

OHIO REDISTRICTING COMMISSION

MARCH 1, 2022

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1           SENATOR SYKES: ... bring the Ohio  
2           Redistricting Commission to order. Will the  
3           staff please call the roll.

4           THE CLERK: Co-Chair Speaker Cupp.

5           SPEAKER CUPP: Present.

6           THE CLERK: Co-Chair Senator Sykes.

7           SENATOR SYKES: Present.

8           THE CLERK: Governor DeWine.

9           GOVERNOR DEWINE: Here.

10          THE CLERK: Auditor Faber.

11          AUDITOR FABER: Yes.

12          THE CLERK: President Huffman.

13          PRESIDENT HUFFMAN: Here.

14          THE CLERK: Secretary LaRose.

15          SECRETARY LAROSE: Here.

16          THE CLERK: Leader Russo.

17          LEADER RUSSO: Here.

18          SENATOR SYKES: Quorum being present,  
19          we will meet as a full committee.

20                 The minutes are in your folder from our  
21          previous meeting. Is there a motion to accept  
22          the minutes?

23          SPEAKER CUPP: I'll move the minutes be  
24          accepted.

25          SENATOR SYKES: Is there a second?

1 UNIDENTIFIED SPEAKER: Second.

2 SENATOR SYKES: Are there any changes  
3 to the minutes? Any objection to the minutes?  
4 We will accept them, then, as  
5 presented.

6 At this time we have before the  
7 commission another item. The Tribune, the  
8 Chronicle, an expense that's eligible to be paid  
9 by the commission. Is there a motion to approve  
10 this expenditure?

11 SPEAKER CUPP: I'll move to approve the  
12 payment in the amount of \$7,004.61 for the  
13 advertisement.

14 SENATOR SYKES: Is there a second?

15 SPEAKER CUPP: Or notice, I guess,  
16 rather than advertisement.

17 LEADER RUSSO: Second.

18 SENATOR SYKES: Any further comments or  
19 questions on the motion? Are there any  
20 objections to approving this expenditure?

21 Hearing none, we will accept the  
22 expenditure, approve the expenditure.

23 The next item on the agenda will be  
24 presentations of congressional maps. This  
25 proceeding will be recorded so that we can

1 deliberate over it, and it will be archived. We  
2 ask the audience to refrain from clapping or  
3 other loud noise out of respect for the  
4 witnesses and the persons watching this  
5 remotely.

6 If you want to testify, please complete  
7 a witness slip and we'll take care of that. The  
8 witnesses can testify up to ten minutes and is  
9 regulated by the co-chairs.

10 The first person to testify and present  
11 a plan is Ryan Brunn. Can you state and spell  
12 your name for the record, please.

13 RYAN BRUNE: Yes. My name is Ryan  
14 Brune. R-Y-A-N B-R-U-N-E.

15 SENATOR SYKES: You have ten minutes,  
16 sir.

17 RYAN BRUNE: How many minutes?

18 SENATOR SYKES: Ten.

19 RYAN BRUNE: All right. So I had some  
20 prepared remarks which you find in front of you  
21 today. I'm going to change it up a little bit,  
22 though, given the new map that I see will  
23 be -- well, not voted on today but likely  
24 tomorrow.

25 Before I begin, though, I would like to

1 say that it's an incredible experience to be  
2 before all of you. I've never seen the  
3 governor. I've never seen the auditor. I've  
4 never seen the majority or the minority leaders.  
5 I've never seen the secretary of state. The  
6 fact that that's possible is truly awesome and  
7 may be one of the better things about this  
8 commission which has obviously had some  
9 problems.

10 So the map that I made and present  
11 before you is not my favorite map. It is not an  
12 ideal map. In my opinion, an ideal map would be  
13 a proportional map, but I think everybody here  
14 knows that's not in the cards. If you want a  
15 map that I think is ideal, I would look at the  
16 League of Women Voters map.

17 But the map that I have before you here  
18 today has a slight Republican bias, but I think  
19 does not disfavor any political party too much  
20 one way or the other.

21 I would note that, unlike the  
22 legislative maps, there are no -- there are no  
23 constitutional requirements for a strictly  
24 proportional map, but as Maureen O'Connor said  
25 in her brief, it's a starting place of where to

1 look.

2 My map has -- you know, it varies a  
3 little bit throughout elections. In the 2020  
4 presidential election, Trump won ten districts,  
5 Biden won five, but Biden was .1 percent short  
6 of carrying a sixth, 2 percent short of carrying  
7 a seventh. In the 2018 gubernatorial election,  
8 Cordray, Dewine's 2018 opponent, won seven to  
9 Dewine's eight. It can vary around a little  
10 bit.

11 Also, I went to great lengths to ensure  
12 that -- incumbents should be pretty happy with  
13 this map. No incumbents that are running for  
14 reelection are double-bunked with the exception  
15 of Latta and Kaptur in the 8th -- you know,  
16 maybe you think of it as the 9th, but I call it  
17 the 8th, but in that district, it is narrowly  
18 Democratic by composite, but Trump won it in  
19 2020. It's, you know, about as even of a  
20 district as you can possibly have. It would be  
21 a fair fight between the two of them. I think  
22 that's the most reasonable way to have an  
23 incumbent-on-incumbent matchup.

24 You can look through the document I  
25 provided for specific partisan breakdowns

1           between the 2020 presidential and 2018  
2           gubernatorial elections. It's not a perfect  
3           map. It's a good map in my opinion. Satisfies  
4           all the constitutional requirements that are  
5           laid out, and I think it's a reasonable map in  
6           that I would hope that you guys would be able to  
7           accept it.

8                        I mean, I'm just looking at this new  
9           map that you have here, and I'm sure it follows  
10          all of the requirements regarding splitting,  
11          not -- you know, not splitting cities,  
12          et cetera, et cetera, et cetera, zeroed out  
13          population, like everything like I have, but I  
14          hope -- I hope the commissioners here know,  
15          like, I'm sure this is going to pass tomorrow,  
16          but there's no way that the Supreme Court is  
17          going to accept this map. Like -- it's just a  
18          fact. I mean, like, it's just going to create  
19          more chaos if you pass your map. It's --  
20          they're not -- I mean, there's even, like, a  
21          chance of a special master unlike for the  
22          legislative redistricting where I believe  
23          section 5 strictly prohibits the court from  
24          ordering a specific map or drawing a map  
25          themselves. There's no such requirement for the

1 Supreme Court in this case.

2 I mean, if you draw this map, I think  
3 there's a strong chance that incumbents from  
4 both parties are going to be drawn in a  
5 court-ordered map into districts together and  
6 everyone's going to be unhappy.

7 I'm offering a map, in my opinion,  
8 where I think both parties aren't exactly happy,  
9 but both parties, you know, can live with it. I  
10 mean, that's what I'm trying to offer, a map you  
11 can live with. The map that's going to pass  
12 tomorrow isn't going to be the map. I mean, I'm  
13 convinced of that. But I will take questions.

14 SENATOR SYKES: Thank you. I  
15 appreciate it. Any questions?

16 SPEAKER CUPP: I have a question.

17 SENATOR SYKES: Yes.

18 SPEAKER CUPP: Thank you, Mr. Chairman.

19 I have a question, Ryan. What got you  
20 interested in this, and what is your occupation  
21 or status?

22 RYAN BRUNE: Sure. So I work at  
23 Huntington Bank as a model risk analyst. I'm  
24 also pursuing a master's degree at Ohio State  
25 University in statistics.

1                   SPEAKER CUPP: And what got you  
2 interested in this? Statistics? Modeling?

3                   RYAN BRUNE: I don't know. I don't  
4 exactly know how it started, but I run a Twitter  
5 account @BruneElections which has nearly 10,000  
6 followers now, so it's kind of a passion.

7                   SPEAKER CUPP: Have my -- have you met  
8 all of the constitutional requirements  
9 about -- in terms of not splitting or splitting  
10 and keeping districts within certain counties  
11 and not -- I'm sure you're familiar with those.

12                  RYAN BRUNE: Yes.

13                  SPEAKER CUPP: Thank you, Mr. Co-Chair.

14                  SENATOR SYKES: Are there any  
15 additional questions? If not, we'd like to  
16 thank you very much. I appreciate it. I hope  
17 you had a good opportunity here to meet  
18 everybody.

19                  RYAN BRUNE: Yeah.

20                  SENATOR SYKES: You didn't mention my  
21 name, but that's all right.

22                  RYAN BRUNE: Okay. I'm sorry,  
23 Mr. Sykes.

24                  SENATOR SYKES: Next we have David  
25 Helmick, who has written testimony only, and



1 then Michael Metzinger. Michael Metzinger he's  
2 not here. Okay.

3 Is there any other business to be  
4 brought before the commission?

5 Commissioner Huffman.

6 PRESIDENT HUFFMAN: Thank you very  
7 much, Co-Chairman Sykes. I would like to  
8 present, although I think we're going to wait  
9 until tomorrow's hearing to make a motion. I  
10 understand that's the preferred procedure from  
11 the chair.

12 I'd like to present the map. I think  
13 it's styled now on the website as Strigari 2022  
14 Congressional Map. Certainly we'll get the name  
15 right, but it might be a little bit longer. So  
16 I'll present that at the time. It is presented  
17 on the website.

18 Pursuant to request from Leader Russo,  
19 that was presented to -- I believe to at least  
20 Leader Russo and Senator Sykes earlier today for  
21 their examination. And I'm not -- I'm not sure,  
22 frankly, about the other commissioners. I think  
23 they've had an opportunity to look at it.

24 As I mentioned in my letter of last  
25 week, I invited all the commissioners and/or

1 their staff to visit at least with the folks who  
2 are working on the map for the Senate. I  
3 believe that happened with the House also. So  
4 it's been about a five-day process.

5 So this is the map that I'm presenting  
6 to the commission today. And again, I  
7 understand that a formal motion and vote would  
8 be tomorrow. And the map is there, the index  
9 and then all the specifics. If people want to  
10 look at particular counties or townships or what  
11 have you, that's all -- they can do that on the  
12 commission website.

13 So I'll be happy to answer any  
14 questions now, or perhaps that's better for  
15 tomorrow, whatever the preference of the members  
16 are.

17 SENATOR SYKES: Leader Russo.

18 LEADER RUSSO: Thank you, Mr. Co-Chair.

19 Thank you, Commissioner Huffman. I do  
20 appreciate the invitation on Friday from both  
21 you and Speaker Cupp. I believe our staff were  
22 able to meet on Sunday, and we -- there was not  
23 a map to share at that point. And I appreciate  
24 you honoring my request this morning to send  
25 over -- I think we got it at about 12:00, so we

1 have had just a few minutes to look over the map  
2 before coming in here.

3 And I guess my first, you know, couple  
4 of questions for you -- and again, I know we  
5 will have more questions tomorrow because we've  
6 had a very limited amount of time so far to look  
7 at the details of this. But when I look at  
8 Hamilton county, currently the Hamilton county  
9 district that you've drawn here, which looks  
10 like it's got a dem index -- well, it's -- I  
11 would call it a maybe a warren county-Cincinnati  
12 district of 51 percent.

13 Is there a reason that this -- a  
14 congressional district for Hamilton county was  
15 not drawn to be included entirely within  
16 Hamilton county? Is there a reason to split  
17 Hamilton county?

18 I mean, we have kept at least the city  
19 of Cleveland all within Cuyahoga county.  
20 We've -- in a Cuyahoga county district. We've  
21 kept Columbus entirely within a Franklin county  
22 district.

23 Is there a reason that we're not  
24 keeping Cincinnati within a Hamilton county  
25 district and moving it up into warren county?

1                   PRESIDENT HUFFMAN: Well, the  
2                   first -- Mr. Chairman, Co-Chair Sykes, I can  
3                   proceed.

4                   SENATOR SYKES: Yes.

5                   PRESIDENT HUFFMAN: Thank you.

6                   First thing that we tried to do  
7                   pursuant to the constitution, which is  
8                   Section 3(B)(2), is remedy any legal defects in  
9                   the previous plan identified by the Court which  
10                  shall include no other changes. Everyone can  
11                  read the rest of the language there if they want  
12                  to that's relevant.

