

IN THE SUPREME COURT OF OHIO

LEAGUE OF WOMEN VOTERS OF OHIO, ET
AL.,

MERYL NEIMAN, ET AL.,

v.

SECRETARY OF STATE FRANK LAROSE, ET
AL.

Case No. 2022-0303

Case No. 2022-0298

Consolidated

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

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SUPPLEMENT TO LWVO PETITIONERS' MERITS BRIEF

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** These documents represent the corrected versions of documents previously submitted into evidence with incorrect timestamps. The corrected versions, attached hereto, were also attached in Exhibit B to the Joint Motion by LWVO Petitioners, Neiman Petitioners, and Respondents Huffman and Cupp to Correct the Evidentiary Record filed with the Court on May 4, 2022.



Warshaw Affidavit.pdf

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E-Signature 1: Christopher Warshaw (CSW)

March 06, 2022 17:09:34 -8:00 [315F8934367D] [24.126.11.149]
 warshaw@email.gwu.edu (Principal) (Personally Known)

E-Signature Notary: Theresa M Sabo (TMS)

March 06, 2022 17:09:34 -8:00 [56BE908CE6AF] [96.27.183.41]
 tess.sabo@gmail.com

I, Theresa M Sabo, did witness the participants named above electronically sign this document.



IN THE SUPREME COURT OF OHIO

**LEAGUE OF WOMEN VOTERS OF
OHIO, et al.,**

Petitioners

v.

**OHIO REDISTRICTING COMMISSION,
et al.,**

Respondents.

Case No. 2021-1449

**Original Action Pursuant to
Ohio Const., Art. XI**

AFFIDAVIT OF CHRISTOPHER WARSHAW

Franklin County
/ss
State of Ohio

Now comes affiant Christopher Warshaw, having been first duly cautioned and sworn, deposes and states as follows:

1. I am over the age of 18 and fully competent to make this declaration. I have personal knowledge of the statements and facts contained herein.
2. For the purposes of this litigation, I have been asked by counsel for Relators to analyze relevant data and provide my expert opinions.
3. To that end, I have personally prepared the report attached to this affidavit as Exhibit A, and swear to its authenticity and to the faithfulness of the opinions expressed and, to the best of my knowledge, the accuracy of the factual statements made therein.

FURTHER AFFIANT SAYETH NAUGHT.

Executed on 03/06/2022, 2022.

Christopher Warshaw

Signed on 2022/03/06 17:09:34 -8:00

Christopher Warshaw

03/06/2022

Sworn and subscribed before me this 1st, 2022.



Theresa M Sabo
Notary Public

Notarial act performed by audio or visual communication

EXHIBIT 0181



EXHIBIT A

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An Evaluation of the Partisan Bias in Ohio's Enacted March 2, 2022 Congressional Districting Plan

Christopher Warshaw*

March 6, 2022

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*Associate Professor, Department of Political Science, George Washington University. warshaw@gwu.edu. Note that the analyses and views in this report are my own, and do not represent the views of George Washington University.

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1 Introduction

My name is Christopher Warshaw. I am an Associate Professor of Political Science at George Washington University. Previously, I was an Associate Professor at the Massachusetts Institute of Technology from July 2016 - July 2017, and an Assistant Professor at MIT from July 2012 - July 2016.

I have been asked by counsel representing the relators in this case to analyze relevant data and provide my expert opinions about whether Ohio's enacted congressional districting plan meets the requirement in Article XIX.01, Section 3(A) of Ohio's Constitution that "If the general assembly passes a congressional district plan under division (C)(1) of this section by a simple majority of the members of each house of the general assembly, and not by the vote described in division (C)(2) of this section", then "The general assembly shall not pass a plan that unduly favors or disfavors a political party or its incumbents."

2 Qualifications, Publications and Compensation

My Ph.D. is in Political Science, from Stanford University, where my graduate training included courses in political science and statistics. I also have a J.D. from Stanford Law School. My academic research focuses on public opinion, representation, elections, and polarization in American Politics. I have written over 20 peer reviewed papers on these topics. Moreover, I have written multiple papers that focus on elections and two articles that focus specifically on partisan gerrymandering. I also have a forthcoming book that includes an extensive analysis on the causes and consequences of partisan gerrymandering in state governments.

My curriculum vitae is attached to this report. All publications that I have authored and published appear in my curriculum vitae. My work is published or forthcoming in peer-reviewed journals such as: the *American Political Science Review*, the *American Journal of Political Science*, the *Journal of Politics*, *Political Analysis*, *Political Science Research and Methods*, the *British Journal of Political Science*, the *Annual Review of Political Science*, *Political Behavior*, *Legislative Studies Quarterly*, *Science Advances*, the *Election Law Journal*, *Nature Energy*, *Public Choice*, and edited volumes from Cambridge University Press and Oxford University Press. My book entitled *Dynamic Democracy in the American States* is forthcoming from the University of Chicago Press. My non-academic writing has been published in the *New York Times* and the *Washington Post*. My work has also been discussed in the *Economist* and many other prominent media

outlets.

My opinions in this case are based on the knowledge I have amassed over my education, training and experience, including a detailed review of the relevant academic literature. They also follow from statistical analysis of the following data:

- In order to calculate partisan bias in congressional elections on the enacted, March 2 plan in Ohio, I examined:
 - GIS Files with the 2012-2020 Ohio Congressional plan and the enacted plan): I obtained the 2012-2020 plan from the state website, the original plan from Counsel in this case, and the March 2 enacted plan from the Ohio Redistricting Commission's website
 - Precinct-level data on recent statewide Ohio elections: I use precinct-level data on Ohio's statewide elections between 2016-20 from the Voting and Election Science Team (University of Florida, Wichita State University). I obtained these data from the Harvard Dataverse.¹
 - Precinct-level data on recent statewide Ohio elections: I use a GIS file with precinct-level data on the results of the 2020 congressional elections in Ohio that I obtained from Counsel in this case.
 - The PlanScore website: PlanScore is a project of the nonpartisan Campaign Legal Center (CLC) that enables people to score proposed maps for their partisan, demographic, racial, and geometric features. I am on the social science advisory team for PlanScore.
- In order to compare the maps in Ohio to other congressional elections across the nation over the past five decades, I examined:
 - A large data set on candidacies and results in Congressional elections: I obtained results from 1972-2018 collected by the Constituency-Level Elections Archive (CLEA) (Kollman et al. 2017). The results from 1972-1990 are based on data collected and maintained by the Inter-university Consortium for Political and Social Research (ICPSR) and adjusted by CLEA. The data from 1992-2018 are based on data collected by CLEA from the Office of the Clerk at the House of the Representatives. I supplemented this dataset with recent election results collected by the MIT Election and Data Science Lab (MIT Election and Data Science Lab 2017) and Dave Leip's Atlas of U.S. Presidential Elections.

1. See <https://dataverse.harvard.edu/dataverse/electionscience>.

- Data on presidential election returns and incumbency status in Congressional elections. I used data on elections in congressional districts from 1972-2020 collected by Professor Gary Jacobson (University of California, San Diego). This dataset has been used in many Political Science studies and has canonical status in the Political Science profession (Jacobson 2015).
- Information on who controlled each redistricting plan in Congressional elections (e.g., Democrats, Republicans, or a Commission) from 1972-2012 assembled by the Brennan Center (Brennan Center 2017).
- I imputed vote shares and turnout in uncontested districts and then calculated the partisan bias metrics described on pp. 6-14 of this report using the methodology described in Stephanopoulos and Warshaw (2020).

I have previously provided expert reports in this case, as well as six other redistricting-related cases and several Census-related cases (see my CV for a current list). I am being compensated at a rate of \$325 per hour. The opinions in this report are my own, and do not represent the views of George Washington University.

3 Summary

This report examines whether the Ohio Redistricting Commission’s March 2 plan meets the criteria in the Ohio Constitution. Article XIX.01, Section 3(A) of Ohio’s Constitution requires that “If the general assembly passes a congressional district plan under division (C)(1) of this section by a simple majority of the members of each house of the general assembly, and not by the vote described in division (C)(2) of this section”, then “The general assembly shall not pass a plan that unduly favors or disfavors a political party or its incumbents.”

Ohio’s Constitutional criteria, which require that congressional districting plans passed without bipartisan support not unduly favor or disfavor a political party, are related to a long-line of Political Science literature on partisan gerrymandering and democratic representation. The relationship between the distribution of partisan support in the electorate and the partisan composition of the government—what Powell (2004) calls “vote-seat representation”—is a critical link in the longer representational chain between citizens’ preferences and governments’ policies. If the relationship between votes and seats systematically advantages one party over another, then some citizens will enjoy more influence—more “voice”—over elections and political outcomes than others (Caughey, Tausanovitch, and Warshaw 2017).

I use three complementary methodologies to project future election results in order to evaluate whether Ohio's newly enacted, March 2 Congressional map meets the requirements of Article XIX.01, Section 3(A) in its Constitution. First, I analyze the results of the 2020 Congressional election on the newly enacted, March 2 map. Second, I use a composite of previous statewide election results between 2016-2020 to analyze the new map.² Third, I complement this approach using the open source PlanScore.org website, which is a project of the Campaign Legal Center.³ PlanScore uses a statistical model to estimate district-level vote shares for a new map based on the relationship between presidential election results and legislative results between 2012-2020.⁴ Based on these three approaches, I characterize the bias in Ohio's plans based on a large set of established metrics of partisan fairness. I also place the bias in Ohio's plans into historical perspective. Finally, I analyze the compactness of the districts in the enacted plan.

All of these analyses indicate an extreme level of pro-Republican bias in Ohio's enacted, March 2 Congressional plan. There are 10 strongly Republican districts, 2 strongly Democratic districts, and 3 potentially competitive districts, two of which lean toward Republicans. In the average election, Republicans are likely to get about 55% of the statewide vote and about 75-80% of the seats in Ohio's congressional delegation. Thus, the plan clearly unduly favors the Republican party. Moreover, it favors Republicans nearly as much as the Commission's initial, enacted plan did.

In the actual 2020 congressional election, Democrats received 43% of the two-party vote (and Republicans 57%), but Democrats only won 25% (4) of the seats (and Republicans won 75%). This was already one of the most extreme partisan gerrymanders of a congressional map in modern history (See *APRI et al. v. Smith et al.*, No. 18-cv-357 (S.D. Ohio)). Based on the congressional election results, the new plan is just as extreme. On the new map, Democrats would only win 20% (3) of the seats using the precinct-level results of the 2020 congressional election while Republicans would win 80% (12) of the seats.

The new plan also displays an extreme level of partisan bias when I evaluate it based on the results of recent statewide elections. In the 2020 presidential election, Democrat Joe Biden received about 46% of the two-party vote.⁵ However, he would have only won 27% (4) of the Congressional districts under the March 2 plan. In the 2018 gubernatorial

2. These include the following elections: 2016 Presidential, 2016 Senate, 2018 Senate, 2018 gubernatorial, 2018 attorney's general, 2018 Secretary of State, 2018 Auditor, 2018 Treasurer, and 2020 Presidential.

3. I am on the social science advisory board of Plan Score, but do not have any role in PlanScore's evaluation of individual maps.

4. See <https://planscore.campaignlegal.org/models/data/2021D/> for more details.

5. Following standard convention, throughout my analysis I focus on two-party vote shares.

election, Democrat Richard Cordray did a little bit better. He received about 48% of the two-party vote. Yet again, however, he would have only won 33% of the districts under the enacted, March 2 plan. In the 2016 presidential election, Democrat Hillary Clinton received about 46% of the two-party vote. But she would too have only won 27% of the revised plan's seats.