13                  And the Court did identify Cuyahoga  
14                  county and Hamilton county as two problematic  
15                  areas, I guess I'll put it. I don't think they  
16                  used that word, but those are two things that  
17                  they did. So part of this is trying to draw a  
18                  map that, first of all, comports with what the  
19                  Supreme Court directed. We think that it does  
20                  that.

21                  Now, after that, there are still policy  
22                  preferences and choices that commission members  
23                  make. We, of course, are bound by the  
24                  constitution and the law in this case as the  
25                  Supreme Court identifies it, but I don't think

1           that simply means that the commission members  
2           individually and then collectively, as a body,  
3           don't have any separate preferences.

4                        So it may be your preference that it's  
5           all inside Hamilton county. We think this is a  
6           better version of the map.

7                        LEADER RUSSO: Follow-up.

8                        SENATOR SYKES: Yes.

9                        LEADER RUSSO: So looking back at the  
10          decision specifically about Hamilton county, I  
11          believe the concern of the enacted plan, I think  
12          it was Justice Donnelly concluded carves out the  
13          Hamilton county's northern black population from  
14          its surrounding neighborhoods and combines it  
15          with mostly a rural district that ends 85 miles  
16          to the north, extracts Cincinnati from its  
17          immediate inner ring suburbs, and combines the  
18          city proper with Warren county.

19                       Do you think that this map addresses  
20          the concern about carving out the northern black  
21          suburban populations in Hamilton county from the  
22          surrounding neighborhoods in Hamilton county by  
23          drawing it up with Warren county? Would it be  
24          more compact, for example, to draw this district  
25          entirely within Hamilton county?

1                   PRESIDENT HUFFMAN: Through the chair,  
2 I'll try to answer each of those.

3                   As I've indicated throughout this  
4 process, we did not use racial data when drawing  
5 these maps. And so, you know, obviously, that  
6 was not an intent or motive of any kind.

7                   And, you know, again, I think, you  
8 know, each of us can have policy preferences.  
9 Perhaps somebody from Hamilton county is in a  
10 better position to say what goes with what. As  
11 you know, in the multiple public hearings we had  
12 on the general assembly map and this map,  
13 keeping -- some people talked about splitting up  
14 various communities, but, you know, at some  
15 point you have to draw a line someplace, and I  
16 think this is appropriate, but certainly didn't  
17 have anything to do with racial data since we  
18 didn't have -- we didn't use that.

19                   LEADER RUSSO: Thank you.

20                   SENATOR SYKES: Yes.

21                   LEADER RUSSO: Mr. Co-Chair, I have a  
22 couple of other questions.

23                   Thank you, Commissioner Huffman. You  
24 know, I would say just about the Hamilton county  
25 district, if we're making a list of

1 recommendations, at least from me as a  
2 commissioner, it would be to consider drawing a  
3 district that is entirely within Hamilton  
4 county, and I think that that is achievable.

5 My second question is in northwest Ohio  
6 specifically. Is there -- we seem to have two,  
7 you know, Districts 9 and 5 that are quite  
8 extensive, and I'm trying to understand why  
9 Lucas county, for example, in District 9, to  
10 make it more compact would not be drawn over to  
11 Lorain county to create one district which would  
12 certainly be more compact than I think what we  
13 currently see for 9.

14 I know -- I don't remember if it's you  
15 or Auditor Faber in the past has brought up  
16 concerns about the Snake on the Lake districts.  
17 You know, this doesn't seem really to solve at  
18 least the appearance of that. I believe it's  
19 less compact than it should be or could be.

20 PRESIDENT HUFFMAN: Through the chair,  
21 I guess I'll respond to a variety of things  
22 there. And if I could -- just so I know that I  
23 covered this, Mr. Chair, the map is uploaded  
24 under the name Frank Strigari and is called  
25 March 1, 2022, for those in the public who may

1 be looking for that.

2 So back to the comments regarding  
3 Congressional District 9.

4 You know, one of the things that we  
5 tried to do, and I think we did a pretty good  
6 job of accomplishing this, is to try to keep  
7 areas together where there are some central  
8 cities. Now, some may say, well, you know,  
9 Warren county and parts of Hamilton county,  
10 certainly, if you look at population growth --  
11 and these are just -- these are just  
12 observations. A lot of folks who live in Butler  
13 and Warren and Clermont county at some point  
14 lived in Hamilton county. That's not  
15 necessarily true for everyone, but when you look  
16 at Toledo, folks from Toledo look at Toledo as  
17 the central core city for what we call the  
18 lakefront in northwest Ohio.

19 Now, folks in Lima don't consider  
20 themselves in northwest Ohio. We're in west  
21 central Ohio, and -- but everybody has their own  
22 versions of what regions there are.

23 And I'm not sure who first termed the  
24 District 9 as the Snake on the Lake. That was  
25 a -- maybe Jim Provence did, I would guess.



1 It's clever enough that he probably did it, but  
2 the -- that, of course, district was created  
3 because there was a deal the Democrats wanted to  
4 make in 2011 to make sure that Dennis Kucinich  
5 couldn't run and beat Marcy Kaptur, so we  
6 consented to that, and that's how we ended up  
7 getting Democrat votes for the map in 2011.

8 This map doesn't do that, although all  
9 of these districts, with the exception of  
10 Defiance county, are either on the lake or on  
11 the Michigan border. So if you're traveling in  
12 those parts, if you're traveling on the  
13 interstate or traveling on Route 20, I think it  
14 is, that goes through that it, those are all  
15 convenient places to go to and from. Lorain is  
16 a little bit further away, obviously.

17 So, you know, again, choices wherever  
18 you start drawing the line, someone can say,  
19 well, it would be better to include this county  
20 here. As you know, this is a little bit like,  
21 you know, a toy where if you push down here,  
22 another part pops up. But for the folks who  
23 would represent District 9, it's a pretty  
24 consistent part of the state.

25 LEADER RUSSO: Thank you, Mr. Co-Chair.

1           Thank you, Commissioner Huffman, for  
2           answering that question. You know, again, the  
3           decision to not include Lucas county with going  
4           towards the east with Lorain county not only  
5           makes it more compact but, frankly, you know,  
6           this drawing, this decision seems to unduly  
7           favor Republicans and disfavor Democrats because  
8           it, frankly, drives the DPI down.

9           My second -- my third question  
10          is -- and again, you know, this would be another  
11          recommendation that I would add, that you  
12          consider redrawing this -- these two districts  
13          so that they are more compact in these areas.

14          My third question here regards Franklin  
15          county and District 15 in Franklin county. And  
16          at this point, we've got Franklin county, of  
17          course, paired -- it goes almost all the way  
18          over to the western side of the state. Just  
19          looking at this map, I'm not entirely sure what  
20          counties those are.

21          But is there a reason that the decision  
22          was made not to make this district more compact,  
23          for example, by pairing it with Union county or  
24          Delaware county or some combination of both?

25                 PRESIDENT HUFFMAN: Yeah. And through

1 the chair, Senator Sykes.

2 Just real quickly on District 9, I  
3 think that district remains unchanged from the  
4 previous map, and the Court did not comment on  
5 that map or on that district. And again, the  
6 constitutional charge is to try to make changes  
7 or remedy the defects that a court identifies in  
8 their opinion.

9 So back to your regarding 15, however.  
10 So one of the phenomenon is as you try to draw  
11 compact districts in districts that don't carve  
12 up counties and as most of these districts  
13 don't, at some point, really, as a necessity,  
14 you end up with what I would call a -- maybe a  
15 Frankenstein district or a district that is the  
16 parts that are left over, and we've largely  
17 avoided that in this map.

18 As you can see on the new District 13,  
19 all of Summit county and a portion of Stark  
20 county we've eliminated the -- where  
21 previous -- I think the current map maybe has  
22 four splits in Summit county. We've taken that  
23 down to one -- or four districts, we've taken it  
24 down to two. So Summit county had two or three  
25 divisions in it. It's all whole. Stark county

1 with only one.

2 And as you look around, you can see  
3 this is just a much different looking map than  
4 there was before, but as you try to do that, you  
5 know, you have to make choices in particular  
6 places. So, for example, in the 10th district,  
7 which includes Montgomery and Greene county, and  
8 the request from ten years ago from Republicans  
9 and Democrats and independents alike is that  
10 Wright-Patterson Air Force Base should be in the  
11 same district because part of it is in Greene  
12 county and part of it is in Montgomery county.  
13 If those two are combined, there have to be --  
14 with our equal population requirement, there has  
15 to be folks who come from somewhere.

16 So those trying to keep each of these  
17 districts and not divide counties, at some point  
18 I think you have to have a district where there  
19 are -- that certainly is less compact than other  
20 districts, and that's what you have with 15.

21 But again, going back to the Court's  
22 decision and the constitution, what we've done  
23 in this map is remedy those things that the  
24 Court pointed out.

25 LEADER RUSSO: Through the co-chair.

1           Thank you, Commissioner Huffman. You  
2           know, I would say, again, you know, 15 looks  
3           pretty much like a Frankenstein district to me  
4           when you can simply go north into Union and  
5           Delaware county. It certainly would look  
6           prettier and would be more compact, and there is  
7           an argument particularly for that northwestern  
8           corner of Franklin county which shares in fact  
9           even a school district with some of Union county  
10          and Delaware county. And again, you know, the  
11          decision I think not to do that to me represents  
12          a potential example where the Republicans were  
13          unduly favored and the Democrats unduly  
14          disfavored.

15                 My fourth question is about Cuyahoga  
16          county. You have a second district that is  
17          drawn in Cuyahoga county. I do appreciate that  
18          at least the Cleveland district was included  
19          entirely in Cuyahoga county, but that second  
20          district has the western and southern suburbs of  
21          Cuyahoga county going all the way into Amish  
22          country. That seems like very dissimilar  
23          communities there.

24                 Is there a reason -- you know, to me,  
25          there were a couple of choices that could have

1           been made. You could have gone to Lorain,  
2           Geauga county. You could have gone to Lake and  
3           Ashtabula county. That certainly would have  
4           perhaps made the district more compact and kept  
5           areas that were a little bit more similar  
6           together.

7                     Can you explain why the decision was  
8           made to go down into Wayne and Holmes county and  
9           include that with the suburbs of Cuyahoga  
10          county.

11                    PRESIDENT HUFFMAN: Through the chair.

12                    SENATOR SYKES: Yes.

13                    PRESIDENT HUFFMAN: Senator Sykes.

14          Thanks.

15                    So just, I guess, for the public's  
16          edification and, frankly, maybe for some of the  
17          commission members, because this is actually a  
18          new phenomenon to me. There is an animal called  
19          the Polsby-Popper scoring having to do with  
20          compactness. Is that right? Did I get that  
21          right, guys?

22                    And this is -- this is a scoring method  
23          that they use to look at maps and decide how  
24          compact they are. It doesn't talk about other  
25          constitutional principles, some of the other

1 things, but just compactness.

2 So this proposal taken as a whole --  
3 and certainly we can look at one district and  
4 et cetera, but this proposal taken as a whole is  
5 either as compact or more compact than the  
6 Senate Democrat proposals. And again, taking  
7 the proposal altogether. So I would invite  
8 commission members to look at that scoring and  
9 see that. So it doesn't mean we can't be  
10 critical of individual districts or we shouldn't  
11 ask opinions, but if this is a compactness  
12 argument, then this is actually a better  
13 proposal than what Senate Democrats have put  
14 together.

15 So on to the questions regarding  
16 Cuyahoga county.

17 There's really -- and I think most  
18 people know this, but really a pretty massive  
19 concentration of population in northeast Ohio.  
20 In first what I would call the kind of seven  
21 districts and then from Cuyahoga to Summit,  
22 Geauga, Portage, Trumbull, Ashtabula, and Lake  
23 county, and then kind of an outer ring that  
24 would include Medina and Wayne and Stark and on  
25 into Mahoning county. And I might have left one

1 out there. So the first thing you have to  
2 consider -- and again, you need to draw  
3 these -- and consider these with all of the  
4 other population in mind. You can say, well, do  
5 this instead of that. Again, how does that  
6 affect everything.

7 So the 14th district which is bounded,  
8 of course, on the east by Pennsylvania, in the  
9 north by Lake Erie, there are only so many  
10 places you can go. Well, we've been able to  
11 draw this district, as you can see, with simply  
12 five counties. And I think there's an incursion  
13 into one of those counties. And again, that's  
14 strictly for the population. So I don't think  
15 there can be much of an argument about the  
16 compactness of that.

17 Next is the 13th district which is  
18 again all of Summit county, what the Court  
19 specifically provided, and part of Stark county,  
20 and that is a Democratic-drawn district. And  
21 that district, of course, is also as compact as  
22 it can be, one full county and a part of another  
23 county. We hear a lot the phrase the  
24 Canton-Akron corridor. If you're from Akron, I  
25 guess you say the Akron-Canton corridor. But



1 those in fact are often twin cities, so those  
2 districts are combined. And then, you know, the  
3 parts of inner city Cleveland.

4 Now, perhaps the 7th district is a  
5 little bit like 15 where it's made up of parts,  
6 but you have two full counties which are Wayne  
7 and Medina, I believe, and then the rest of  
8 Cuyahoga county. So we've done as the Court  
9 instructed us. Let's only have two districts  
10 inside Cuyahoga county. Let's try to keep  
11 counties whole. That's been part of the charge  
12 in this thing.

13 And, you know, these are the things  
14 that not only the Court has dictated in the  
15 constitution, but these are things that have  
16 been part of this public discussion for years  
17 and years.

18 So, you know, we can say the 7th  
19 district is not compact. Well, you know, it's  
20 one continuous line. I think some of these are  
21 appearance things, some of these are, you know,  
22 how to govern after the district is created and  
23 after the election, but I certainly think 7 is a  
24 compact district as is 13 and 11 and 14.

25 LEADER RUSSO: Thank you, Mr. Co-Chair.

1           Thank you, Commissioner Huffman. You  
2           know, to clarify, again, this would be another  
3           area that I would recommend changes to the draft  
4           map that we see before us because, again, my  
5           concern here really goes back to the question  
6           of -- again, what the constitution makes very  
7           clear is that a congressional plan shall not  
8           unduly favor or disfavor a political party, and  
9           my concern about some of the decisions that are  
10          made that I've asked about in these districts is  
11          that it appears that decisions were made and  
12          intentionally not made, again, to favor  
13          Republicans and unduly favor Democrats.

14                 But I look forward to more discussions,  
15                 and I hope that you will take some of these  
16                 areas of recommended changes into consideration  
17                 before we come back tomorrow, and again make  
18                 myself and my staff available to have those  
19                 discussions.

20                 And that's all that I have right now,  
21                 Mr. Co-Chair.

22                 SENATOR SYKES: I'd like to also thank  
23                 Commissioner Huffman for extending his staff,  
24                 that they did meet over the weekend and had an  
25                 opportunity to have some dialogue. You know,

1           unfortunately, it was -- it was just a one-way  
2           communication for the most part. We were  
3           sharing our ideas about what we thought, our  
4           suggestions and recommendations. There weren't  
5           any necessarily forthcoming suggestions from the  
6           majority as it relates to the map.

7                        So the first time we had any indication  
8           of what the map -- your proposal looks like is  
9           just an hour or so ago. And I'm just wondering  
10          in this phase of cooperation, or lack of  
11          cooperation, and trying to make sure we  
12          collaborate, particularly as it relates to this  
13          commission, this commission about -- in guidance  
14          and conformity with the constitution was put in  
15          place to really try to promote a bipartisan  
16          process particularly as it relates to  
17          congressional districts.

18                       In fact, going through the second step  
19          is that you in fact have a bipartisan plan, have  
20          an opportunity to adopt a bipartisan plan  
21          through the commission. And I'm just concerned  
22          about you being open to some of the  
23          recommendations, some of the suggestions that  
24          Leader Russo has indicated. We have others. We  
25          haven't had a whole lot of time to look at this,

1 but I'm hopeful that some consideration would be  
2 given to suggestions and recommendations to try  
3 to move this in a more collaborative way and  
4 to -- in a more bipartisan way for a ten-year  
5 map, ten-year plan.

6 PRESIDENT HUFFMAN: Mr. Chairman, can I  
7 respond.

8 SENATOR SYKES: Yes.

9 PRESIDENT HUFFMAN: First of all, I  
10 differ with you in your characterization of the  
11 meetings over the weekend. As you know, I wrote  
12 a letter to you and to all the commissioners  
13 inviting them to meet personally with  
14 Mr. DiRossi. Mr. Springhetti works for the  
15 Speaker, and I think he did the same thing. And  
16 you were invited personally to come. You sent  
17 staff, that's fine with you, but I guess I'm  
18 going to disagree with you that that was all one  
19 way. Mr. DiRossi came to you, asked what your  
20 ideas were, told them what they were thinking.  
21 If you want to characterize it as a one-way  
22 conversation, I think that's unfair, but  
23 everybody has their own ideas.

24 The second thing I would say is it's  
25 one thing to say we have recommendations. If

1           you have a motion to change this map when this  
2           is formally moved, if you have specific ideas,  
3           let's hear them. We kind of got to this with  
4           the GA map where there were criticisms but no  
5           changes recommended.

6                     And, you know, we -- so I -- throughout  
7           this process there's been sort of this  
8           suggestion that we were unwilling to work with  
9           you. I think that's unfair. When I met with  
10          you last April and the other caucus leaders, I  
11          suggested that we get another 30 days in  
12          September because we would be on very short time  
13          to work out. The result of that wasn't someone  
14          coming back to me and saying, no, we disagree,  
15          how about 60 days, how about 15. It was a press  
16          conference where I was told what a rotten idea  
17          that was. So that's not my idea of working  
18          together.

19                    Now, I think we have the same issue  
20          here and throughout this process is there have  
21          to be alternative ideas, specific alternative  
22          ideas coming back and not merely criticisms of  
23          what's being done.

24                    And finally, I would say I'm not the  
25          only commissioner on this. I'm one of seven. I

1 don't have the ability to force a vote or get  
2 three other people to agree to this. I have  
3 ideas that I've brought forth that not only  
4 are -- comport with the constitution and what  
5 the Court said but are based on the input of all  
6 of the commissioners, or at least the  
7 commissioners who came and met or sent staff or  
8 otherwise sent ideas. I think it was all of  
9 them. It may not be that we did what you wanted  
10 to do, but as we know, that's probably not  
11 possible because not only do you and I disagree  
12 about all of these things, but Speaker Cupp and  
13 I disagree and Auditor Farber and I disagree and  
14 on and on and on, and that's the difficulty of  
15 saying, well, somehow four people are going to  
16 agree on something anyway.

17 So if there are changes to this map  
18 that you have, Leader Russo have, Speaker Cupp  
19 or anybody else, love to hear them. This is a  
20 proposal I'm bringing forward. I think it  
21 addresses what the Court wanted to do. And I  
22 stand ready to hear those at this moment, later  
23 tonight, tomorrow morning, whenever it is the  
24 commission would meet.

25 SENATOR SYKES: And thank you for your

1           comments. We will have particular and specific  
2           suggestions or recommendations or motions as it  
3           relates. I've talked previously with the  
4           co-chairs seeing if you're -- the majority was  
5           open to suggestions, recommendations or  
6           amendments. In the meetings that were held,  
7           again, I say they were one way in that we did  
8           not receive any detailed information about what  
9           ideas that you were having, and we did not  
10          receive those until we got access to this map  
11          just an hour or so ago.

12                        So we will have more detailed  
13           recommendations and motions, and we're hopeful  
14           that they will be considered.

15                       LEADER RUSSO: Mr. Co-Chair.

16                       SENATOR SYKES: Yes.

17                       LEADER RUSSO: I do have a question in  
18           regards to that. You know, if the members of  
19           this commission would consider any of our  
20           recommended changes, what is the timeline in  
21           which they would like to receive them to fairly  
22           consider them other than making motions tomorrow  
23           before the meeting, because I think we all know  
24           that they will be denied at that point.

25                       Are there -- is there a time that other

1 commissioners would like to have those changes?  
2 Again, we got the map at 12:00, about 12:00, a  
3 little bit after, but, you know, certainly we  
4 can put forward those changes so that you all  
5 have time to fairly consider them.

6 SPEAKER CUPP: Mr. Chairman, I'll just  
7 speak for myself. I'm available this afternoon  
8 and early evening to sit down and see what those  
9 changes are.

10 One of the -- one of the constraints,  
11 of course, is the time it would take to, you  
12 know, move things around because it's very  
13 difficult to move one thing without having to  
14 move a whole bunch of things because they're so  
15 interrelated. So I certainly make myself  
16 available to listen to that and then go back and  
17 see whether these are feasible or not. I'm open  
18 to that.

19 LEADER RUSSO: Well, thank you,  
20 Mr. Co-Chair. I appreciate that, and we will  
21 certainly work on these as quickly as possible.

22 You know, when we met -- our staff met  
23 on Sunday afternoon at 1:00. It was one of the  
24 reasons that we repeatedly asked for a draft of  
25 the map, which I understand some other members



1 of this commission actually saw on Sunday  
2 evening, but yet we were not able to, and we  
3 certainly would have been able to give some of  
4 this feedback at that point as well, but we can  
5 work as quickly as possible and get those to you  
6 as quickly as possible.

7 SENATOR SYKES: We're just hopeful that  
8 we take the adequate time to be able to review  
9 the proposals that we have available.

10 PRESIDENT HUFFMAN: Mr. Co-Chair.

11 SENATOR SYKES: Yes.

12 PRESIDENT HUFFMAN: I'd like to clarify  
13 a comment that Leader Russo made.

14 There was no map for other members of  
15 the commission to look at on Sunday night. That  
16 is not true. Because this is the map that I am  
17 proposing. This map did not exist until  
18 sometime Monday afternoon or Monday night. So  
19 there was -- certainly there were concepts that  
20 were presented to members of the commission,  
21 there were concepts that were presented by  
22 Mr. DiRossi to your staff. This map did not  
23 exist on Sunday, so that's not true.

24 And, you know, one of the problems with  
25 this whole thing is we all want to talk about

1 who got to see what, when and how instead of  
2 making specific proposals on how to change this.  
3 So that's what this is. If you want to make a  
4 motion and change something on the map,  
5 certainly the commission will consider it.  
6 That's what we're here to do, but there has to  
7 be a proposal for the commission to consider.

8 SENATOR SYKES: One thing to just  
9 clarify, we have had a proposal on the table.  
10 Our map has been on the table. That's been our  
11 suggestion or recommendation all along, and we  
12 did make additional recommendations and  
13 suggestions as we move around the map to explain  
14 different aspects of it.

15 PRESIDENT HUFFMAN: Right.

16 SENATOR SYKES: But we did not get that  
17 same type of input when we met -- when our staff  
18 met, and that's the issue.

19 LEADER RUSSO: Mr. --

20 SENATOR SYKES: Yes.

21 LEADER RUSSO: Mr. Co-Chair. And  
22 again, you know, I believe I said a draft map,  
23 not the map that sits before us. And I do want  
24 to clarify that our staff did not get any  
25 concepts presented to them during that meeting.

1           But the other question I have for this  
2           commission is, you know, there seems to maybe  
3           not be agreement in the constitutional  
4           requirement that in order for a map to come out  
5           of this commission, it does have to have  
6           Democratic votes with it. So we are very  
7           motivated to get some -- to get to some  
8           agreement about the map.

9           But my understanding from my  
10          conversations with Commissioner Huffman is that  
11          he does not agree with that assessment; that  
12          Article XIX does explicitly layout that at this  
13          stage in the process, when it comes back to the  
14          commission, that it requires minority votes for  
15          us to even have a map come out of this  
16          commission.