Based on all the available statewide elections in Ohio between 2016-2020, I find that the enacted, March 2 Congressional plan leads to a much higher Republican share of the seats than their share of the statewide vote. Indeed, across all statewide elections during this period, the Democrats' statewide two-party vote share averaged about 45% of the vote, but they are only likely to win about 28% of the seats.⁶

I reach the same conclusion using the predictive model on the PlanScore website. It indicates that the enacted, March 2 plan favors Republican candidates in 97% of scenarios. Even though Republicans only get about 56% of the statewide vote in recent elections (and Democrats get 44%), PlanScore analysis indicates that Republicans are expected to win 76% of the seats in Ohio's Congressional delegation (and Democrats would win 24% of the seats).⁷ Based on generally accepted Political Science metrics (the Efficiency Gap and the Declination), PlanScore indicates that Ohio's enacted, March 2 plan would have historically extreme levels of pro-Republican bias. In fact, the pro-Republican bias in Ohio's Congressional plan is larger than 96% of previous plans in the United States from 1972-2020.

Overall, this analysis indicates that the Commission's plan unduly favors the Republican party. This conclusion is based on a wide variety of approaches to project future election results and to estimate the partisan bias of the plan. Regardless of the approach I use, it is clear that the map has an extreme level of bias in favor of the Republican party. Moreover, the March 2 plan is almost as biased in favor of Republicans as the Commission's original, enacted plan that I evaluated in my report on November 30, 2021.

The rest of this report proceeds as follows. First, I provide a brief overview of par-

6. There are a variety of ways we could aggregate previous statewide elections to create a composite index (see the discussion on p. 7-8 of my January 25th report in the parallel case about the constitutionality of the state legislative plans in Ohio). In my main analysis, I weight the composite scores to give each election cycle equal weight in the index. This ensures that the composite index is not overly influenced by whatever election year happens to have the most elections (2018 in the case of Ohio). This is important because much of the uncertainty in projecting future elections comes from variation across electoral cycles rather than across contests within cycles. So, in my view, it is useful to not disproportionately weight the index toward any particular election year. In the appendix, however, I show that I reach similar conclusions using a composite index that weights each statewide contest equally (rather than each year equally).

7. This is a probabilistic estimate based on 1000 simulations of possible elections using a model of the elections between 2012-2020.

tisan gerrymandering and how social scientists measure the degree of partisan bias in a districting plan. I then provide a systematic evaluation of the partisan fairness of Ohio’s enacted, March 2 congressional districting plan. Finally, I discuss the compactness of the districts on the Commission’s plan.

4 Background on Partisan Gerrymandering

The goal of partisan gerrymandering is to create legislative districts that are as “efficient” as possible in translating a party’s vote share into seat share (McGhee 2014, 2017; Caughey, Tausanovitch, and Warshaw 2017). In practice, this entails drawing districts in which the supporters of the advantaged party constitute either a slim majority (e.g., 55% of the two-party vote) or a small minority (e.g., 20%). The former is achieved by “cracking” local opposing-party majorities across multiple districts and the latter by “packing” them into a few overwhelming strongholds. In a “cracked” district, the disadvantaged party narrowly loses, while in a “packed” district, the disadvantaged party wins overwhelmingly (Buzas and Warrington 2021). The resulting *asymmetry* or *advantage* in the efficiency of the vote–seat relationships of the two parties lies at the core of normative critiques of partisan gerrymandering. Asymmetries in the translation of votes to seats “offer a party a means of increasing its margin of control over policy without winning more votes from the public” (McGhee 2014).

In addition to creating a plan that skews the vote-seat curve toward their party, the advantaged party also often seeks to build a map that is *insulated* against changes in the public’s preferences. This type of unresponsive map enables the advantaged party to continue to win the majority of seats even in the face of large gains in the disadvantaged party’s statewide vote share. It ensures that the gerrymander is durable over multiple election cycles.

There are a number of approaches that have been proposed to measure partisan advantage in a districting plan. These approaches focus on asymmetries in the efficiency of the vote–seat relationships of the two parties. In recent years, at least 10 different approaches have been proposed (McGhee 2017). While no measure is perfect, much of the recent literature has focused on a handful of related approaches that I described in my November 30th report.⁸ I utilize these approaches to quantify the partisan fairness of

8. These metrics are described in depth on pp. 6-13 of my November 30, 2021 report on the Commission’s original enacted congressional plan. Note that the exact calculation methods for the efficiency gap and declination differ slightly across sources. To calculate the efficiency gap I use the formula:

$$EG = S_D^{margin} - 2 * V_D^{margin} \quad (1)$$

the Commission’s enacted congressional plan.

5 Partisan Bias in Ohio’s Enacted, March 2 Congressional Map

In this section, I will provide a more systematic evaluation of the partisan fairness of Ohio’s enacted, March 2 congressional districting plan (see Figure 1 for a map of the plan). In order to evaluate the enacted plan, we need to predict future election results on this map. Unfortunately, there is no way to know, with certainty, the results of future elections. Thus, I use three complementary methodologies to predict future congressional elections in Ohio and generate the various metrics I discussed earlier. I compare the Commission’s March 2 plan to the 2012-2020 plan and the original enacted plan from November.

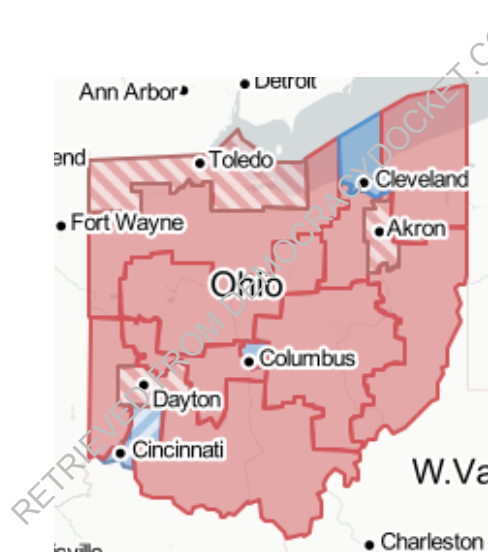


Figure 1: Map of Enacted, March 2 Congressional Districts from PlanScore.org

5.1 2020 Congressional election results

First, I use the 2020 precinct-level congressional results on both the 2012-20 map and re-aggregated to the enacted, March 2 map to estimate the various metrics. This approach implicitly assumes that future elections will look like the 2020 election. These endogenous elections are likely to be an excellent predictor of future voting patterns in congressional

where S_D^{margin} is the Democratic Party’s seat margin (the seat share minus 0.5) and V_D^{margin} is the Democratic Party’s vote margin (McGhee 2017, 11-12). I use the declination formula discussed in Warrington (2018, 42).

elections. Based on these results, Republicans would win 57% of the votes, but 80% of the seats on the March 2 plan. In other words, Republicans would win 23 percentage points more seats than votes.

Metric	Value	More Biased than this % Historical Plans	More Pro-Republican than this % Historical Plans
2012-2020 Plan			
Republican Seat Share	75%		
Efficiency Gap	-11%	78%	91%
Declination	-.51	85%	91%
Mean-Median Diff	-4%	57%	78%
Symmetry Bias	-12%	78%	87%
Average		75%	87%
Commission's Original, Enacted Plan			
Republican Seat Share	87%		
Efficiency Gap	-23%	98%	99%
Declination	-.90	97%	97%
Mean-Median Diff	-3%	42%	72%
Symmetry Bias	-10%	69%	83%
Average		77%	88%
Commission's Enacted March 2 Plan			
Republican Seat Share	80%		
Efficiency Gap	-16%	91%	96%
Declination	-.61	92%	95%
Mean-Median Diff	-3%	36%	70%
Symmetry Bias	-17%	91%	93%
Average		77%	89%

Table 1: Partisan bias metrics for Congressional plan based on 2020 Congressional election results re-aggregated onto enacted, March 2 map

The average efficiency gap of the enacted, March 2 plan based on the precinct-level 2020 House results is -16% in a pro-Republican direction (see Table 1). This is more extreme than 91% of previous Congressional plans nationwide over the past five decades (1972-2020) and more pro-Republican than over 96% of previous plans. The plan is more pro-Republican than 95% of prior plans in the country using the declination metric. The other metrics also show that Ohio's enacted, March 2 plan has a large pro-Republican bias. When we average across all four metrics, the plan is more extreme than 77% of previous plans and more pro-Republican than 89% of previous plans (which is nearly identical to the Commission's original, enacted plan).

5.2 Composite of previous statewide elections

Next, I use a composite of previous statewide election results between 2016-2020 re-aggregated to the enacted, March 2 map. For each year, I estimate each party's vote share, seat share, and the average of the partisan bias metrics across races. I then average them together to produce a composite result. This approach implicitly assumes that future voting patterns will look like the average of these recent statewide elections.

2016-2020 Composite			
Metric	Value	More Biased than this % Historical Plans	More Pro-Republican than this % Historical Plans
2012-2020 Plan			
Republican Seat Share	74%		
Efficiency Gap	-16%	90%	96%
Declination	-.56	89%	93%
Mean-Median Diff	-3%	39%	71%
Symmetry Bias	-17%	91%	93%
Average		77%	88%
Commission's Original, Enacted Plan			
Republican Seat Share	76%		
Efficiency Gap	-18%	93%	97%
Declination	-.59	92%	95%
Mean-Median Diff	-2%	24%	63%
Symmetry Bias	-10%	69%	83%
Average		70%	85%
Commission's Enacted March 2 Plan			
Republican Seat Share	72%		
Efficiency Gap	-14%	86%	94%
Declination	-.44	81%	88%
Mean-Median Diff	-1%	17%	59%
Symmetry	-11%	73%	84%
Average		70%	85%

Table 2: Composite bias metrics for enacted, March 2 Congressional plan based on statewide elections

When I average across these statewide elections from 2016-2020, Democrats win 45% of the votes and 28% of the seats (see Table 2). The average efficiency gap of the enacted, March 2 plan based on these previous election results is -14%. This is more extreme than 86% of previous plans and more pro-Republican than 94% of previous plans. The plan is also more pro-Republican than 88% of previous plans using the declination metric. The mean-median and symmetry also show that Ohio's plan has a substantial pro-Republican bias. When I average across all four metrics, the plan is more extreme than 70% of previous plans and more pro-Republican than 85% of previous plans.⁹

9. In the Appendix, I show that I reach very similar results if I average previous elections across

5.3 PlanScore

Third, I evaluate the enacted, March 2 plan using a predictive model from the PlanScore.org website. PlanScore uses a statistical model of the relationship between districts' latent partisanship and election outcomes. This enables it to estimate district-level vote shares for a new map and the corresponding partisan gerrymandering metrics.¹⁰ It then calculates various partisan bias metrics. In this case, PlanScore provides estimates of the efficiency gap and declination.¹¹

PlanScore also indicates that the Congressional plan has a substantial pro-Republican bias (Table 3). According to PlanScore, the enacted, March 2 plan has a pro-Republican efficiency gap of 13%. The plan favors Republicans in 99% of the scenarios estimated by PlanScore.¹² Moreover, it is more extreme than 91% of previous plans and more pro-Republican than 97% of previous plans.