17                   SPEAKER CUPP: Mr. Chairman.

18                   SENATOR SYKES: Yes.

19                   SPEAKER CUPP: I would like to address  
20          that issue because I know this discussion has  
21          been at least bouncing around for a couple of  
22          weeks as to what kind of vote is required and  
23          whether this commission can do a four-year map  
24          or must only do a ten-year map and must only be  
25          approved with members of the minority party.

1           So in order to kind of get some clarity  
2           to that, I asked the attorney general if he  
3           would issue an opinion on it. That is something  
4           the attorney general does when requested by the  
5           general assembly. And I'll just pass out the  
6           full opinion, but just read the syllabus on it  
7           which I think is sort of -- there's -- not sort  
8           of -- is the conclusion.

9           That the Commission acting under Ohio  
10          Constitutional Article XI, Section 3(B)(2) may  
11          enact a congressional map by a simple majority  
12          vote.

13          And the second paragraph on the  
14          syllabus is a map adopted to Ohio Constitution  
15          Article XI, Section 3(B)(2) is valid for the  
16          time period that the previous map was valid for  
17          before becoming unconstitutional. This means  
18          that for the current redistricting cycle an  
19          adopted map would be valid for four years as the  
20          map that was found unconstitutional was valid  
21          for only four years.

22          And then there are citations and there  
23          is rationale. So I'm happy to pass that out,  
24          but that is the official from the state attorney  
25          general.

1           SENATOR SYKES: Well, I've got a  
2 question. Just a point of order, really, and  
3 that is that the general assembly can ask the  
4 attorney general, not the speaker of the House  
5 or a co-chair. Maybe the co-chairs could have  
6 asked the attorney general, but not just one  
7 co-chair. So I'm asking what authority did you  
8 have to -- for the attorney general to give you  
9 this opinion.

10           SPEAKER CUPP: I asked the attorney  
11 general what his opinion was because it was  
12 necessary to resolve the issue. And in  
13 response, this is the opinion the attorney  
14 general issued.

15           So, I mean, you're all free to  
16 disregard it, but I think it is certainly  
17 persuasive in deciding, you know, what the  
18 constitution requires or not.

19           SENATOR SYKES: Yeah. I think it's  
20 improper to reach out unilaterally to the  
21 attorney general without it being a request from  
22 the general assembly or the co-chairs of this  
23 commission, so I don't think it's proper.

24           LEADER RUSSO: Mr. Co-Chair, just in  
25 response to that. You know, to be clear, the

1 constitution and Article XI says unless  
2 otherwise specified in this article or in  
3 Article XIX of the Constitution. well,  
4 Article XIX does in fact otherwise specify.

5 Article XIX provides in Section 1(B)  
6 that the commission shall adopt a ten-year  
7 congressional map by the affirmative votes of  
8 four members of the commission, including at  
9 least two members of the commission who  
10 represent each of the two largest political  
11 parties represented in the general assembly.

12 And, you know, certainly, there can be  
13 some discussion about the appropriateness of  
14 asking the attorney general to issue an opinion  
15 on this, but frankly, the attorney general both  
16 solicited and not has issued many opinions  
17 throughout the course of these commission --  
18 this commission's meetings that the Court has  
19 firmly disagreed with.

20 So I think that if we're going to go  
21 down this path and use this opinion as a reason  
22 not to get bipartisan support of a map, then we  
23 will certainly find ourselves back in the same  
24 position that we have been in both with the  
25 state maps and with this map previously in that

1 this will be determined by the Court and we will  
2 be no further along with the citizens of Ohio  
3 knowing exactly what these districts are so that  
4 we can conduct an election.

5 SPEAKER CUPP: Mr. Co-Chair, may I  
6 respond to that.

7 SENATOR SYKES: Yes.

8 SPEAKER CUPP: Well, first of all, it  
9 was my understanding before, and it's just been  
10 reconfirmed, that there's a long history of the  
11 speaker of the House being able to ask the  
12 attorney general for an opinion on some  
13 constitutional issue that is coming before the  
14 general assembly or, in this case, you know, as  
15 a member of the redistricting commission, and so  
16 this is not unusual.

17 The second is I don't think this should  
18 be taken as an indication that there is not a  
19 desire for a ten-year bipartisan map. I think  
20 it should be taken as an indication that if we  
21 aren't able to do that within the timeframe that  
22 we have facing us that there is not a  
23 constitutional requirement for it. That doesn't  
24 mean there isn't necessarily a desire for it or  
25 an ability to do it. So that would be what I

1 would want to -- an impression I would want to  
2 leave in regard to this matter.

3 PRESIDENT HUFFMAN: Mr. Co-Chair.

4 SENATOR SYKES: Yes.

5 PRESIDENT HUFFMAN: Could I also  
6 comment on this issue.

7 So part of -- I think we can read  
8 different parts of the constitution. The  
9 redistricting commission was created in  
10 Article XI. Article XI clearly says unless  
11 otherwise specified, all actions of the  
12 commission will be taken by a majority vote, and  
13 that's the provision that guides here. And but  
14 for -- you know, we can read that, obviously  
15 look at the attorney general's decision, but for  
16 those who would like a little more global  
17 understanding of this.

18 So, you know, obviously, there's a  
19 census every ten years, and what this says is  
20 when that census is ready, it's on the blocks,  
21 there's a lot of discussion, that if in the year  
22 ending in 1, the general assembly, by the end of  
23 September, passes a map that has sort of these  
24 super majorities in both caucuses, we have a  
25 ten-year map. That didn't happen in this case.



1 And then the redistricting commission has an  
2 opportunity to pass a -- to work on this during  
3 the month of October.

4 When -- but the redistricting  
5 commission in that can only pass a ten-year map.  
6 And what that, of course, means is that that  
7 must include minority party votes in order to do  
8 that. Well, there actually wasn't a vote and  
9 unlikely that there -- there wasn't a map  
10 presented in October. And this then went back  
11 to the general assembly.

12 In the month of November, under this  
13 scheme, under this constitutional scheme that is  
14 set up, there's two things that can happen. The  
15 general assembly can pass a map also requiring  
16 certain minority party votes. It's lesser than  
17 it is in September, but under a lesser  
18 requirement, one third of the minority party in  
19 order to get a ten-year map. So you can still  
20 get a ten-year map in November of the year  
21 ending in 1, in this case 2021, if only one  
22 third of the minority party will agree in both  
23 the House and the Senate.

24 Well, we didn't get one third. In  
25 fact, none of the minority party voted for this.

1           So we went ahead and passed a map with no  
2           Democratic support at the end of November, close  
3           to the -- maybe mid to late November. So there  
4           we are, we've passed a map. It's November of  
5           2021. We've go to a map. We're ready to run an  
6           election, and we had no Democratic votes for  
7           that because that's what the constitution  
8           requires.

9                        The map is challenged in court. The  
10           Supreme Court comes back and says we see these  
11           problems, especially, specifically, in Cuyahoga  
12           and Hamilton and Summit county, and those are  
13           specifics things that we think need to be  
14           remedied.

15                      So we look at Section 3 of Article XIX  
16           that tells us how to do this, and there's two  
17           things that can happen. And if you look at  
18           this -- if you want to look at them as stages,  
19           Stage 1, 2, and 3 at the beginning. If it's  
20           challenged and sent back, stages 4 and 5 or  
21           silos 4 and 5, whatever.

22                      So in silo 4, the general assembly then  
23           has 30 days to pass a map. There is no  
24           requirement that the general assembly include  
25           Democratic or minority party votes. In fact, we

1 can pass a new map as long as it does the things  
2 that the Supreme Court told us to do with no  
3 Democratic or minority party votes.

4 Now, in fact, that might have happened,  
5 but because of the time crunch we needed to do  
6 that with an emergency -- or 66 votes in the  
7 House and 22 votes in the Senate. In all  
8 probability, achievable in the Senate, but, as I  
9 understood it, not achievable in the House  
10 because there would not be minority -- enough  
11 minority party votes to get 66 votes in the  
12 House. And that was only to suspend it so we  
13 could do certain things and make it available  
14 for the May 3rd primary.

15 So we then go on to -- the map had to  
16 be available by May 3rd. By the time it got  
17 there wouldn't be effective by May 3rd and  
18 therefore we had to have 66 votes and didn't do  
19 it. So then we move on to the redistricting  
20 commission, which is where we are now. This  
21 comes back on February 14th. We have until  
22 March 14th to do something.

23 The attorney general, through the  
24 opinion requested by the speaker, is confirming  
25 what, of course, the constitutional scheme is.

1 We are now in Stage 5. We're at the end of this  
2 which necessarily -- after you've gotten to the  
3 end of November, there's been a challenge, the  
4 Court has sent it back, the general assembly has  
5 30 days. This redistricting commission could  
6 not even act until that 30 days was up after the  
7 general assembly.

8 So in every situation when this  
9 redistricting commission, when we get to  
10 Stage 5, it's really close to the primary, and  
11 if the answer is now -- even though we didn't  
12 need any minority party votes in Stage 4 and we  
13 didn't need any in Stage 3 in order to pass a  
14 map, now we need minority votes in Stage 5 as we  
15 get close to the election, it not only doesn't  
16 comport with the plain language of the  
17 constitution, it doesn't make sense in the whole  
18 scheme of how this works.

19 And again, the point of all of this is  
20 at the very beginning there are a set of  
21 incentives for the minority party and the  
22 majority party to get together in September and  
23 see if they can come up with a deal. And that's  
24 why I thought it was so important last April  
25 that we had additional time to work this out,

1 and that was rejected. No one apparently  
2 thought that was a good idea other than  
3 Speaker Cupp and I, but we weren't -- that was  
4 rejected by the minority party. And that's the  
5 time when we can get together, make a deal,  
6 there can be concessions made on both sides to  
7 get a ten-year map.

8 Now, can that still happen? Yes, but  
9 there has to be something specific for there to  
10 be a yea and a nay on rather than simply we'd  
11 like to hear -- we'd like for you to hear our  
12 proposals. We have to have something to  
13 specifically act on. It would have been good to  
14 do this in September or October or November, but  
15 those weren't forthcoming.

16 So constitutional language is clear.  
17 The attorney general has opined. It makes sense  
18 in terms of the scheme, and that's why I wanted  
19 to give that history.

20 Thank you, Mr. Co-Chair.

21 SENATOR SYKES: Thank you,  
22 Mr. President, for the history lesson, although  
23 just reliving it is still a little painful.

24 PRESIDENT HUFFMAN: I'm with you,  
25 brother.

1                   SENATOR SYKES: Are there any other  
2                   items?

3                   LEADER RUSSO: Mr. Co-Chair, I would  
4                   like to respond to that. And, you know, I will  
5                   respectfully disagree.

6                   I do agree that the constitutional  
7                   language is very plain, and I think any argument  
8                   at this stage in the process that, you know,  
9                   there is no check and that the people who voted  
10                  for these changes didn't intend for there to be  
11                  a check on gerrymandering is just simply a  
12                  convenient interpretation of the constitution.

13                  I think the constitution is very clear  
14                  that at this point, after the Court has  
15                  invalidated maps and you've exhausted the GA,  
16                  which, by the way, there was no plan presented  
17                  for legislators to even vote on, nor did we ever  
18                  see a map to say if we would have the votes or  
19                  not have the votes, or the commission, you know,  
20                  there are no more get-out-of-jail-free cards.  
21                  It is time for us to come to the table and come  
22                  up with some agreement that we can all agree to.

23                  And it is possible. I've laid out a  
24                  few suggestions. You certainly don't have to  
25                  take all of those suggestions. And we will give

1 more specifics about that, but to at least have  
2 the conversation and have some good faith  
3 negotiations at this stage in the process is, I  
4 think, both required by the constitution for  
5 this commission to even have valid maps come out  
6 of it, but it's also what the people of Ohio are  
7 asking us to do.

8 And, you know, certainly, we can all  
9 die on this hill if we want to, but again, that  
10 then leaves it up to the Court yet again to  
11 decide whether or not these were constitutional  
12 maps and whether or not they were even valid  
13 maps that came out of this commission without  
14 Democratic votes.

15 So that's all that I have to say.  
16 Thank you.

17 PRESIDENT HUFFMAN: Mr. Co-Chair.

18 SENATOR SYKES: Yes.

19 PRESIDENT HUFFMAN: One of the things  
20 that is seemingly lost over this is when  
21 Leader Russo says there's not a check, there is  
22 a check. This map, unless it gets minority  
23 party support, is only for four years, and that  
24 built-in check is a concession automatically to  
25 the minority party. Unless the majority party

1 does what they want or concedes or there can be  
2 some sort of agreement, however we want to  
3 describe it, the majority party doesn't get to  
4 do what the majority party gets to do everywhere  
5 else, and that is draw a map for the next ten  
6 years. And that is the check.

7 If there was a version of this which  
8 isn't quite as good from the majority party  
9 standpoint -- again, assuming we could get a  
10 majority of the commission -- Republican  
11 commissioners to vote for it, that may or may  
12 not be true, but if there is some version of  
13 that that is -- I'll just call it less than this  
14 that the minority party would vote for, well,  
15 then we could get our ten-year map, but the  
16 majority is already penalized by only getting a  
17 four-year map, and that's the penalty that is  
18 built in. And unless we can come to some  
19 consensus, the majority is going to be penalized  
20 and there is going to be a check.

21 SENATOR SYKES: The only other comment  
22 is that also the map should be constitutional,  
23 they should comply with the constitution, and  
24 the Ohio Supreme Court still has some purview as  
25 to --



1 UNIDENTIFIED SPEAKER:

2 [Unintelligible.]

3 SENATOR SYKES: Yeah, absolutely, to be  
4 considered.

5 At this time, seeing and hearing no  
6 other comments, I don't believe, we will --

7 AUDITOR FABER: I have a question.

8 SENATOR SYKES: Yes.

9 AUDITOR FABER: Do we have tomorrow's  
10 meeting schedule decided already? Did we  
11 announce that?

12 SENATOR SYKES: We have tentatively  
13 agreed -- we have agreed 10:00 tomorrow morning,  
14 to recess until 10:00 tomorrow morning.  
15 Hopefully, during that time, we will have an  
16 opportunity to exchange ideas and possibly come  
17 up with a collaboration.

18 AUDITOR FABER: Do we have a meeting  
19 time set for Thursday?

20 SENATOR SYKES: We have not -- we do  
21 not at this time.

22 Seeing and hearing no further business,  
23 we will recess until tomorrow at 10:00 a.m.

24 (End of recording.)

25 --o0o--

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R E P O R T E R ' S C E R T I F I C A T E

STATE OF NORTH CAROLINA

--o0o--

I, DENISE MYERS BYRD, Court Reporter,  
do hereby certify that the transcription of the  
recorded OHIO REDISTRICTING COMMISSION held on  
March 1, 2022, was taken down by me  
stenographically to the best of my ability and  
thereafter transcribed under my supervision; and  
that the foregoing pages, inclusive, constitute  
a true and accurate transcription of said  
recording.

Signed this the 7th day of March 2022.

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# **Exhibit 3**

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OHIO REDISTRICTING COMMISSION

MARCH 2, 2022

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1 SPEAKER CUPP: I would ask that the  
2 staff please call the roll at this time.

3 THE CLERK: Co-Chair Speaker Cupp.

4 SPEAKER CUPP: Present.

5 THE CLERK: Co-Chair Senator Sykes.

6 SENATOR SYKES: Present.

7 THE CLERK: Governor DeWine.

8 GOVERNOR DEWINE: Here.

9 THE CLERK: Auditor Faber.

10 AUDITOR FABER: Yes.

11 THE CLERK: President Huffman.

12 PRESIDENT HUFFMAN: Here.

13 THE CLERK: Secretary LaRose.

14 SECRETARY LAROSE: Here.

15 THE CLERK: Leader Russo.

16 LEADER RUSSO: Here.

17 THE CLERK: You have a quorum.

18 SPEAKER CUPP: All members are present.

19 Is there business to come before the  
20 meeting -- this meeting of the Ohio  
21 Redistricting Commission?

22 The chair recognizes Co-Chair Sykes.

23 SENATOR SYKES: Thank you,

24 Mr. Co-Chair.

25 At this time I'd like to move to amend.

1 The amendment aims to replace the map that's  
2 before us and to accept our map that we  
3 submitted here before and to the commission.  
4 It's Senate Bill 237. We have three different  
5 versions of it, but this would be the most  
6 recent version. It is an 8-7 map, and it does  
7 not unduly favor a political party, and we would  
8 ask that the commission consider this map.

9 SPEAKER CUPP: There's a motion to  
10 adopt the map presented. What is the  
11 designation on that map? Do we know? Or the  
12 date that it was uploaded on to the website.

13 SENATOR SYKES: February 8th.

14 SPEAKER CUPP: February 8th's map. I'm  
15 not sure what name it was uploaded under.

16 Is there a second to the motion?

17 LEADER RUSSO: Second.

18 SPEAKER CUPP: It's been moved and  
19 seconded. Is there discussion?

20 PRESIDENT HUFFMAN: Mr. Chairman.

21 SPEAKER CUPP: Senator Huffman.

22 PRESIDENT HUFFMAN: Yeah, just to  
23 clarify if there was a motion to amend and then  
24 a motion to adopt. Is this a motion to amend?

25 SENATOR SYKES: Motion to adopt.

1 Motion to adopt.

2 PRESIDENT HUFFMAN: Oh, there's no  
3 amendment.

4 SENATOR SYKES: The amendment -- we are  
5 looking at the general assembly motion -- map  
6 that was presented and was denied, invalidated  
7 by the Court, and so we're offering it as an  
8 amendment to that.

9 SPEAKER CUPP: Is it -- are you  
10 offering an amendment to the general assembly  
11 map or to the congressional map?

12 SENATOR SYKES: To the congressional  
13 map that was approved by the -- adopted  
14 initially by the general assembly but was in  
15 fact invalidated by the Court.

16 SPEAKER CUPP: My understanding is the  
17 motion is to amend the map that was previously  
18 approved by the commission and returned --

19 PRESIDENT HUFFMAN: To the general  
20 assembly.

21 SPEAKER CUPP: -- to the commission by  
22 the -- the map that was adopted by the general  
23 assembly for congressional districts and that  
24 was invalidated by the Ohio Supreme Court and  
25 returned to the redistricting process.

1 SENATOR SYKES: Yes.

2 SPEAKER CUPP: All right. And you have  
3 amendments to that map.

4 SENATOR SYKES: Yes. We're offering  
5 the map that we submitted to the commission on  
6 February 8th, to amend that map.

7 SPEAKER CUPP: Are you -- I'm sorry.  
8 Are you offering a whole map?

9 SENATOR SYKES: Yes, a whole map.

10 SPEAKER CUPP: Okay.

11 SENATOR SYKES: It's like a substitute.

12 SPEAKER CUPP: All right. Are we able  
13 to identify what that is?

14 SENATOR SYKES: It's on the commission  
15 website, February 8th.

16 SPEAKER CUPP: Okay. February 8th. Is  
17 it the only one, or is it under a name as well?

18 SENATOR SYKES: It was the Dem's  
19 congressional map.

20 SPEAKER CUPP: Democrat congressional  
21 map. Yuko -- would this be the title?

22 SENATOR SYKES: Yes.

23 SPEAKER CUPP: Yuko/Sykes  
24 Substitute Senate Bill 237 February 8th revision  
25 is the map that is offered.



1 Do you want to describe the map or your  
2 amendments?

3 SENATOR SYKES: It is an 8-7 map that  
4 complies with the constitution. It was  
5 presented prior, and you've gone over it in  
6 detail in the prior meeting. And we'd just like  
7 it to be considered now.

8 SPEAKER CUPP: All right. It's been  
9 moved and seconded that the Yuko/Sykes  
10 Senate Bill 237 February 8th revised map that  
11 was uploaded be adopted by the commission.

12 Discussion? There's no discussion.  
13 I'll ask the clerk to call the roll.

14 UNIDENTIFIED SPEAKER: May we see a  
15 copy of it. Do we have a copy of it?

16 SPEAKER CUPP: All right. The  
17 commission will be at ease for a moment while we  
18 make some copies.

19 (At ease.)

20 SPEAKER CUPP: We have had a request  
21 from Ryan Brune -- I'm not sure I'm pronouncing  
22 your name right, but you testified yesterday and  
23 you have an updated map.

24 Do you want to take a few moments to  
25 tell us what that is.

1 RYAN BRUNE: Sure.

2 SPEAKER CUPP: Why don't you come up to  
3 the microphone and state your name for the  
4 record, please.

5 RYAN BRUNE: Thank you. My name is  
6 Ryan Brune. I presented yesterday with a map.  
7 I'm here to present a different map, calling it  
8 compromise -- Compromise Map V2.

9 This map that I'm presenting is  
10 identical to the one that the Republicans  
11 proposed yesterday, with two districts being  
12 changed: The 4th district and the 15th district.

13 I made some simple county swaps, which  
14 citizens can see on the redistricting website.  
15 The commissioners, you have these in front of  
16 you, all the changes I've made.

17 I've reduced the total number of county  
18 splits. I've combined municipalities that were  
19 previously split. Municipalities that cross  
20 county lines are allowed to be split given the  
21 guidelines, but what I was able to do, I was  
22 able to reconnect Dublin with its Union and  
23 Franklin portions, and I was able to reconnect  
24 Plain City which is in Madison and Union county.

25 I talk a little bit about the

1 compactness in my brief, but basically what I  
2 propose is the exact same as the Republican map.  
3 Two districts changed. It's more compact in  
4 pretty much any metric you use. It doesn't have  
5 a split district connect to a split district  
6 connect to a split district, and it has the  
7 added benefit of being a little bit more fair.  
8 Instead of having five composite Democratic  
9 districts, it now has six, and all that in one  
10 change. The map's pretty much the exact same  
11 thing presented yesterday, just a little bit  
12 better in every way.

13 SPEAKER CUPP: Thank you.

14 Any questions for the witness?

15 Thank you for your continued work on  
16 this. It's quite impressive that you have this  
17 kind of interest and continue to work on it.  
18 Thank you.

19 RYAN BRUNE: Thank you.

20 SPEAKER CUPP: The commission will be  
21 back at ease while we're waiting on the map  
22 copies.

23 (At ease.)

24 SPEAKER CUPP: ... entitled Yuko/Sykes  
25 SB 237, February 8th revision that is before the

1 commission.

2 Is there any discussion on the motion?

3 The chair recognizes Senator Huffman.

4 PRESIDENT HUFFMAN: Thank you,  
5 Mr. Chairman.

6 So there was a map that was presented,  
7 although not yet moved, which I'll be doing  
8 later in this meeting, and there was a series of  
9 meetings as there have been, but I met with  
10 Senator Sykes and Leader Russo. As I understand  
11 it, the speaker did, I believe the auditor did.  
12 There may have been a meeting also with  
13 secretary and variety of folks. And then last  
14 night there was a series of amendments proposed  
15 to that map by the -- I believe by Senator Sykes  
16 and Leader Russo. So there is that version of  
17 that map which is also on the website.

18 This is a completely different setup.  
19 And as of today, I guess, maybe if we're trying  
20 to negotiate, this is a step backwards in what  
21 at least we were talking about and is a  
22 completely different consideration. So it's  
23 unclear to me why this is even being presented  
24 at this time since it's not related at all to  
25 what we were discussing at least in the meeting

1           that I was in last night.

2                       So I think it's a step backwards in  
3 terms of, you know, trying to put in a capsule  
4 what the differences are between the parties, so  
5 I would oppose the motion.

6                       SPEAKER CUPP: Further discussion.

7                       The motion is to adopt the plan that  
8 has been presented. And the staff will call the  
9 roll, please.