Metric	Value	Favors Rep's in this % of Scenarios	More Biased than this % Historical Plans	More Pro-Republican than this % Historical Plans
2012-2020 Plan				
Republican Seat Share	74%			
Efficiency Gap	-12%	96%	90%	97%
Declination	-.42	95%	87%	93%
Average		96%	89%	95%
Commission's Original, Enacted Plan				
Republican Seat Share	79%			
Efficiency Gap	-16%	99%	97%	97%
Declination	-.58	99%	95%	98%
Average		99%	96%	98%
Commission's Enacted March 2 Plan				
Republican Seat Share	76%			
Efficiency Gap	-13%	99%	91%	97%
Declination	-.47	98%	90%	95%
Average		99%	91%	96%

Table 3: PlanScore partisan bias metrics for enacted, March 2 Congressional plan

contests rather than weighting each year equally.

10. See <https://planscore.campaignlegal.org/models/data/2021D/> for more details.

11. The partisan symmetry and mean-median difference scores are only shown when the parties' statewide vote shares fall between 45% and 55% because outside this range the metrics' assumptions are less plausible (McGhee 2017, 9). In the PlanScore model, the Democrats' two-party vote share is just below 45%.

12. See <https://planscore.campaignlegal.org/plan.html?20220303T200000.374167789Z>

6 Competitiveness of Districts

In this section, I use a variety of approaches to estimate the number of competitive districts in both the 2012-20 congressional plan, the original enacted plan, and the March 2 plan (see Table 4). My analysis indicates that the enacted, March 2 plan has just one more competitive district than the 2012-2020 plan.

Data:	2020 House Results		Composite (2012-20)	PlanScore			Mean
Metric:	45-55	Historical Swing	45-55	45-55	20%+ Prob. of Each Party Win.	50%+ Prob. Flip in Dec.	
Plan	(1)	(2)	(3)	(4)	(5)	(6)	(7)
2012-20 Plan	2	1	3	3	2	5	2
Commission's Original Plan	3	3	5	4	2	4	3.5
Commission's March 2 Plan	3	2	4	4	2	4	3

Table 4: Number of competitive districts using various data sources and metrics.

First, I use the actual 2020 House results to examine the number of competitive districts. In column 1 of Table 4, I begin by tallying the number of districts where each party's two-party vote share was between 45 and 55%. This approach indicates there are 2 competitive districts on the 2012-20 plan and 3 competitive districts on the enacted March 2 plan. As I discussed earlier, however, it is not clear that a sharp threshold at 55% is the best measure of competitiveness.

Based on the approach in Henderson, Hamel, and Goldzimer (2018, Appendix, p. 2), we can also define competitiveness based on whether a district is likely to switch parties at least once per decade based on the maximal swing in the two-party vote. In column 2 of Table 4, I use this approach to tally the number of districts that each party would win at least once over the course of the decade based on the historical range of statewide election results between 2016-2020. Specifically, I conduct a uniform swing to simulate what would happen if the 2020 congressional election were held in the best year for Democrats (2012).¹³ I then examine the number of districts that would have been won at least once by each party. This approach indicates there was 1 competitive district on the 2012-20 plan and 2 competitive districts on the enacted March 2 plan.

Next, I use a composite of the 2016-2020 statewide election results to estimate the number of competitive districts. Once again, in column 3 of Table 4, I tally the number of districts where each party's two-party vote share was between 45 and 55%. This approach indicates there was 1 competitive district on the 2012-20 plan and 4 competitive districts on the March 2 plan.

13. It is worth noting, however, that 2012 appears to have been a high-water mark for Democrats in Ohio, and their electoral performance has not come close to this level in subsequent elections.

Lastly, I use PlanScore to estimate the potential competitiveness of individual districts on the enacted, March 2 plan. In column 4 of Table 4, I show the number of districts where PlanScore estimates that each party's two-party vote share is expected to be between 45 and 55%. This approach indicates there were 3 competitive districts on the 2012-20 plan and 4 competitive districts on the enacted, March 2 plan.

It is also possible to use PlanScore to evaluate whether a district is likely to switch parties at least once per decade (Henderson, Hamel, and Goldzimer 2018). PlanScore conducts 1,000 simulations of possible electoral scenarios based on the results of the 2012-2020 congressional and state legislative elections in every state. Using these simulations, PlanScore provides an estimate of the probability that each party will win each seat as well as whether they are likely to have at least a 50% chance of winning each seat once over the course of the decade. In column 5 of Table 4, I estimate the number of districts where each party has at least a 20% chance of winning according to PlanScore. This approach indicates there were 2 competitive districts on the 2012-20 plan and 2 competitive districts on the enacted, March 2 plan. In column 6 of Table 4, I conduct a similar analysis where I tally the number of districts that each party would have at least a 50% chance of winning at least once over the course of the decade. This approach indicates there are 5 competitive districts on the 2012-20 plan and 4 competitive districts on the enacted, March 2 plan.

Finally, column 7 of Table 4 averages across all of these approaches. It indicates there are about 2 competitive districts on the 2012-2020 plan and 3 competitive seats on the March 2 plan.

Moreover, it is important to note that the fact that there are about three potentially competitive districts on the enacted, March 2 plan does not mean that each party has a 50-50 chance at winning these districts. In fact, Republicans are favored in two of these districts. We can see this using each of the predictive approaches I've used in this report that are summarized in Table 5. The table shows that only one of the three competitive districts (shown in grey) slightly leans toward Democrats. So Republicans are likely to win at least two of these districts in the average election. This is especially true if Republicans also have an incumbency advantage in most of these districts (see Jacobson 2021, for more on the incumbency advantage in 2020). Overall, 12 of the 15 districts on the enacted plan lean toward Republicans.

District	Projected Democratic Vote Share			
	House 2020	Composite (2016-2020)	PlanScore	Average Dem. Share
1	0.50	0.51	0.52	0.51
2	0.25	0.29	0.25	0.26
3	0.69	0.69	0.69	0.69
4	0.29	0.31	0.30	0.30
5	0.34	0.37	0.34	0.35
6	0.34	0.39	0.33	0.36
7	0.41	0.44	0.43	0.43
8	0.37	0.37	0.37	0.37
9	0.47	0.49	0.46	0.47
10	0.42	0.46	0.46	0.45
11	0.78	0.79	0.75	0.78
12	0.31	0.35	0.32	0.33
13	0.49	0.51	0.49	0.49
14	0.40	0.43	0.40	0.41
15	0.43	0.45	0.44	0.44

Table 5: Democratic Vote Share Projections for Each District on Commission’s March 2 Plan using a Variety of Methods. Competitive districts in grey, Democratic districts in blue, and Republican districts in red.

7 Compactness

In this section, I examine the compactness of the districts on the Commission’s March 2 plan. I focus on two commonly used compactness metrics to evaluate the compactness of the plans. First, the Reock Score is the ratio of the area of the district to the area of a minimum bounding circle that encloses the district’s geometry. Second, the Polsby-Popper measure is the ratio of the area of the district to the area of a circle whose circumference is equal to the perimeter of the district (See Figure 2 for illustrations of each metric from Ansolabehere and Palmer (2016, 751)). Each of these metrics falls within the range of $[0,1]$ and a score closer to 1 indicates a more compact district.

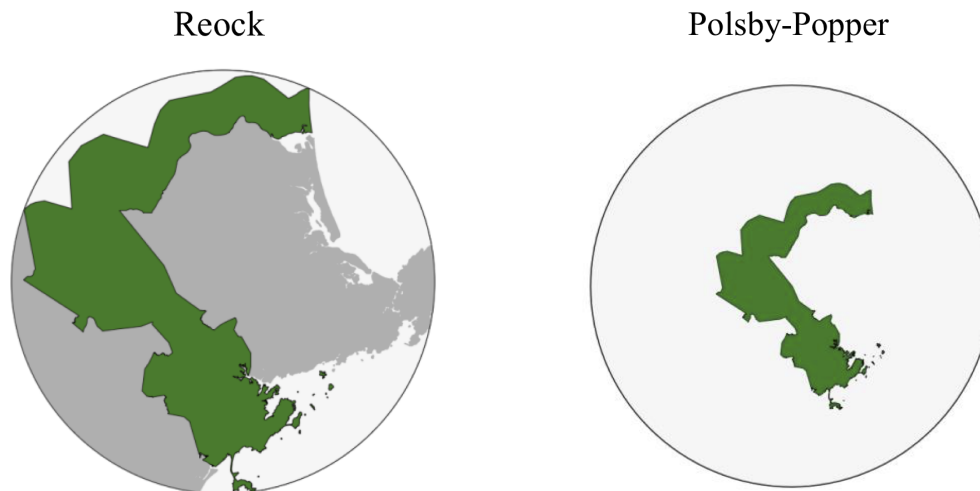


Figure 2: Illustration of Compactness Measures from Ansolabehere and Palmer (2016)

Table 6 shows the compactness metrics for the Commission's enacted, March 2 plan.¹⁴ The districts vary widely in their compactness levels

District	Reock	Polsby-Popper
1	0.31	0.25
2	0.49	0.31
3	0.69	0.51
4	0.37	0.31
5	0.23	0.20
6	0.29	0.22
7	0.33	0.22
8	0.29	0.28
9	0.27	0.27
10	0.51	0.44
11	0.46	0.40
12	0.59	0.31
13	0.41	0.27
14	0.48	0.65
15	0.28	0.14
Mean	0.40	0.32

Table 6: Compactness Metrics for Districts on Commission's Enacted, March 2 Plan. Higher scores indicate higher levels of compactness.

District 15 receives the lowest compactness scores. Its Reock score is 0.28 and its Polsby-Popper score is 0.14. Both of these scores rank in the bottom quintile of the compactness scores for all congressional districts over the past 200 years (see Figure 3 which shows the distribution of compactness measures for all congressional districts from

¹⁴. The compactness scores were calculated in the software program, **R**, using the **redistmetrics** package.

1789-2013 from Ansolabehere and Palmer (2016)).¹⁵ They also rank in the bottom quintile of the compactness scores for congressional districts around the country in the 2020 cycle. Figure 4 shows how district 15's Reock score compares to other districts around the country in 2020, illustrating that it is an outlier in its level of non-compactness.¹⁶

Measure	Percentile						
	Mean	SD	10%	25%	50%	75%	90%
Reock	0.405	0.110	0.260	0.326	0.408	0.481	0.546
Polsby-Popper	0.293	0.158	0.080	0.178	0.287	0.400	0.511

Figure 3: Distribution of Compactness Measures for All Congressional Districts from Ansolabehere and Palmer (2016)

District 1 also receives relatively low compactness scores. Its Reock score is 0.31 and its Polsby-Popper score is 0.25. Its Reock score is in the bottom quartile for all congressional districts over the past 200 years (see Figure 3), and its Polsby-Popper is well below the average for all congressional districts over the past two centuries. Moreover, Figure 4 shows that its Reock score is in the bottom tercile of the compactness scores for congressional districts around the country in the 2020 cycle.