10                      THE CLERK: Co-Chair Speaker Cupp.

11                      SPEAKER CUPP: No.

12                      THE CLERK: Co-Chair Senator Sykes.

13                      SENATOR SYKES: Yes.

14                      THE CLERK: Governor Dewine.

15                      GOVERNOR DEWINE: No.

16                      THE CLERK: Auditor Faber.

17                      AUDITOR FABER: No.

18                      THE CLERK: President Huffman.

19                      PRESIDENT HUFFMAN: No.

20                      THE CLERK: Secretary LaRose.

21                      SECRETARY LAROSE: No.

22                      THE CLERK: Leader Russo.

23                      LEADER RUSSO: Yes.

24                      THE CLERK: Thank you. Five to two,  
25 Mr. Co-Chair.

1                   SPEAKER CUPP: The vote is five to two.  
2                   No. The vote is two to five. The motion has  
3                   not carried.

4                   Is there further business to come  
5                   before the commission?

6                   Senator Huffman.

7                   PRESIDENT HUFFMAN: Thank you. At this  
8                   time, Mr. Chairman, I move the commission adopt  
9                   the updated congressional district plan which  
10                  was uploaded to the commission's website this  
11                  morning that is called March 2nd, 2022, under  
12                  the name of Frank Strigari. And --

13                  SPEAKER CUPP: Senator Huffman, is that  
14                  the map that is -- that we have the map  
15                  distributed.

16                  PRESIDENT HUFFMAN: That's correct.

17                  SPEAKER CUPP: Does everyone have that  
18                  map? All right. You may proceed.

19                  PRESIDENT HUFFMAN: Do I need a second?

20                  SPEAKER CUPP: Is there a second to the  
21                  motion?

22                  I'll second the motion.

23                  PRESIDENT HUFFMAN: Okay. Thank you.

24                  So, Mr. Chairman, members of the  
25                  commission, this map is identical to the map

1 that was submitted yesterday with two slight  
2 changes. One is our changes, then, in Franklin  
3 county which really completes a series of  
4 changes that were made in regarding Districts 3  
5 and 15.

6 My office, and perhaps other offices,  
7 received an inquiry from Congresswoman Beatty's  
8 office. I think one of the initial maps that  
9 was -- or renderings here in the last week or so  
10 had Congresswoman Beatty's district office  
11 outside of District 3. And it might be a  
12 federal requirement, but I believe that it's  
13 required that congressional district offices be  
14 inside the congressional district, so they asked  
15 us to make that change. And initially, I  
16 believe also Congresswoman Beatty's residence  
17 was outside of District 3, and so there were  
18 some changes made regarding both of those also  
19 resulting in Congressman Carey outside of  
20 District 15.

21 So the net result of all these changes,  
22 including the one that we're including today, is  
23 that Congresswoman Beatty's district office is  
24 in District 3, her residence is, and Congressman  
25 Carey is in his District 15. When I say his and

1           hers, of course I'm referring to the fact that  
2           they're both incumbents. So that solves that  
3           problem. So that's one change.

4                       The second change is in Hamilton  
5           county, and it was pointed out to us that we  
6           could eliminate some subdivision splits in  
7           District 1, and so -- and if you compare -- if  
8           you have both of the maps in front of you,  
9           yesterday, today, not only did we repair those  
10          subdivision splits, but certainly how the  
11          district is divided is much cleaner.

12                      So those are the two changes. Of  
13          course, in moving the map as a whole, and I  
14          would ask the commission to adopt the map  
15          pursuant to my amendment. Thank you.

16                      SPEAKER CUPP: It's been moved and  
17          seconded. Do we have a description for this  
18          map, a name on this?

19                      PRESIDENT HUFFMAN: Yes. Excuse me.  
20          This is called March 2nd, 2022, map, and it's  
21          submitted under the name of Frank Strigari.

22                      SPEAKER CUPP: Thank you. It's been  
23          moved and seconded.

24                      Is there discussion?

25                      LEADER RUSSO: Mr. Co-Chair.



1                   SPEAKER CUPP: The chair recognizes  
2                   Representative Russo.

3                   LEADER RUSSO: Thank you, Mr. Co-Chair.  
4                   Just to clarify the difference  
5                   specifically in Districts 3 and 15 from the map  
6                   that we saw yesterday that was uploaded to the  
7                   website to the map we saw today. The primary  
8                   difference here is that this revision puts  
9                   Congressman Carey back into the 15th because I  
10                  believe the issues with Congresswoman Beatty and  
11                  her office were resolved in the map that we saw  
12                  yesterday. So the primary change here is to put  
13                  Congressman Carey back in his 15th district, is  
14                  that correct, his residence?

15                  SPEAKER CUPP: You are recognized,  
16                  President Huffman.

17                  PRESIDENT HUFFMAN: Yes. Mr. Chairman,  
18                  that is accurate. In doing those other changes,  
19                  I think we had -- that's what resulted and  
20                  that's what we're trying to -- in remedying some  
21                  things, we caused other problems, but the only  
22                  change today from yesterday does as Leader Russo  
23                  described.

24                  SPEAKER CUPP: Further discussion.

25                  LEADER RUSSO: Mr. Co-Chair, would it

1 be appropriate, I'd like to suggest some  
2 amendments to this.

3 SPEAKER CUPP: Yes, that would be in  
4 order.

5 LEADER RUSSO: Thank you.

6 I have a number of amendments here  
7 because we are here because the general assembly  
8 drew a map that the state court held violated  
9 the state constitution. Specifically, the Court  
10 was clear that the congressional district plan  
11 that the general assembly passed in November is  
12 invalid in its entirety because it unduly favors  
13 the Republican Party and disfavors the  
14 Democratic Party in violation of Article XIX,  
15 Section 1(C)(3)(A).

16 The Court gave the example of Franklin  
17 county where Democratic-leaning voters were  
18 packed into only one district to confer partisan  
19 advantage to the party drawing the map, and the  
20 Court also held that the plan unduly splits  
21 Hamilton, Cuyahoga, and Summit counties in  
22 violation of Section 1(C)(3)(B).

23 The Court has ordered the general  
24 assembly, or the commission, if needed, to adopt  
25 a new congressional district plan that complies

1 in full with Article XIX of the Ohio  
2 Constitution and the directives of the Court.

3 So the task now is in the commission's  
4 hands because the state constitution calls for  
5 the commission to act as backup to the general  
6 assembly when the general assembly fails to  
7 assemble the bipartisan vote required by the  
8 voters in the state constitutional reform to  
9 pass a replacement map.

10 So my amendment, as was discussed with  
11 I believe nearly every member of this commission  
12 over the last 12 hours, makes four primary  
13 changes to the map that we see before -- it was  
14 the map that was presented yesterday, but these  
15 changes would also apply to the map that we see  
16 before us today.

17 We have actually uploaded these  
18 Democratic amendments to the Strigari March 1,  
19 2022, map on the commission website for the  
20 public to see and commissioners to see. Of  
21 course, we can slightly adapt that uploaded map  
22 to accommodate the two small changes that have  
23 been described by Senate President Huffman this  
24 morning with the map that he has offered before  
25 us.

1           But here are the four amendments again  
2           that have been discussed in detail with multiple  
3           members of this commission. And to note, these  
4           changes abided by the principle of taking the  
5           map that has been presented to us and making the  
6           least changes necessary to get this map to a map  
7           that we feel, again, upholds the constitution by  
8           not unduly favoring the Republicans and  
9           disfavoring the Democrats.

10           So the first changes to amend the  
11           districts in southwest Ohio, specifically  
12           Districts 1 and 8, this amendment -- or  
13           modification -- or this change, sorry, swaps  
14           territory from one district to the other with  
15           the result that District 1 would still contain  
16           Cincinnati, but it would be wholly within  
17           Hamilton county.

18           District 8 would now contain Warren  
19           county instead of -- Warren county being  
20           disconnected from Cincinnati, and the partisan  
21           index would change on each district accordingly.  
22           District 1 would move slightly above the toss-up  
23           range, and the heavily Republican-leaning  
24           District 8 would be slightly more Republican.  
25           And you can see those changes in the map

1 printout that we have provided as well as the  
2 table.

3 The second change is to amend districts  
4 in northwest Ohio. This amendment specifically  
5 would change the boundary between Districts 5  
6 and 9, and this modification swaps territory  
7 from one district to the other, with the result  
8 that District 9 would be more compact and its  
9 partisan index would move slightly above the  
10 toss-up range, and we also believe that the  
11 communities linked in this district would be  
12 more cohesive. The partisan index would change  
13 in each district accordingly. Again, you can  
14 see that in the printout that was provided.

15 Now, I will note specifically about  
16 this change, we had a nice, long discussion with  
17 Auditor Faber last evening. He had some other  
18 changes in this part of the state that we were  
19 very willing to consider and discuss further if  
20 we are given time to do that.

21 The third amendment is -- it would  
22 change the districts in central Ohio,  
23 specifically centered on District 15. This  
24 amendment would change the boundaries between  
25 15, 4 and 3. This modification swaps territory

1 from one district to another, with the result  
2 that District 15 and 4 would be more compact,  
3 and District 15 would have a partisan index that  
4 would be slightly above the toss-up range. We  
5 also believe that the communities linked in this  
6 district are more cohesive. For example,  
7 communities in the Delaware, Franklin, Union,  
8 and Madison, where those counties meet in that  
9 portion of the district.

10 I will also note, again, we discussed  
11 multiple potential options within this change.  
12 Again, if commissioners are willing to discuss  
13 this further, we certainly have shown a  
14 willingness to be open to further discussions  
15 with that change.

16 And then the final change that we have  
17 proposed amends -- or, sorry, impacts districts  
18 in northeast Ohio, touching Cuyahoga county.  
19 This amendment specifically would change the  
20 boundaries between District 7 and 11. This  
21 modification swaps territory from one district  
22 to the other, with the result that District 7  
23 would have a partisan index that would place it  
24 in the dem-leaning toss-up range.

25 And the purpose of this and the other

1 change is to have a total map that reflects the  
2 preferences of the Ohio -- of the voters of Ohio  
3 and does not unduly favor the Republican Party  
4 in excess of their support at the ballot box.

5 So, Mr. Speaker, again, I would like to  
6 thank the members of the commission who had  
7 these discussions with us. We have gone into  
8 these discussions about these amendments to the  
9 general assembly passed plan using your map that  
10 you have put forwarded today and yesterday as  
11 the basis for coming up with some sort of  
12 compromise that we believe, again, results in an  
13 overall map that is in line not only with the  
14 Court's decision but with the constitution and  
15 does not unduly favor the Republican Party and  
16 unduly disfavor the Democratic Party.

17 Thank you.

18 SPEAKER CUPP: Thank you, Leader Russo.

19 Let me ask, are these being offered as  
20 a single motion, or did you want to do these  
21 seriatim?

22 LEADER RUSSO: At this point,  
23 Mr. Speaker, these are being offered as a single  
24 motion. Certainly, again, we have not heard  
25 directly back from commissioners about what

1 individual changes they might be willing to  
2 entertain, but if we can continue discussions,  
3 we certainly can offer them as separate, but at  
4 this point they are offered in whole.

5 SPEAKER CUPP: All right. And are  
6 these -- the details of these, are they uploaded  
7 or available? I'm just -- so if they were  
8 adopted, are we going to know what they are is  
9 my point, I guess.

10 LEADER RUSSO: Thank you. Mr. Speaker,  
11 yes, the details of these changes, not only have  
12 they been uploaded, but they were provided to  
13 all of the commissioners and their staff last  
14 evening, I believe at approximately 9:30, 9:45.  
15 To your staff, we discussed them in detail. And  
16 again, we certainly can harmonize based on the  
17 two minor modifications that have been presented  
18 this morning, certainly can harmonize those, but  
19 they have been available not only to your staff  
20 and commissioners but also to the public.

21 SPEAKER CUPP: Yes. Do we have a name  
22 by which they were uploaded so we can identify  
23 them.

24 LEADER RUSSO: Yes. I believe they are  
25 named as the Democratic Amendments to Remedy



1 Invalidated General Assembly Plan.

2 SPEAKER CUPP: And the date of the  
3 upload is March 2nd?

4 LEADER RUSSO: March 2nd, yes.

5 SPEAKER CUPP: All right. Are  
6 there -- did you make a motion to move?

7 LEADER RUSSO: So I make a motion.  
8 Thank you. I know it's easy to get lost in the  
9 discussion here.

10 Making a motion to adopt these  
11 amendments to the general -- invalidated general  
12 assembly plan but adopt these changes to the  
13 plan that Mr. Huffman has put forward.

14 SPEAKER CUPP: All right. It's been  
15 moved. Is there a second?

16 SENATOR SYKES: Second.

17 SPEAKER CUPP: All right. It's been  
18 moved and seconded.

19 Discussion. The chair recognizes  
20 Senator Huffman.

21 PRESIDENT HUFFMAN: Thank you,  
22 Mr. Chairman.

23 I oppose the motion, and I guess a  
24 couple of comments. One -- and I appreciate  
25 Leader Russo's description as these are changes

1 to essentially the map that I moved today but  
2 was presented yesterday with slight changes.  
3 This, of course, is a wholly different map than  
4 what leader -- or Senator Sykes presented just a  
5 few minutes ago, so this is -- these are two  
6 different maps. I guess I want everyone --  
7 commission members and public who are listening  
8 to understand that. So these are two, I think  
9 fair to say, completely different plans  
10 presented here this morning.

11 I think it's important, again, and I  
12 went on a little bit of a history lesson  
13 yesterday, to understand Article XIX and its  
14 effects and how it was that -- or how it came to  
15 be and how -- why this unduly language does not  
16 in fact imply to the commission.

17 First, you could say simply because the  
18 constitution doesn't say anything about that as  
19 it relates to the commission. But why is that?  
20 why is that the design of this?

21 And keep in mind that we get the  
22 census -- as we all know, it's at the end of  
23 every ten years. Typically, we get the census  
24 data on April 1st, and it takes about three  
25 months to put it in the political, and then

1           there's an opportunity over a couple of months,  
2           perhaps, to come up with an agreement. And you  
3           know, we've talked a lot about how there were  
4           problems with that this year.

5                         But in the first stage of this, when  
6           there's a substantial amount of minority party  
7           buy-in that has to happen, so this is in  
8           September of any year, and there is no undue  
9           requirement in there. If in fact the parties  
10          can agree, it may be that some feel -- maybe a  
11          court or others feel that it unduly favors or  
12          disfavors a party, but there's no requirement  
13          regarding that in that September timeframe.  
14          Now, there is a requirement for substantial  
15          minority party buy-in, but the language doesn't  
16          appear anywhere in that stage.

17                         If that doesn't happen in October, the  
18          redistricting commission can adopt a map, but  
19          they can only adopt a ten-year map, and it must  
20          have -- and to do that you must have minority  
21          party buy-in. However, there's no undue  
22          language in there either. And some might  
23          recall, when we passed this map some time ago, I  
24          asked some advocates, well, what if -- what if  
25          there was an agreement among minority and

1 majority party members, but it wasn't a map that  
2 advocates wanted, and the response was no  
3 sweetheart deals. I don't know if anybody  
4 remembers that response. And what that  
5 anticipates is that there can be agreement on  
6 these maps for a whole variety of reasons, but  
7 this means, in the first stage in September,  
8 that unduly doesn't apply; in the second stage,  
9 unduly doesn't apply because the language isn't  
10 in there. Okay.

11 So in Stage 3, November, it goes back  
12 to the general assembly. And if the general  
13 assembly passes a congressional map pursuant to  
14 (C)(1) of the constitution -- and again, this is  
15 section 1(C)(1). If the general assembly does  
16 it and has this enhanced minority vote, the  
17 unduly doesn't apply. There's no requirement  
18 that the general assembly do that under  
19 section (C)(2) of the constitution, but again,  
20 you have an enhanced minority requirement,  
21 minority party requirement, and it's not as big  
22 as it is in September, it actually lowers, but  
23 that -- it, again, unduly doesn't apply there  
24 either.

25 Finally, if the general assembly passes

1 a map in November, which we did, without the  
2 requisite minority buy-in, the unduly part does  
3 apply. And the Court in their opinion said,  
4 well, we think it unduly favors one party over  
5 another and ruled the map invalid. well, what  
6 happens?

7 And before we get to Stage 4, I would  
8 point out that in the mid decennial  
9 redistricting, under Section (F)(1), we have  
10 that same unduly language appears again. So  
11 there are parts of the constitution that have  
12 the unduly language and parts that do not. So  
13 you can take a look at (F)(1). We all worry  
14 about that in four years, or those of you who  
15 are still standing can worry about it in four  
16 years.

17 So -- but what happens, then, if a  
18 court says, for whatever reason, we don't like  
19 the map, and it could be for a whole variety of  
20 reasons. well, in the -- in Section 4, if the  
21 general assembly passes a map pursuant -- or  
22 this is Section 3. Excuse me. In silo 4, the  
23 general assembly can pass a map, but the unduly  
24 language doesn't appear there either. well, if  
25 the general assembly passes a map, they have all

1 the other requirements, but there's no unduly  
2 requirement, but the general assembly doesn't do  
3 that, and likely we could have passed some map,  
4 but we had restrictions on time and needed --  
5 and Leader Russo, I think, made a good point,  
6 said, well, we didn't take a vote. well, we  
7 didn't, but, you know, it's a bit of a fool's  
8 errand at that point, but now we go to the  
9 redistricting commission in Silo 5 which is  
10 where we are right now.

11 silo 5 doesn't have any language in it  
12 about unduly. And the question is, well, why  
13 not? well, remember, folks, this is a plan --  
14 this constitutional plan is designed to create a  
15 series of incentives on both sides to make an  
16 agreement. And the big incentive for the  
17 majority to make an agreement is if you don't  
18 do -- get enough support from the minority  
19 party, your map only lasts for four years, and  
20 that is not good for the majority because  
21 everybody wants to be able to draw their map for  
22 ten years and keep it where it is. well, they  
23 can't do that. So as we're sitting here in silo  
24 5, there's no unduly requirement. And we can  
25 talk about that and go back and forth and make

1           whatever arguments we want to do about that.

2                       So I guess I want to point that out to  
3           commission members. And again, going back to  
4           where we are, typically, you're going to be at  
5           the end of November with no map. The general  
6           assembly may be able to -- if it's challenged  
7           and the court sends it back maybe in the month  
8           of December perhaps -- we didn't in this case  
9           didn't get a court decision until January,  
10          but -- and if it comes back, the general  
11          assembly needs to come back, pass a map or not  
12          or then come to the redistricting commission all  
13          in a very short period of time.

14                      And if in fact what is required is this  
15          substantial buy-in that the minority party is  
16          describing, it's going to make it very, very  
17          difficult to get this map. And obviously, we're  
18          on a very short period of time. What the courts  
19          want, and I think what we all want, is to be  
20          able to have an election.

21                      And I would note that one of  
22          the -- there's a couple of things that I argue  
23          when I -- things, provisions that I wanted to  
24          put into this back in 2018. One is rather than  
25          have a general assembly bill that could be

1 referenda, we ought to do it by resolution.

2 That was shot down, so we're stuck with a longer  
3 process with the bill.

4 And I also pointed out that if we  
5 stretch this out to the end of November, then a  
6 court hearing and then a general assembly action  
7 and then commission action, it's going to be a  
8 problem when we get to elections. And as I  
9 noted to some of the media yesterday, you think  
10 the timing on this is a problem now, wait until  
11 2032 when the presidential primary is in March.  
12 And if we start going down this path that all of  
13 these additional requirements in other parts of  
14 the constitution apply to this stage, well,  
15 we're never going to make a primary the first  
16 week in March. And Secretary LaRose probably  
17 won't be secretary then, but maybe.

18 SECRETARY LAROSE: Thank God.

19 PRESIDENT HUFFMAN: Thank God. So  
20 that -- I just want to, I guess, let -- make  
21 sure that commission members are aware of that.

22 Thanks very much, Mr. Chairman. And  
23 again, I oppose the motion.

24 LEADER RUSSO: Mr. Chairman.

25 SPEAKER CUPP: The chair recognizes



1 Representative Russo.

2 LEADER RUSSO: Thank you, Mr. Chair.

3 Those are certainly very interesting  
4 conclusions about the reading of not only the  
5 Court's decision but also the constitution.

6 So essentially what we are hearing is  
7 that Commissioner Huffman is arguing that there  
8 is no need to follow any of the  
9 anti-gerrymandering provisions of the  
10 constitution, including what the Court  
11 specifically stated in their decision that the  
12 plan that they overruled unduly favored the  
13 Republican Party over the Democratic Party.

14 That is essentially like me robbing a  
15 bank and saying that is my money. That is,  
16 frankly, absurd. And if this is, I think, the  
17 direction that this whole commission is going  
18 to -- or at least the majority members of this  
19 commission are going to buy into in this  
20 process, I can guarantee that we will be back  
21 here in a couple of weeks not only probably  
22 redrawing state maps but also again  
23 congressional maps.

24 The only reason that we are in this  
25 state is not because of the constitution and the

1 provisions that were overwhelmingly passed by  
2 Ohio voters, it's simply because we have  
3 commissioners who do not want to follow the  
4 constitution and do not want to follow the rule  
5 of law and do not want to follow the court's  
6 decisions.

7 what we find ourselves in now regarding  
8 the election, completely avoidable and also  
9 easily remedied by moving the primary date and,  
10 most importantly, bypassing a constitutional  
11 map.

12 And we have an opportunity to work  
13 together as a commission. This deadline that we  
14 have this morning at 10:00 is completely  
15 artificial. We can right now meet and discuss,  
16 as long as it takes, to get this done, to come  
17 to some agreement, get to a map that will pass  
18 constitutional muster that will get bipartisan  
19 support, will be in effect for ten years and  
20 will allow us to conduct elections. And it's  
21 really that simple.

22 PRESIDENT HUFFMAN: Mr. Chairman.

23 SPEAKER CUPP: Senator Huffman.

24 PRESIDENT HUFFMAN: Thank you,  
25 Mr. Chairman.

1           So in regards to following -- I think  
2           the phrase was none of the anti-gerrymandering  
3           provisions. I think that's inaccurate.

4           Section 2, for example, has a variety  
5           of things that were built into this, in fact  
6           were demands of the various advocate groups.  
7           And I'll just go through some of those.

8           We wanted to make sure that each  
9           district included at least one whole county.  
10          This is section 2 -- section 2(B)(8). So that  
11          was included. That's something that has to be  
12          followed.

13          No two congressional districts shall  
14          share portions of the territory or more -- of  
15          more than one county except for a county  
16          population that exceeds 400,000. And that was  
17          done because if you -- for those of you who  
18          remember, they complained about District 4 that  
19          split two or three counties getting up to a  
20          certain point. We eliminated that as a -- if  
21          you want to call it gerrymandering or whatever  
22          you want to call it.

23          Of the 88 counties, 65 counties have to  
24          remain whole, 18 counties may be split, not more  
25          than once, and five counties may be split not

1 more than twice. Well, in this case, there's  
2 only -- we've eliminated counties that are split  
3 more than twice. So we've gone beyond the  
4 line-drawing requirements that are in the  
5 constitution.

6 And I'll let everyone read section 2  
7 and look at all of those various things that  
8 were demands by various folks to prevent all of  
9 this.

10 And of course, you have a much more  
11 compact map that's presented -- the map that I  
12 presented here to the commission today than what  
13 was presented in 2011. So I think that's  
14 inaccurate.

15 And the other part -- the part of  
16 this -- you know, the constitutional setup here  
17 is this is a different group of people making  
18 this decision than the general assembly. The  
19 general assembly can pass a map and each of the  
20 folks there may be affected by different things,  
21 you know, namely, their own congressional people  
22 and who may affect how they vote and, of course,  
23 getting 50 votes and 17 votes sometimes is very  
24 difficult to do, but we have folks on this  
25 commission who have a different view potentially

1 because they don't represent the same kind of  
2 constituencies, caucuses, all of those that the  
3 legislative members on this commission do.

4 So I disagree with the comments  
5 respectfully, and I appreciate, again, and would  
6 ask that the motion to amend be denied.