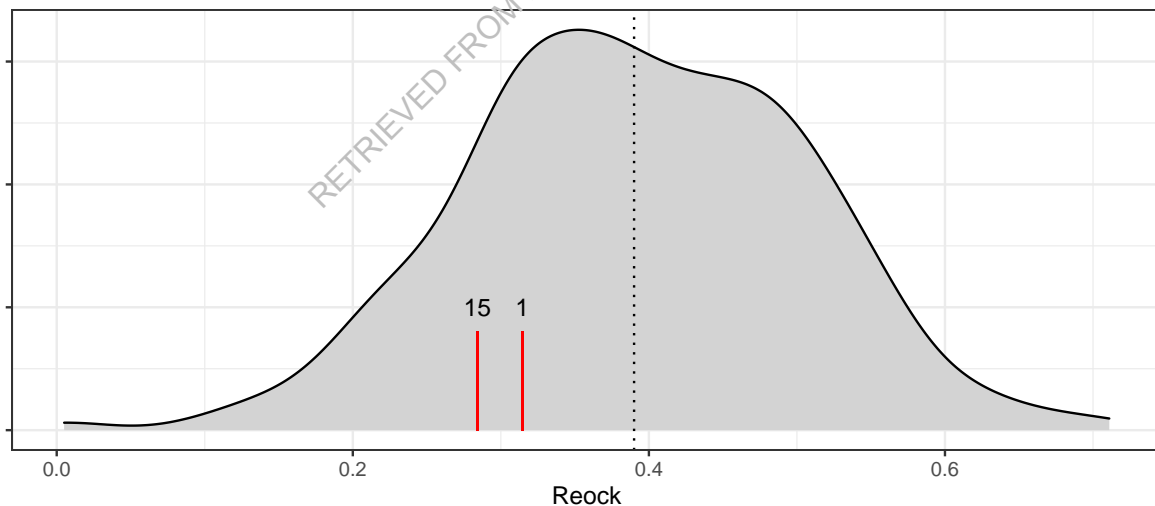


Figure 4: Comparison of District 1 and 15's Reock Score to All 435 Congressional Districts in 2020. Higher scores indicate higher levels of compactness. The dotted line shows the average Reock score of districts in 2020.

15. It includes data on 9,276 different districts and 34,996 district-Congress dyads (i.e. the Congressional elections each district was used for).

16. The Reock scores for all 435 districts in use in 2020 were calculated using PlanScore.org.

8 Conclusion

Overall, there is a substantial Republican bias in the translation of votes to seats in the newly enacted, March 2 congressional plan in Ohio. Based on a variety of metrics, the pro-Republican bias in Ohio's congressional districting plan is very large relative to other states over the past 50 years. It is also nearly as unfair as the original, enacted plan. Moreover, the new map does not contain significantly more competitive districts than the 2012-2020 plan and has fewer than the original, enacted plan. Overall, the Commission's March 2 plan unduly favors congressional candidates from the Republican Party.

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Supplementary Appendix

A Alternative Composite Indices

Metric	Value	More Biased than this % Historical Plans	More Pro-Republican than this % Historical Plans
2012-2020 Plan			
Efficiency Gap	-16%	91%	96%
Declination	-.57	89%	93%
Mean-Median Diff	-3%	41%	72%
Symmetry	-22%	97%	98%
Average		80%	90%
Enacted Plan			
Efficiency Gap	-17%	93%	97%
Declination	-.55	88%	93%
Mean-Median Diff	-2%	19%	61%
Symmetry	-12%	78%	86%
Average		70%	84%
March 2 Plan			
Efficiency Gap	-12%	82%	93%
Declination	-.36	74%	83%
Mean-Median Diff	-1%	16%	59%
Symmetry	-14%	84%	89%
Average		64%	81%

Table A1: Composite partisan bias metrics for Congressional plan based on all elections from 2016-2020, averaging across contests rather than across years

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Education

Stanford University, Ph.D., Political Science, 2012

Fields: American Politics, Comparative Politics, and Political Methodology (Statistics)

Stanford Law School, Juris Doctorate, 2011

Williams College, B.A., *magna cum laude*, 2002

Research Interests

American Politics, Representation, Elections, Public Opinion, State & Local Politics, Environmental Politics and Policy, Statistical Methodology

Research

Publications

Book

"Dynamic Democracy: Public Opinion, Elections, and Policy Making in the American States." Forthcoming. University of Chicago Press. (with Devin Caughey)

Peer Reviewed Articles

24. "The Effect of Television Advertising in United States Elections." Forthcoming. *American Political Science Review*. (with John Sides and Lynn Vavreck).

23. "Using Screeners to Measure Respondent Attention on Self-Administered Surveys: Which Items and How Many?" 2021. *Political Science Research and Methods*. 9(2): 430-437. (with Adam Berinsky, Michele Margolis, and Mike Sances)
22. "The Impact of Partisan Gerrymandering on Political Parties." 2020. *Legislative Studies Quarterly*. 45(4): 609-643. (with Nicholas Stephanopoulos)
21. "Fatalities from COVID-19 are reducing Americans' support for Republicans at every level of federal office." 2020. *Science Advances*. (with Lynn Vavreck and Ryan Baxter-King)
20. "Accountability for the Local Economy at All Levels of Government in United States Elections." 2020. *American Political Science Review*. 114(3): 660-676. (with Justin de Benedictis-Kessner)
19. "Politics in Forgotten Governments: The Partisan Composition of County Legislatures and County Fiscal Policies." 2020. *Journal of Politics*. 82(2): 460-475. (with Justin de Benedictis-Kessner)
18. "On the Representativeness of Primary Electorates." 2020. *British Journal of Political Science*. 50(2): 677-685. (with John Sides, Chris Tausanovitch, and Lynn Vavreck)
17. "Geography, Uncertainty, and Polarization." 2019. *Political Science Research and Methods*. 7(4): 775-794. (with Nolan McCarty, Jonathan Rodden, Boris Shor, and Chris Tausanovitch)
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15. "Does Global Warming Increase Public Concern About Climate Change?" 2019. *Journal of Politics*. 81(2): 686-691. (with Parrish Bergquist)
14. "Local Elections and Representation in the United States." 2019. *Annual Review of Political Science*. 22(1): 461-479.
13. "The Ideological Nationalization of Party Constituencies in the American States". 2018. *Public Choice*. Keith Poole Symposium. 176(1-2): 133-151. (with James Dunham and Devin Caughey)
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5. "Elections and Parties in Environmental Politics." 2020. *Handbook on U.S. Environmental Policy*. David Konisky, ed. (with Parrish Bergquist)
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Policy Reports

1. "Reforming Baltimore's Mayoral Elections." 2020. Abell Foundation Report.
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Articles Under Review

"The Effect of Fox News Channel on U.S. Elections: 2000-2020" (with Elliott Ash, Sergio Galletta, and Matteo Pinna)
(Invited to revise and resubmit at the *American Political Science Review*)

"Moderates" (with Anthony Fowler, Seth Hill, Jeff Lewis, Chris Tausanovitch, Lynn Vavreck)
(Invited to revise and resubmit at the *American Political Science Review*)

"Partisan Polarization in the Mass Public in South Korea and the United States"

"How Partisanship in Cities Influences Housing Policy" (with Justin de Benedictis-Kessner and Dan Jones)

Works in Progress

"Electoral Accountability for Ideological Extremism in American Elections" (with Devin Caughey)

"Gerrymandering in Local Governments" (with Yamil Valez)

"When Mass Opinion Goes to the Ballot Box: A National Assessment of State Level Issue Opinion and Ballot Initiative Results" (with Jonathan Robinson and John Sides)

"Inequalities in Participation, Voting, and Representation in Local Governments" (with Justin de Benedictis-Kessner and John Sides)

"The Ideology of State Party Platforms " (with Justin Phillips and Gerald Gamm)

Non-Academic Writing

"Here are six big takeaways from the 2020 elections." *Washington Post*. November 7, 2020. (with Emily Thorson)

"TV ads still win elections. And Democrats are buying a lot more of them." *Washington Post*. October 28, 2020. (with John Sides and Lynn Vavreck)

"How Local Covid Deaths Are Affecting Vote Choice." *New York Times*. July 28, 2020. (with Lynn Vavreck)

"Allowing Only Older Americans to Vote by Mail Leads to Severe Racial Disparities." *Election Law Blog*. July 1, 2020.

"A coronavirus recession would hurt all kinds of Republican candidates – not just Trump." *Washington Post*, Monkey Cage. March 18, 2020. (with Justin de Benedictis-Kessner).

"The Supreme Court is deciding a gerrymandering case. Here's the social science that the Justices need to know." *Washington Post*, Monkey Cage. June 1, 2019.

"New research shows just how badly a citizenship question would hurt the 2020 Census." *Washington Post*, Monkey Cage. April 22, 2019. (with Matt Barreto, Matthew A. Baum, Bryce J. Dietrich, Rebecca Goldstein, and Maya Sen)

"G.O.P. Senators Might Not Realize It, but Not One State Supports the Health Bill." *New York Times*. June 14, 2017. (with David Broockman)

Invited Talks

2021-2022: American University

2020-2021: University of Maryland; Stony Brook University

2019-2020: Princeton; UC Berkeley

2018-2019: Stanford; Northeast Political Methodology Meeting at NYU; University of Maryland

2017-2018: USC PIPE Symposium on Studying Subnational Policy Making; BYU; University of Chicago Conference on Political Polarization

2016-2017: University of Virginia; UCLA

2015-2016: Washington University in St. Louis; Texas A&M; Arizona State University Conference on Campaigns, Elections and Representation

2014-2015: Yale; Columbia; Duke

2013-2014: Princeton; Boston University; Rochester University

2012-2013: MIT American Politics Conference; Columbia Representation Conference; Princeton Media & Politics Conference; Annual Meeting of the Society for Political Methodology

Grants

Russell Sage Foundation, 2019-2021 (\$119,475)

GW UFF, 2019-2020 (\$14,433)

MIT Elections Lab, 2019-2020 (\$14,000)

Jeptha H. and Emily V. Wade Award, 2014-2016 (\$59,686)

MIT Energy Institute (MITEL) Seed Grant, 2014-2016 (\$137,147)

MIT SHASS Research Fund, 2012-2014 (\$8,734)

Software

dgo: Dynamic Estimation of Group-Level Opinion. 2017. R package. <https://CRAN.R-project.org/package=dgo>. (with James Dunham and Devin Caughey)

Awards and Honors

OVPR Early Career Scholar at George Washington University, 2019.

APSA award for best journal article on State Politics & Policy in 2016.

Award for best paper on State Politics & Policy at the 2014 American Political Science Conference.

Graduate Fellowship, Dept. of Political Science, Stanford University, 2006-2012

David A. Wells Prize in Political Economy for Best Undergraduate Economics Thesis, Williams College, 2002

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Teaching Experience

Instructor:

Measurement Models (Graduate-level) (GW), 2020

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Multi-level and Panel Models (Graduate-level) (GW), 2017, 2018, 2019, 2021

Public Opinion (GW), 2017

American Political Institutions (Graduate-level) (MIT), 2014, 2016

Public Opinion and Elections (MIT), 2016

Energy Policy (MIT), 2013

Democracy in America (MIT), 2013, 2014

Constitutional Law & Judicial Politics (MIT), 2013, 2015

Making Public Policy (MIT), 2012, 2014

Teaching Assistant:

Introduction to American Law (Stanford University), 2010

Judicial Politics and Constitutional Law (Stanford University), 2009

Political Economy of Energy Policy (Stanford University), 2008

Introduction to International Relations (Stanford University), 2008

Introduction to Public Policy (Stanford University), 2007

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Jared Heern (Dissertation committee member)

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Justin de Benedictis-Kessner (2017, Dissertation committee member)

Alex Copulsky (2017, Masters thesis committee member)

James Dunham (2018, Dissertation committee member)

Parrish Bergquist (2018, Dissertation committee member)

Meg Goldberg (2019, Dissertation committee member)

University Service

George Washington University:

Member, Academic Program Review Committee, Sociology Dept., 2021
 Coordinator, Graduate Political Science Admissions Committee, 2019-2020
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 Member, Methods Exam Committee, 2017-2020
 Member, Graduate Political Science Admissions Committee, 2018-2019

Massachusetts Institute of Technology:

Member, Energy Education Task Force, 2012-2017
 Parking and Transit Committee, 2013-2017
 Member, Graduate Political Science Admissions Committee, 2013-2015
 Faculty Fellow, Burchard Scholars, 2013-2015