7 SPEAKER CUPP: Is there further  
8 discussion?

9 Senator Sykes. Co-Chair Sykes.

10 SENATOR SYKES: Thank you, Co-Chair.

11 Just briefly. You know, it's been  
12 indicated that the -- you know, it's a major  
13 incentive to get a ten-year plan to -- in order  
14 to have bipartisan agreement, but when we look  
15 at both of the constitutional amendments, the  
16 largest component, the most significant aspect  
17 was really a different concept than just  
18 anti-gerrymandering. It was -- it was fairness,  
19 and that fairness in both of the changes was  
20 equated to proportionality with the state  
21 districts, and then with undue favor, not to  
22 undue favor a political party with the  
23 congressional districts.

24 And it's not just the line-drawing  
25 requirements. The line-drawing requirements are

1 not the focal here. And to simply overlook or  
2 try to bypass or not to consider the main focus  
3 of the initiative as, again, I agree with  
4 Leader Russo is absurd.

5 SPEAKER CUPP: Let me just, first of  
6 all, object to the assertion that Representative  
7 Russo made that the only reason we don't have  
8 maps that have so far withstood consideration by  
9 the Court is because the commissioners don't  
10 want to.

11 As I've pointed out on multiple  
12 occasions, this is a new provision of the  
13 constitution. We're working our way through it,  
14 trying to find a pathway forward. There are  
15 legitimate differing interpretations of what it  
16 means and what it requires. There's conflict on  
17 the Supreme Court as to what it requires.

18 This is not a clear path forward, and I  
19 do not agree that members of this commission  
20 have not tried to do this in good faith, erring  
21 in some respects for what the Court has looked  
22 at it and we have consistently tried to find our  
23 way forward.

24 So in all this rhetoric and  
25 disagreement and stuff, I think it's important

1 that we don't attribute bad faith to either side  
2 of this. And so I just want to go on record as  
3 what my position is on that.

4 Any further discussion?

5 The chair recognizes Auditor Faber.

6 AUDITOR FABER: Thank you. A question  
7 for the sponsors of the amendment.

8 As I look at it -- and it may be that I  
9 just can't tell. District 3 was reconvened  
10 significantly from the proposed map. How does  
11 that or does that comply with Article 2,  
12 Section (B)(4)(A) with regard to keeping  
13 Columbus largely in one district? And I can't  
14 tell. I don't know whether it does or doesn't,  
15 but it looks, based on the geography, that a  
16 substantial portion of this district is outside  
17 the city of Columbus. And so therefore it looks  
18 to me like you're doing what you indicated the  
19 concern was in other areas for the opposite  
20 effect. So I'm just curious about that. If you  
21 can help me understand that.

22 LEADER RUSSO: Sure. Through the  
23 chair.

24 Auditor Faber, yes, there were some  
25 changes made to District 3. It actually still

1 includes a substantial and I believe almost  
2 exactly the same proportion of Columbus that the  
3 previous version did, it's just a different way  
4 to split it. And overall, it creates a plan  
5 that meets the -- does not unduly favor  
6 Republicans and does favor Democrats, a  
7 requirement of the Court's decision.

8 Now, as we discussed in our meeting  
9 last evening, that change in particular to 15,  
10 4 and 3, there are a couple of different options  
11 there that we certainly are willing to discuss  
12 and consider. One of which, frankly, you know,  
13 does not require necessarily a change to  
14 District 3. Many different options. We are  
15 willing to continue those discussions about that  
16 particular district. This is certainly one  
17 option. Frankly, in my mind, there were  
18 probably about three to five different options.

19 AUDITOR FABER: And thank you for that,  
20 Leader Russo. And I'm just -- and maybe this is  
21 a question to everybody in general, but as I try  
22 and read and understand Section (B)(2)(4)(A), is  
23 it -- and was it when you guys drafted this  
24 provision the understanding that to the extent  
25 you can, we are required to -- it was easy with



1 Cincinnati because Cincinnati needs to be wholly  
2 within a district because of those ratios, but  
3 because the city of Columbus is larger than one  
4 congressional district, is it your understanding  
5 of this provision that you're supposed to put  
6 the majority of the city of Columbus, even  
7 though it's larger than one district, in one  
8 whole congressional district versus splitting  
9 Columbus in multiple different ways and  
10 essentially creating different options?

11 My interpretation is that you're  
12 required, to the extent you can, to keep  
13 Columbus -- most of Columbus in one district,  
14 and if not, you're supposed to affiliate it with  
15 communities that are closely affiliated with  
16 that at a minimum. And I'm just curious if  
17 that's your read of this as well, and if that's  
18 the case, it, frankly, doesn't look to me like 3  
19 is going to follow that.

20 LEADER RUSSO: Through the chair,  
21 Auditor Faber, yes, we believe that we have met  
22 the provision in the constitution and have kept  
23 a majority of Columbus within that district.  
24 And again, there are multiple -- Columbus is big  
25 enough, frankly, that there are multiple ways do

1           that.

2                   AUDITOR FABER: So again, I don't want  
3           to belabor this because I can't see the detail,  
4           and I'll take your word for it, but your  
5           interpretation is my interpretation is correct,  
6           we're required, to the extent we can, to keep  
7           Columbus largely together in one district. Is  
8           that the baseline understanding? I assume you  
9           did that because I can't tell. Am I -- does  
10          your view -- when I tried to draw my version,  
11          that's what I tried to do, and I just want to  
12          make sure we're in agreement on that.

13                   LEADER RUSSO: Through the chair,  
14          Mr. Auditor, yes. Certainly, again, we believe  
15          that we have met the provision. There are  
16          multiple ways do that. I would also note that  
17          Columbus is an interesting city and that we have  
18          many non-contiguous parts of the city as well.  
19          And so, you know, again, there are multiple ways  
20          do this.

21                   AUDITOR FABER: Very good.

22                   SPEAKER CUPP: Is there further  
23          discussion?

24                   I would just say that I did appreciate  
25          the conversation that we had yesterday late

1           afternoon, I guess, in terms of the proposed  
2           changes that were being suggested. And as far  
3           as I'm concerned, in the House side, we spent  
4           considerable amount of time with our map drawer  
5           to take a look at these and see how they would  
6           impact the overall map. But like with any  
7           change, it does create some -- you know, some  
8           opposite impacts as well.

9                         So, for example, Congressional  
10           District 9, which is in northwest Ohio, it then  
11           creates a district that runs from the Indiana  
12           line all the way to Lorain, I think, which is  
13           even less compact than it was before. And so in  
14           a constitutional sense, I don't believe it  
15           really makes any contribution to the  
16           constitutionality of it, although it might in  
17           terms of shifting the Republican-Democrat index.

18                        I look at District 15, and that one  
19           kind of stretches out across Ohio to the west  
20           because it was a remnant of other changes that  
21           were made, but to move that -- make that one  
22           more compact, House District 4 becomes less  
23           compact, and now you have a district that runs  
24           from -- I'm not sure what county that is,  
25           actually -- way below I-70 going all the

1 way -- almost all the way back up to Lorain  
2 which was a constant example of a gerrymandered  
3 district in the public hearings that we had. So  
4 those have some adverse impacts to it.

5 And I believe that the map that was  
6 offered does meet the constitutional objections  
7 that were pointed out to the Court -- by the  
8 Court in terms of the concerns. They pointed  
9 out particularly Hamilton county and that was  
10 because it was split twice instead of once. In  
11 the Strigari map, it is now split once.

12 I'm not entirely sure, but I think the  
13 compact ratio in District 7 that would be  
14 reconfigured makes it at least somewhat less  
15 compact.

16 And so the amendments don't  
17 particularly solve any of the problems. And I  
18 realize this is as much of an art as a science,  
19 but there are some things that it doesn't make  
20 it a perfect map either.

21 LEADER RUSSO: Mr. Chair.

22 SPEAKER CUPP: Yes. Representative  
23 Russo.

24 LEADER RUSSO: Thank you. Mr. Chair, I  
25 would like to respond to a couple of your

1           comments regarding certainly, you know, some of  
2           the changes to other districts and concerns  
3           about compactness.

4                       I would note that overall, the map,  
5           with the changes that we have proposed, actually  
6           make the map -- they score higher on the overall  
7           compactness score, but certainly, if there are  
8           specific concerns about districts -- for  
9           example, you noted Districts 5 and 4, I will  
10          note that certainly in our discussions with  
11          Auditor Faber, he actually brought forward a  
12          couple of different recommendations that I  
13          believe he may have shared with some other  
14          commissioners that I think reasonably may also  
15          address some of those concerns and address some  
16          of our concerns as well.

17                      So I say all of this to say, again, you  
18          know, let's take a day to have these discussions  
19          and come to some sort of resolution and  
20          compromise on this because I do believe that  
21          there is a path forward to do that. And again,  
22          not sure why we are under this artificial  
23          deadline to vote on this today when there are  
24          clearly some alternatives here that possibly  
25          could get us to bipartisan agreement, meet our

1 objectives, if the object is to get to a  
2 constitutional map that is bipartisan that lasts  
3 ten years, which that is my objective, and to  
4 not have the Court have to intervene in this  
5 again. If that is the objective, then we should  
6 take the time to do that. And I think that  
7 there are members on this commission from the  
8 majority party who have a willingness to do  
9 that, and I would strongly encourage that.

10 SPEAKER CUPP: Further discussion.

11 The question then is on the amendment,  
12 shall the amendment proposed by Representative  
13 Russo be adopted?

14 The staff will call the roll, please.

15 THE CLERK: Co-Chair Speaker Cupp.

16 SPEAKER CUPP: No.

17 THE CLERK: Co-Chair Senator Sykes.

18 SENATOR SYKES: Yes.

19 THE CLERK: Governor DeWine.

20 GOVERNOR DEWINE: No.

21 THE CLERK: Auditor Faber.

22 AUDITOR FABER: No.

23 THE CLERK: President Huffman.

24 PRESIDENT HUFFMAN: No.

25 THE CLERK: Secretary LaRose.

1 SECRETARY LAROSE: No.

2 THE CLERK: Leader Russo.

3 LEADER RUSSO: Yes.

4 THE CLERK: Mr. Speaker, two to five.

5 SPEAKER CUPP: The vote is two to five.

6 The amendment has not been agreed to.

7 We are now back to the original motion  
8 from Senator Huffman to approve the March 2,  
9 2022, Strigari map, by name, that has been  
10 uploaded.

11 Is there further discussion?

12 If there's no further discussion, the  
13 staff will call the roll, please.

14 THE CLERK: Co-Chair Speaker Cupp.

15 SPEAKER CUPP: Yes.

16 THE CLERK: Co-Chair Senator Sykes.

17 SENATOR SYKES: No.

18 THE CLERK: Governor DeWine.

19 GOVERNOR DEWINE: Yes.

20 THE CLERK: Auditor Faber.

21 AUDITOR FABER: Yes.

22 THE CLERK: President Huffman.

23 PRESIDENT HUFFMAN: Yes.

24 THE CLERK: Secretary LaRose.

25 SECRETARY LAROSE: Yes.

1 THE CLERK: Leader Russo.

2 LEADER RUSSO: No.

3 THE CLERK: Mr. Speaker, 5-2.

4 SPEAKER CUPP: The vote is five to two.

5 The motion has been agreed to and the map has  
6 been adopted, and would direct staff to upload  
7 this to the secretary of state as soon as  
8 possible so that the March 4th filing deadline  
9 will be available to candidates and that we can  
10 proceed with the March -- the May 3rd -- the May  
11 primary election.

12 Any further business come before the  
13 commission? Hearing none, the commission is  
14 adjourned.

15 (End of recording.)

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R E P O R T E R ' S   C E R T I F I C A T E

STATE OF NORTH CAROLINA

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I, DENISE MYERS BYRD, Court Reporter,  
do hereby certify that the transcription of the  
recorded OHIO REDISTRICTING COMMISSION held on  
March 2, 2022, was taken down by me  
stenographically to the best of my ability and  
thereafter transcribed under my supervision; and  
that the foregoing pages, inclusive, constitute  
a true and accurate transcription of said  
recording.

Signed this the 7th day of March 2022.

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