Stanford University (as graduate student):

President, Stanford Environmental Law Society, 2009-2010
 Executive Board Member, Stanford Environmental Law Society 2008-2010
 Member, University Committee on Graduate Studies, 2007-2009
 Member, University Library Committee, 2007-2008
 President, Political Science Graduate Students Association, 2007-2008

Professional Service

Reviewer: American Political Science Review, American Journal of Political Science, Journal of Politics, Political Analysis, Political Behavior, Econometrica, Quarterly Journal of Political Science, Legislative Studies Quarterly, Political Research Quarterly, American Politics Research, British Journal of Political Science, Journal of Law and Courts, Public Opinion Quarterly, Political Science Research and Methods, State Politics and Policy Quarterly, Journal of Experimental Political Science, Nature Climate Change, Urban Affairs Review, Journal of Health Politics, Policy and Law, Perspectives on Politics, Review of Economics and Statistics, Cambridge University Press

Member, Best Dissertation Committee, Urban Politics Section of the American Political Science Assoc., 2021

Member, Program Committee, Midwest Political Science Association Conference, 2020

Lead Organizer, Local Political Economy APSA Pre-Conference at George Washington University, 2019

Member, Planning Committee, Cooperative Congressional Election Study (CCES), 2018

Member, Best Paper Committee, State Politics Section of the American Political Science Assoc., 2018

Editorial Board, Journal of Politics, 2017-18

Executive Committee, Urban Politics Section of the American Political Science Association, 2015-2017

Organizing Committee, Conference on Ideal Point Models at MIT, <http://idealpoint.tahk.us>, 2015

Member, Best Paper Committee, Urban Politics Section of the American Political Science Assoc., 2015

Consulting

Partisan Gerrymandering:

Expert, *League of Women Voters of Michigan vs Michigan Independent Citizens Redistricting Commission* (2022), State House Districts

Expert, *League of Women Voters of Ohio v. Ohio Redistricting Commission* (2021), Congressional districts

Expert, *League of Women Voters of Ohio v. Ohio Redistricting Commission* (2021), State Legislative Districts

Expert, *League of Women Voters vs. Kent County Apportionment Commission* (2021)

Expert, *APRI et al. v. v. Smith et al.* (2018-2019)

Expert, *League of Women Voters of Michigan v. Johnson* (2018-2019)

Expert, *League of Women Voters of Pennsylvania v. the Commonwealth of Pennsylvania* (2017-18)

Census:

Expert, *La Union del Pueblo Entero , et al. v. Trump*, Effect of Excluding Undocumented Immigrants from Census on Apportionment (2020)

Expert, *Common Cause et al. v. Trump*, Effect of Excluding Undocumented Immigrants from Census on Apportionment (2020)

Expert, *State of New York v. Trump*, Effect of Excluding Undocumented Immigrants from Census on Apportionment (2020)

Expert, *New York Immigration Coalition v. US Dept of Commerce & State of NY v. US Dept of Commerce*, Effects of Undercount on Census due to Citizenship Question (2018)

Policy Reports:

Consultant, *Abell Foundation*, Report on Potential Institutional Reforms for Baltimore's City Elections

Community Service

PlanScore: Social Science Advisory Team (2020-2021)

Sierra Club: National Board of Directors (2009-2015)

Last updated: February 27, 2022

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)

EXPERT AFFIDAVIT OF DR. JONATHAN RODDEN

I, Jonathan Rodden, having been duly sworn and cautioned according to law, hereby state that I am over the age of eighteen years and am competent to testify to the facts set forth below based on my personal knowledge and having personally examined all records referenced in this affidavit, and further state as follows:

I. INTRODUCTION AND SUMMARY

1. In a previous affidavit filed in this case, I examined whether the redistricting plan for the Ohio delegation to the United States House of Representatives, adopted by the Ohio General Assembly on November 18, 2021 and signed into law by Governor Mike DeWine two days later, conformed to the requirement set forth in Article XIX, Section 1(C)(3)(a), namely, that the plan does not “unduly favor[] or disfavor[] a political party or its incumbents.” I presented evidence that the plan (the “Overturned Plan,” attached as Exhibit A) unduly favored the Republican Party and its incumbents, elevating partisan advantage over traditional redistricting criteria like compactness and the preservation of communities.
2. I have now been asked to conduct a similar exercise with a new plan, passed by the Ohio Redistricting Commission on March 2, 2022 (the “New Plan,” attached as Exhibit B). After doing so, I discovered that the key conclusions of my initial report still apply. The New Plan favors the Republican Party and its incumbents in rather obvious and consequential ways and disfavors the Democratic Party and its incumbents.
3. A comparison of the New Plan with the Overturned Plan reveals only small changes in the treatment of the two parties. Both the Overturned Plan and the New Plan produce two extremely Democratic districts: one in Columbus and one in Cleveland. And both produce three districts where the statewide Democratic vote share in recent years was rather close to 50 percent. This means that with around 47 percent of the statewide vote shares, Democratic Party can likely expect 20 or 27 percent of the seats. As with the Overturned Plan, even if Democratic candidates are very fortunate and win all three “swing” districts in a given year, the Democrats can expect no more than 33 percent of the seats. In fact, even if Democrats experience a large swing in their favor of 3 percentage points, so that the Democratic Party

wins 50 percent of the statewide vote, it still cannot anticipate winning more than 33 percent of the seats. By contrast, a similar 3 percentage point swing would result in the Republican Party winning roughly 56 percent of the statewide vote, and 87 percent of the seats.

4. As in my previous report, I seek to explain how the New Plan achieves this rather striking counter-majoritarian outcome. The answer is largely the same: subverting traditional redistricting principles by splitting communities in metro areas and strategically subsuming urban fragments in their surrounding rural areas, often relying on relatively non-compact districts. Specifically, the New Plan 1) splits the Cincinnati metro area in a way that prevents the emergence of a Democratic district; 2) splits the Columbus and Cleveland areas in ways that pack Democrats into a single district in each metro area, combining urban and suburban Democratic communities with far-flung rural areas so as to avoid the emergence of a second Democratic district; 3) separates Toledo from proximate metro areas and combines it with very rural counties; and 4) carves out Lorain County from its geographic environment and places it in a highly non-compact rural district that reaches to the Indiana border. All of these features were present in the Overturned Plan as well.
5. By examining alternative plans that were before the General Assembly and the Commission, it is clear to see that it is possible to achieve higher levels of compactness, greater respect for communities, and a better reflection of the partisan preferences of Ohio voters by drawing districts that are not crafted to advantage one political party and its incumbents. That is to say, drawing districts that adhere to Ohio's political and economic geography does not require the degree of advantage for the Republican Party exhibited in the New Plan.

II. QUALIFICATIONS

6. I am currently a tenured Professor of Political Science at Stanford University and the founder and director of the Stanford Spatial Social Science Lab—a center for research and teaching with a focus on the analysis of geo-spatial data in the social sciences. I am engaged in a variety of research projects involving large, fine-grained geo-spatial data sets including ballots and election results at the level of polling places, individual records of registered voters, census data, and survey responses. I am also a senior fellow at the Stanford Institute for Economic Policy Research and the Hoover Institution. Prior to my employment at Stanford, I was the Ford Professor of Political Science at the Massachusetts Institute of Technology. I received my Ph.D. from Yale University and my B.A. from the University of Michigan, Ann Arbor, both in political science. A copy of my current C.V. is included as Exhibit H.
7. In my current academic work, I conduct research on the relationship between the patterns of political representation, geographic location of demographic and partisan groups, and the drawing of electoral districts. I have published papers using statistical methods to assess political geography, balloting, and representation in a variety of academic journals including *Statistics and Public Policy*, *Proceedings of the National Academy of Science*, *American Economic Review Papers and Proceedings*, the *Journal of Economic Perspectives*, the *Virginia Law Review*, the *American Journal of Political Science*, the *British Journal of Political Science*, the *Annual Review of Political Science*, and the *Journal of Politics*. One of these papers was selected by the American Political Science Association as the winner of the

Michael Wallerstein Award for the best paper on political economy published in the last year, and another received an award from the American Political Science Association section on social networks. In 2021, I received a John Simon Guggenheim Memorial Foundation Fellowship, and received the Martha Derthick Award of the American Political Science Association for “the best book published at least ten years ago that has made a lasting contribution to the study of federalism and intergovernmental relations.”

8. I have recently written a series of papers, along with my co-authors, using automated redistricting algorithms to assess partisan gerrymandering. This work has been published in the *Quarterly Journal of Political Science*, *Election Law Journal*, and *Political Analysis*, and it has been featured in more popular publications like the *Wall Street Journal*, the *New York Times*, and *Boston Review*. I have recently completed a book, published by *Basic Books* in June of 2019, on the relationship between political districts, the residential geography of social groups, and their political representation in the United States and other countries that use winner-take-all electoral districts. The book was reviewed in *The New York Times*, *The New York Review of Books*, *Wall Street Journal*, *The Economist*, and *The Atlantic*, among others.
9. I have expertise in the use of large data sets and geographic information systems (GIS), and I conduct research and teaching in the area of applied statistics related to elections. My PhD students frequently take academic and private sector jobs as statisticians and data scientists. I frequently work with geo-coded voter files and other large administrative data sets, including in recent papers published in the *Annals of Internal Medicine* and *The New England Journal of Medicine*. I have developed a national data set of geo-coded precinct-level election results that has been used extensively in policy-oriented research related to redistricting and representation.
10. I have been accepted and testified as an expert witness in several election law and redistricting cases: *Romo v. Detzner*, No. 2012-CA-000412 (Fla. Cir. Ct. 2012); *Mo. State Conference of the NAACP v. Ferguson-Florissant Sch. Dist.*, No. 4:2014-CV-02077 (E.D. Mo. 2014); *Lee v. Va. State Bd. of Elections*, No. 3:15-CV-00357 (E.D. Va. 2015); *Democratic Nat’l Committee et al. v. Hobbs et al.*, No. 16-1065-PHX-DLR (D. Ariz. 2016); *Bethune-Hill v. Virginia State Board of Elections*, No. 3:14-cv-00852-REP-AWA-BMK (E.D. Va. 2014); and *Jacobson et al. v. Lee*, No. 4:18-cv-00262 (N.D. Fla. 2018). I also worked with a coalition of academics to file Amicus Briefs in the Supreme Court in *Gill v. Whitford*, No. 16-1161, and *Rucho v. Common Cause*, No. 18-422. Much of the testimony in these cases had to do with geography, electoral districts, voting, ballots, and election administration. I recently worked as a consultant for the Maryland Redistricting Commission, and I drew a Pennsylvania Congressional redistricting plan, known as the “Carter Plan,” that was chosen by the Pennsylvania Supreme Court for implementation. *Carter v. Chapman*, No. 7 MM 2022, 2022 WL 549106 (Pa. Feb. 23, 2022). I am being compensated at the rate of \$550/hour for my work in this case. My compensation is not dependent upon my conclusions in any way.

III. DATA SOURCES

11. I have collected statewide election data for 2012 to 2020 from the Ohio Secretary of State. I also accessed precinct-level election results from the Ohio Secretary of State for statewide elections from 2016 to 2020 that were matched to 2020 Ohio vote tabulation districts by a team at Harvard University called the Algorithm-Assisted Redistricting Methodology Project.¹ Additionally, I accessed several proposed Ohio congressional plans uploaded to the web page of the Ohio Redistricting Commission as well as the websites for the Ohio House and Senate, true copies of which are attached as Exhibits C, D, E, F, and G.² I also consulted geographic boundary files of the New Plan that were provided to me by Counsel (and available on the Ohio Redistricting Commission's website). I also consulted the same U.S. Census redistricting data used by the General Assembly, as archived in the "Ohio University Common and Unified Redistricting Database."³ For the analysis conducted in this report, I use three software packages: Stata, Maptitude for Redistricting, and ArcGIS Pro.

IV. THE PARTISANSHIP OF THE NEW CONGRESSIONAL PLAN

12. In my earlier report, I assembled data for the two major parties from statewide elections in Ohio from 2012 to 2020 and demonstrated that statewide support for Democratic candidates was around 46 percent in the period since 2012, but in more recent years, from 2016 to 2020, it was around 47 percent.
13. I then examined the plan that had been passed by the Ohio Legislature, but that has been subsequently overturned (the "Overturned Plan"). I summed up precinct-level results of elections from 2016 to 2020 within the boundaries of each of the districts of the overturned plan, and then demonstrated that Democratic candidates in statewide elections had comfortable majorities in only two districts—one in Cleveland and one in Columbus. Beyond those, the Overturned Plan included two districts in which the statewide vote share for the two parties was very evenly split, such that with 47 percent of the statewide vote, Democrats could anticipate only 20 percent of the seats (i.e., to win three of fifteen districts).
14. First, let us examine the new Congressional plan promulgated on March 2, 2022 ("the New Plan") using a similar approach. Again, there are two extremely Democratic districts, one in Cleveland and one in Columbus. In this plan, there are also three very evenly divided districts. In each of these districts, the Democratic statewide vote share from 2016 to 2020 is slightly above 50 percent. Specifically, in District 1, which combines urban parts of Cincinnati with rural Warren County, the Democratic vote share in statewide races aggregates to 51 percent. In District 9, in Northwest Ohio, the Democratic vote share was 50.2 percent. In District 13, which combines Summit County and the Northern part of Stark County, it was 52.2 percent. The remainder of the seats have relatively comfortable Republican majorities—all equal to or greater than 53.3 percent.

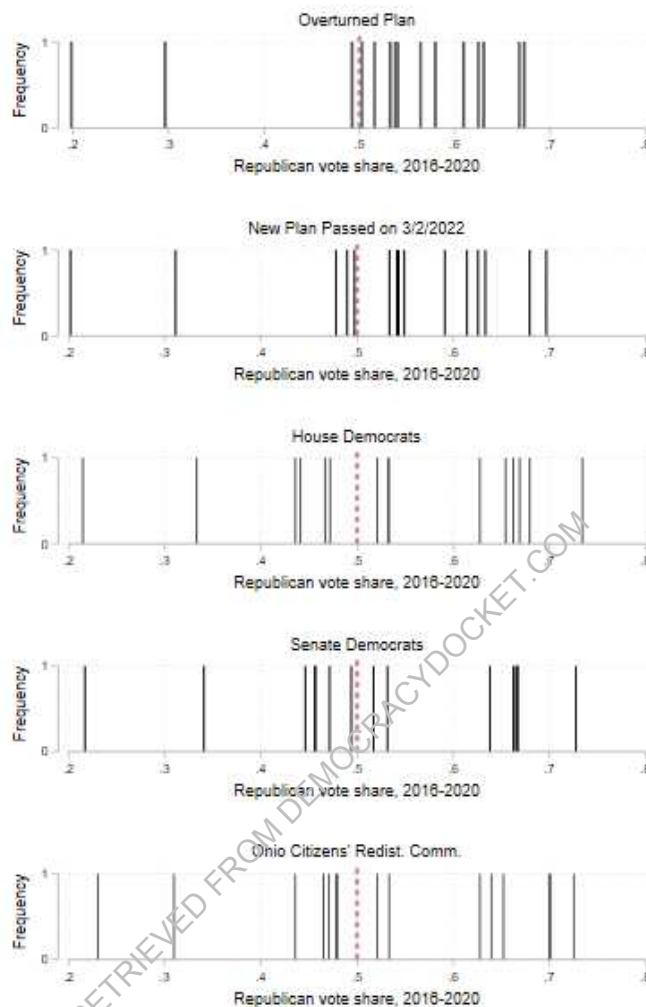
¹ <https://alarm-redist.github.io/posts/2021-08-10-census-2020/>.

² <https://redistricting.ohio.gov/maps>.

³ <https://www.redistricting.ohio.gov/resources>.

15. If one wishes to assess the anticipated division of seats for the two parties under this plan, one must come up with a way to allocate these three evenly divided seats. As described in my previous report, District 1 has a longstanding Republican incumbent, Steve Chabot, who over the last decade, received around 58 percent of the votes cast for the two major parties in District 1, even though his statewide co-partisans had received, on average, around 54 percent of the votes in his district. If we consider his 4-point incumbency advantage, and the fact that around 70 percent of the population in the new version of District 1 was in the old version of District 1, this district should be viewed as having a Republican lean.
16. District 9 has been very evenly divided between the parties when we sum over all statewide races from 2016 to 2020. However, in the most recent election, Donald Trump won 51.5 percent of the vote. The Democratic incumbent, Marcy Kaptur, has outperformed her statewide co-partisans in the past, but her district has been redrawn so that only around half of the population of the new, more rural version of District 9 was in the old version of District 9. As a result, this district is probably best seen as a true tossup.
17. To my knowledge, District 13 does not include any incumbents. With a Democratic vote share of just over 52 percent in statewide races, and a Democratic vote share of 51.4 percent in the most recent presidential election, it is best understood as a district with a slight Democratic lean.
18. If one accepts this analysis, and considers that one of these districts leans Democratic, another leans Republican, and a third is a toss-up where the expected probability of a Democratic victory is .5, we would end up with the conclusion that Democratic candidates can anticipate 3.5 seats, or 23 percent.
19. Alternatively, we might simply classify all three seats as tossups in which Democratic candidates would win with probability .5. Summing over these probabilities, we would end up with the same expectation: 3.5 seats, or 23 percent.
20. If one considered the seat with a 52.2 percent Democratic majority as a safer Democratic seat and focused only on the bare majority Districts 1 and 9 as toss-ups, Democrats would still win only 4 districts, giving them 27 percent of the seats.
21. Another approach might be to ignore these 3 evenly divided seats, and simply ask how many of the remaining 12 seats lean Democratic, and how many Republican. With this approach, we would view the Democratic seat share as 2 out of 12, or 17 percent. Even if we ignored only 2 of the seats (District 1 and 9), we would view the Democratic seat share as 3 out of 13, or 23 percent.
22. In the event of a pro-Democratic wave, if Democrats would win all three seats, giving them a total of 5, they would have a seat share of 33 percent.
23. In short, with around 47 percent of the statewide vote share, the Democrats could anticipate anywhere from 13 percent of the seats if they lose all three of the competitive districts, to 33 percent if they win all three. Perhaps the most reasonable (but still optimistic) expectation, ex ante, is 27 percent. In other words, the Democrats' expected seat share falls far short of their vote share.

Figure 1: Discrete Histograms for Several Ohio Congressional Redistricting Plans



24. Moreover, it is important to note that 33 percent is very likely the ceiling on the number of seats the Democratic Party could possibly win under the New Plan. This is because the other 10 seats have been drawn to be very comfortable for Republican candidates. To comprehend this, see the top two panels in Figure 1, which provides discrete histograms for the Overturned Plan, and then for the New Plan. A discrete histogram simply displays a bar for each district, arranged on the horizontal axis according to the Republican vote share, with a red dotted line indicating 50 percent.
25. Figure 1 demonstrates that the main difference between the Overturned Plan and the New Plan is that a couple of the bars have moved ever so slightly to the left, to the other (Democratic) side of the 50 percent line. Note that this leaves a large gap on the *right* side of 50 percent in the New Plan. That is to say, there are no highly competitive Republican-leaning districts that Democratic candidates might hope to capture in a pro-Democratic wave election.

26. The most competitive Republican-leaning district is District 10, where the statewide Democratic vote share aggregates to 46.7 percent. However, as explained in my previous report, the Republican incumbent, Mike Turner, won each general election from 2012 to 2020 with an average two-party vote share above 62 percent, outperforming his statewide co-partisans by around 8.7 percentage points. In the New Plan, Representative Turner keeps 90 percent of the population of his old district, so there is no reason to anticipate that District 10 would be competitive in a typical election scenario.
27. Due to the lack of competitive but Republican-leaning districts, it is difficult to envision a scenario in which the Democratic Party would be able to win more than 5 seats under this plan. Relative to their 47 percent vote share in the period from 2016 to 2020, imagine a very large uniform shift of 3 percentage points toward the Democratic Party in all districts, giving them 50 percent of the statewide vote. Democratic candidates could *still* only anticipate only 33 percent of the seats. If we take a naïve approach and ignore incumbency advantage, focusing only on statewide vote shares, we might imagine that a truly extraordinary 4-point uniform swing would be enough to tip District 10 to the Democrats, but it would be too little for the Democrats to gain majorities in any other districts. This would generate a highly counter-majoritarian result in which the Democrats received 51 percent of the votes but 40 percent of the seats.
28. In stark contrast, if the Republican Party experienced the same large uniform shift of 3 percentage points, it would win 56 percent of the statewide vote and all three of the competitive seats—just about 87 percent of the congressional seats.
29. There is nothing about the geography of Ohio or the requirements of the Ohio Constitution that requires this type of counter-majoritarian redistricting plan. In my previous report, I discussed three alternative redistricting plans: one that was introduced by the House Democrats on November 5, 2021 (Exhibit C); one that was introduced by the Senate Democrats on November 10, 2021 (Exhibit D); and one that was introduced by the Ohio Citizens' Redistricting Commission on September 30, 2021 (Exhibit E).
30. Discrete histograms for these three plans have also been included in Figure 1. Note that the distribution of partisanship is quite different in these plans than in the Overturned Plan and the New Plan. Not only do they include a larger number of plans where the Democratic vote share is above 50 percent—7 districts in the Senate Democrats' and OCRC plans, 6 in the House Democrats' Plan—but the Democratic-leaning districts are not tightly clustered around the 50 percent line.

V. HOW DOES THE NEW PLAN TREAT INCUMBENTS?

31. In addition to analyzing the extent to which the New Plan favors or disfavors a party in the aggregate, I have also been asked to examine the extent to which it disproportionately favors or disfavors the *incumbents* for one of the two parties. Under the previous plan, there were 12 Republican incumbents. One of these, Anthony Gonzalez, has announced his retirement. Representative Brad Wenstrup has announced that he intends to seek re-election in District

2, which is a comfortably Republican district.⁴ All the remaining districts with Republican incumbents continue to have Republican majorities—most of them quite comfortable. The only exception is District 1, where it was necessary to make changes due to the Ohio Constitution's requirement that Cincinnati be kept whole and the Ohio Supreme Court's opinion striking down the Overturned Plan. Nevertheless, as described above, though statewide races have been evenly divided in the redrawn version of the district, the incumbent has enjoyed a large incumbency advantage in recent years and has been able to retain most of the population of his old district. In all the other districts with Republican incumbents, as documented above, safe margins have been maintained so that incumbents are likely to survive even a significant statewide swing toward the Democratic Party.

32. In contrast, of the four Democratic incumbents, only two continue to reside in districts that are clearly Democratic. The other two reside in dramatically reconfigured districts. Marcy Kaptur represented a relatively urban and comfortably Democratic District 9 (drawn in 2011 to pair Kaptur with another Democratic incumbent). This district has been redrawn to separate Ohio's northern industrial cities, thus subsuming Toledo in a much more rural district that is now evenly divided. Only around half of the new version of District 9 was in her previous district. While the 2011 version of District 9 was rather non-compact, the version of District 9 in the alternative maps discussed in my previous report are markedly more compact than the 2011 version, while retaining more of the northern industrial cities that comprised the 2011 version. Tim Ryan, who has announced that he is running for the U.S. Senate, was the incumbent in the Youngstown-based District 13, which has been completely reconfigured, with Ryan now placed in the predominantly rural, safe Republican District 6 in the New Plan.

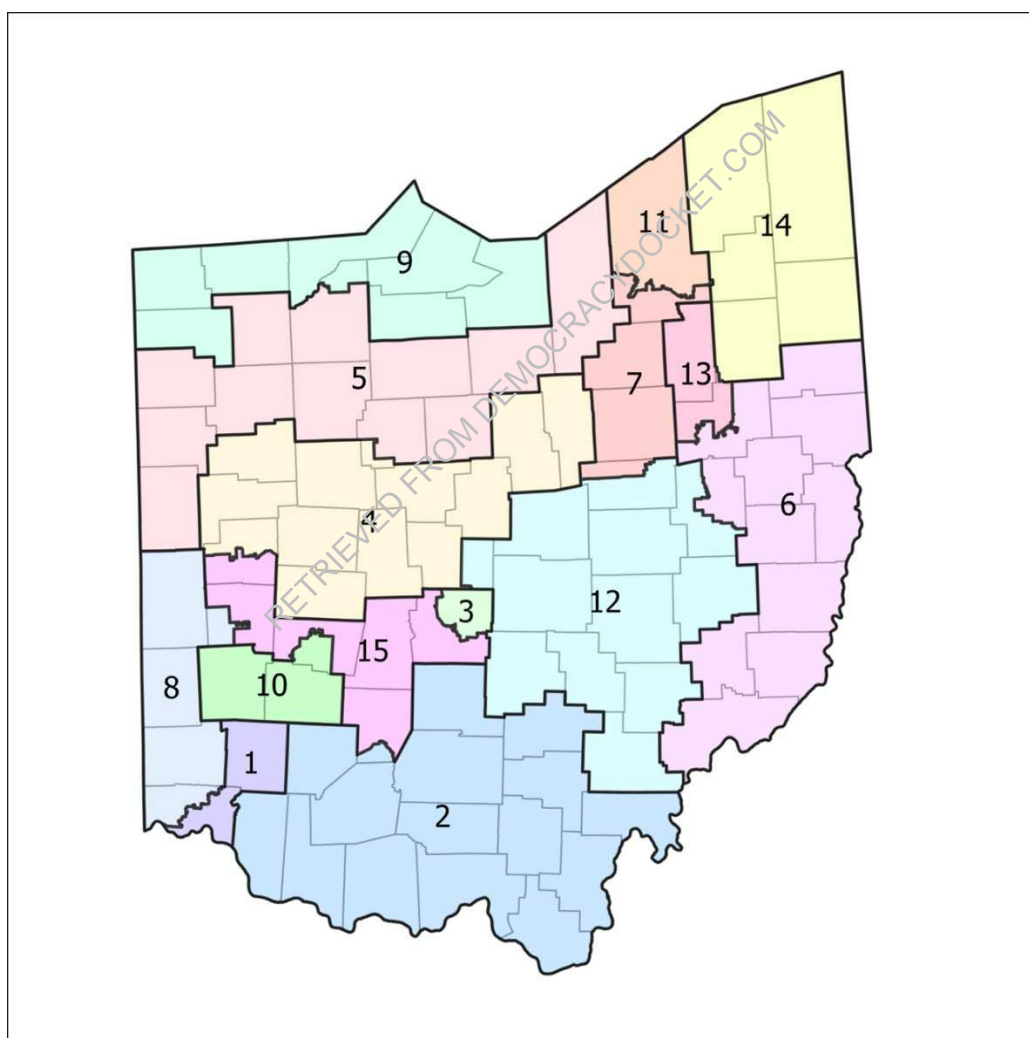
VI. HOW DOES THE NEW PLAN ACHIEVE THESE RESULTS?

33. Like the Overturned Plan, the New Plan favors the Republican Party and its incumbents, while disfavoring the Democratic Party and its incumbents. My previous report demonstrated that in order to achieve this partisan advantage, the Overturned Plan subordinated traditional redistricting principles in several ways. Above all, the Overturned Plan contained needlessly non-compact districts and split metropolitan area communities in order to prevent the emergence of districts with Democratic majorities. The following decisions stood out most clearly: 1) the Cincinnati metro area was split in a way that prevented the emergence of an obvious, compact district with a clear Democratic majority, 2) Columbus and Cleveland-area districts were drawn to prevent the creation of a second metro-area Democratic district, 3) District 9 in Northwest Ohio was drawn so as to overwhelm Toledo and other Democratic communities on Lake Erie with more rural communities, and 4) rather than being combined with suburban Cleveland to its East or other proximate Democratic-leaning communities to its West on Lake Erie, Lorain County is extracted from Northeast Ohio and connected via a corridor of rural counties to the Western border of the state.
34. Each of these features remains in the New Plan. Before taking a closer look at specific regions, it is useful to view the overall architecture of the New Plan, along with several

⁴ <https://highlandcountypress.com/Content/In-The-News/In-The-News/Article/Rep-Wenstrup-announces-intent-to-seek-re-election-in-2nd-District/2/20/74059>.

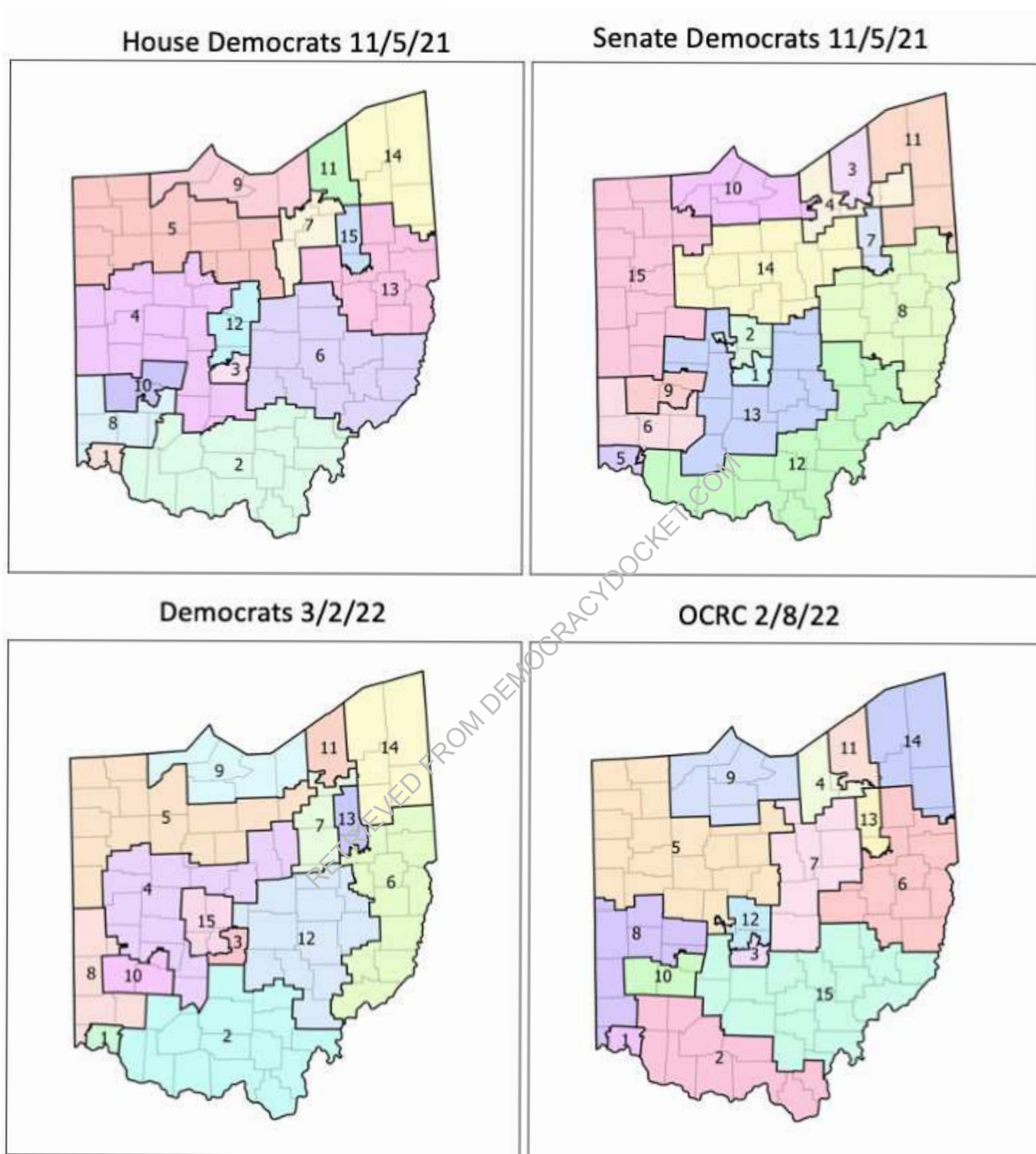
alternative plans. Figure 2 displays a map of the New Plan. For comparison, Figures 3 displays four alternative maps. First, it includes the maps produced by the Ohio House and Senate Democrats that were discussed in my previous report. Additionally, I have examined two additional redistricting plans that were submitted to the General Assembly and Commission: The first was proposed by the Senate Democrats on March 2 (Exhibit F), and the second was proposed by the Ohio Citizens' Redistricting Committee (OCRC) on February 8 (Exhibit G).⁵ I note that the February 8 OCRC Plan is very similar to the earlier OCRC Plan that was discussed in my initial report, so in Figure 3 and subsequent figures, I only include the more recent OCRC map. It is not my intention to endorse any of these maps. Rather, they provide valuable comparisons that help illuminate certain features of the New Plan.

Figure 2: The New Plan



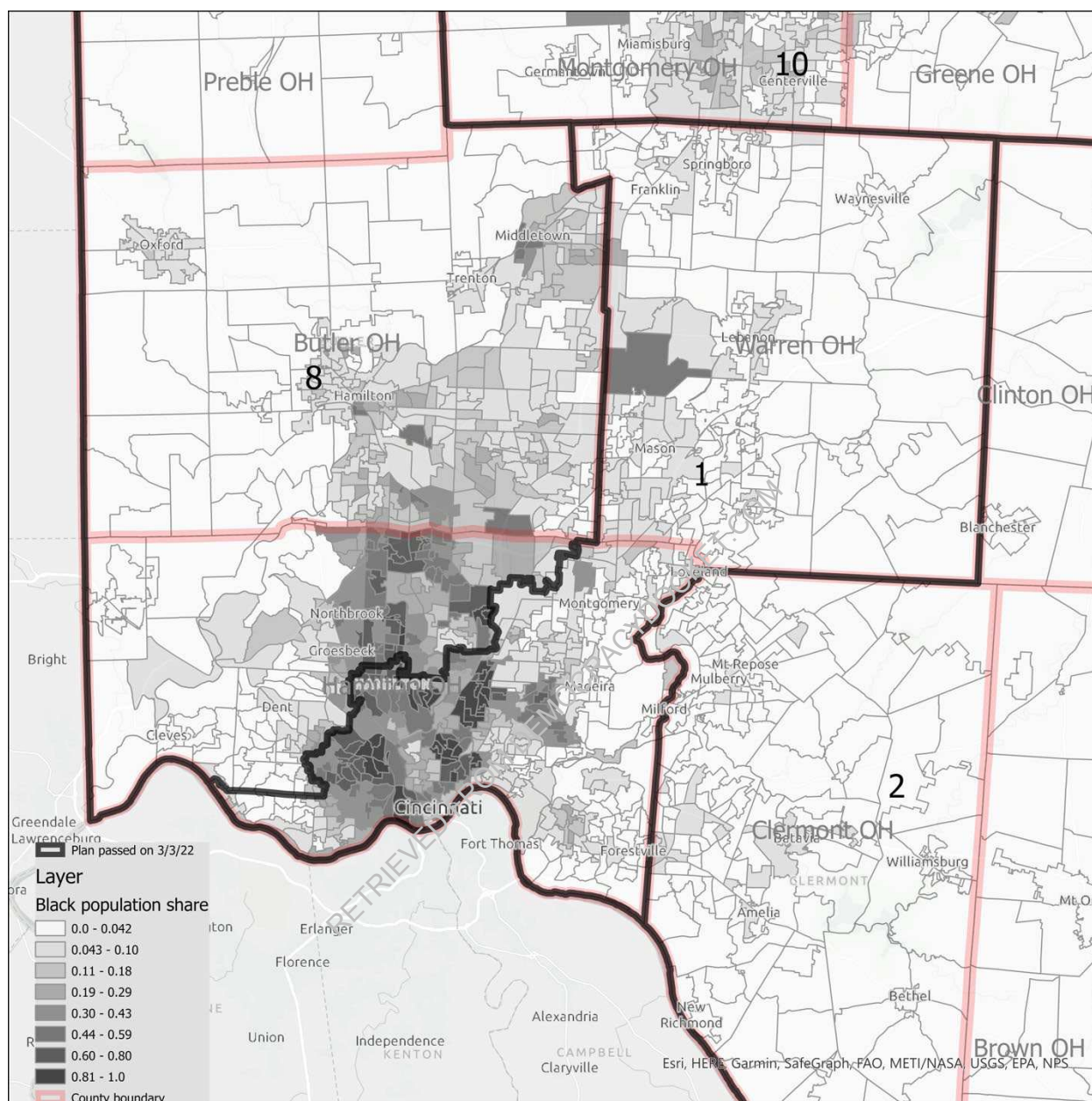
⁵ I note that the OCRC Plan includes population deviations that may be greater than those allowed under equal population requirements. I nevertheless consider the OCRC Plan's partisanship and district configuration for demonstrative purposes.

Figure 3: Four Alternative Plans



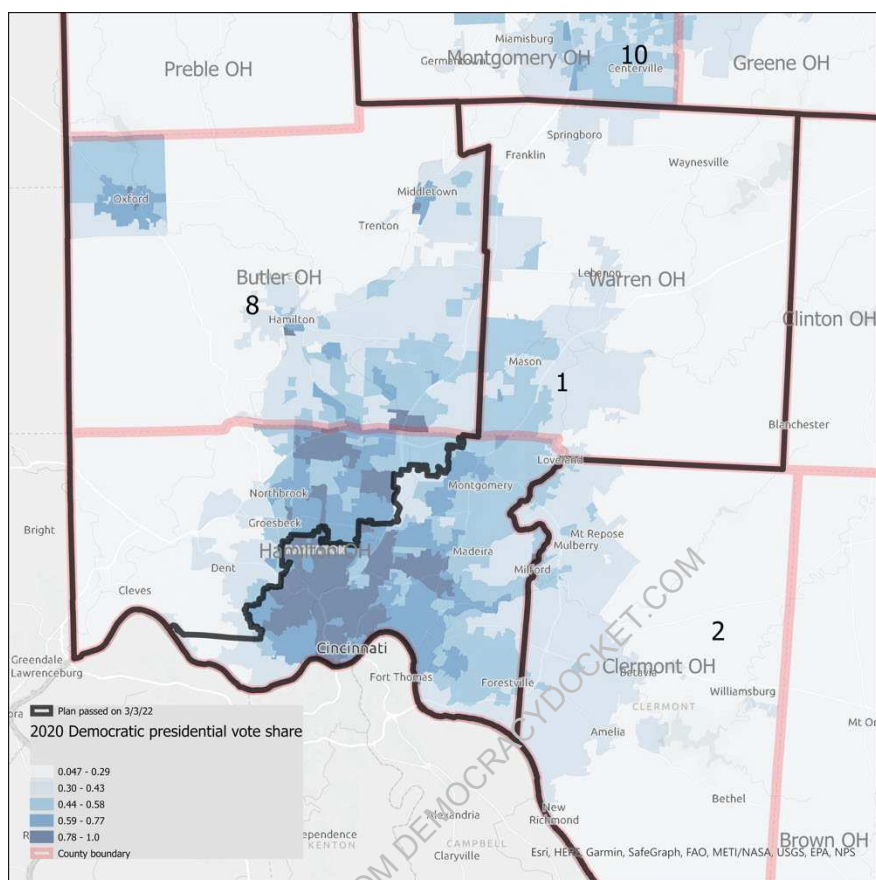
35. Already from this bird's eye view, it is possible to appreciate the non-compact arrangement of District 1 in the New Plan relative to the alternatives, the extraction of part of Columbus and its placement into a highly non-compact District 15, the non-compact arrangement of District 9 designed to add Republicans to the Toledo district, and the extraction of Lorain County from its geographic environment and placement in District 5. Let us now take a close look at each of these maneuvers.

Figure 4: Black Population and New Districts, Cincinnati Area



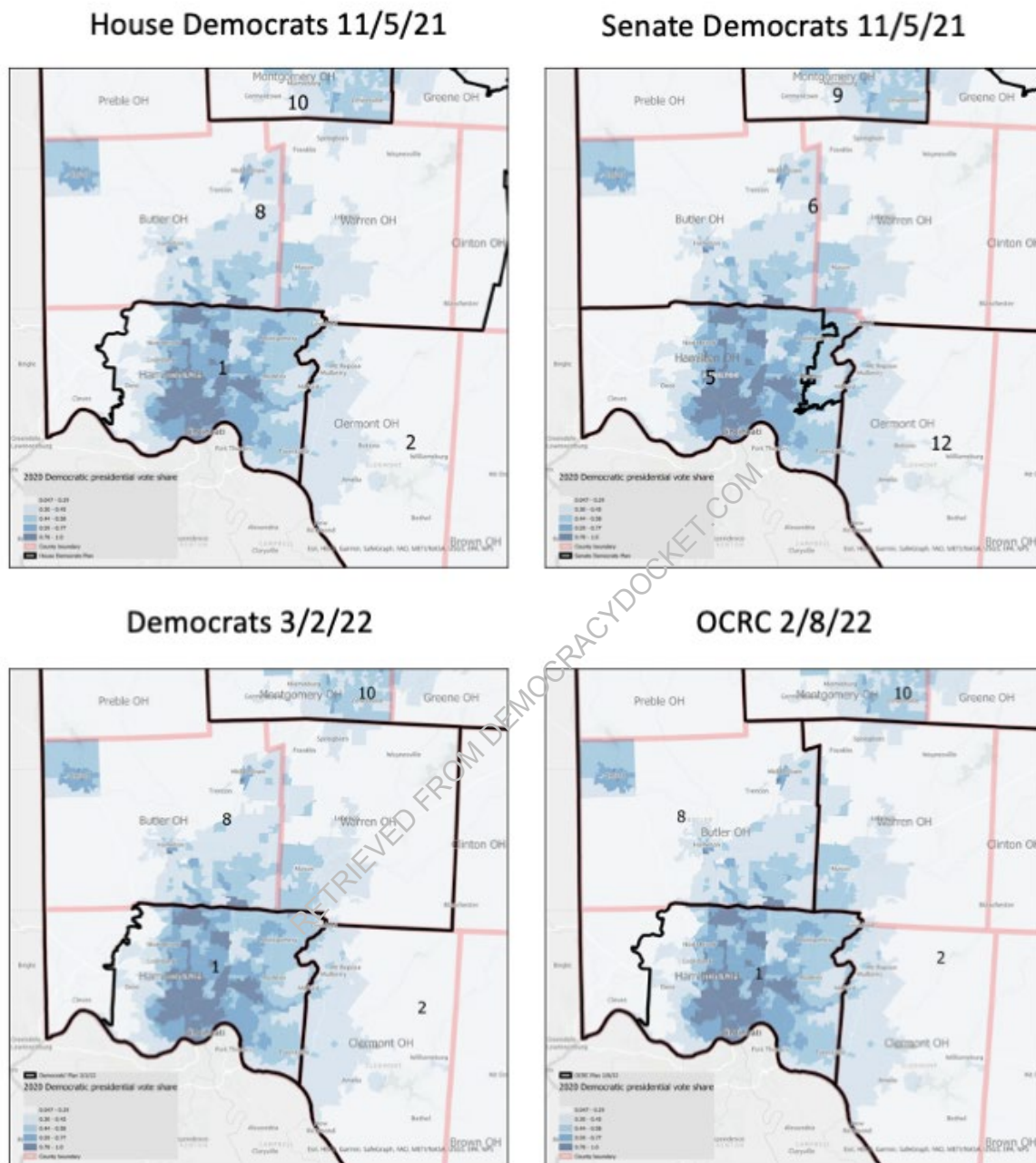
36. Figure 4 displays the boundaries of the New Plan, along with data from the most recent census on race. It shows that the boundary between Districts 1 and 8 bisect the Black community of Cincinnati, ensuring that it cannot contribute to the creation of a clear Democratic district. District 1 maintains its old architecture, splitting the Black community of Cincinnati from that of the Northern suburbs, combining the city of Cincinnati with exurban and rural white areas to the Northeast, traveling via a narrow corridor to Warren County.

Figure 5: Democratic Vote Share and Boundaries of the New Plan, Cincinnati Area



37. Figure 5 replaces the data on race with data on partisanship, using darker colors of blue to capture more Democratic precincts. A comparison of Figures 4 and 5 reveals that partisanship and race are highly correlated in the Cincinnati area, and demonstrates how the line between Districts 1 and 8 in the New Plan not only needlessly splits the Black community in two, but prevents the emergence of a clear Democratic district by generating a highly non-compact arrangement.

Figure 6: Democratic Vote Share and Boundaries of Alternative Plans, Cincinnati Area



38. Figure 6 present the boundaries of four alternative maps, demonstrating that it is quite straightforward to draw a compact Cincinnati district that keeps metro area communities together. For instance, the Reock compactness score for District 1 in the New Plan is .31, while it is .56 in the Democrats' most recent (3/2/2022) plan, and .55 in the most recent OCRC Plan. A higher Reock score indicates a greater level of compactness. The same is true for the Polsby-Popper score, which is .24 in the New Plan, .43 in the Democrats' 3/2/2022 Plan, and .46 in the OCRC 2/8/2022 Plan.

39. Next, Figure 7 displays the districts of the New Plan in the Columbus Area, again overlaying them on precinct-level partisanship. It demonstrates that District 3 is drawn to pack the most Democratic part of Columbus in one district, extracting Democratic-leaning parts of Columbus (including downtown Columbus) and its suburbs, and combining them with some of the most rural, Republican communities of West-Central Ohio, circumnavigating Springfield along the way, and splitting 4 counties to create a single, highly non-compact District 15. These maneuvers made it possible to avoid the emergence of a second Columbus-area Democratic district, creating a relatively comfortable Republican district with a Republican incumbent.

Figure 7: Columbus Area: New Plan

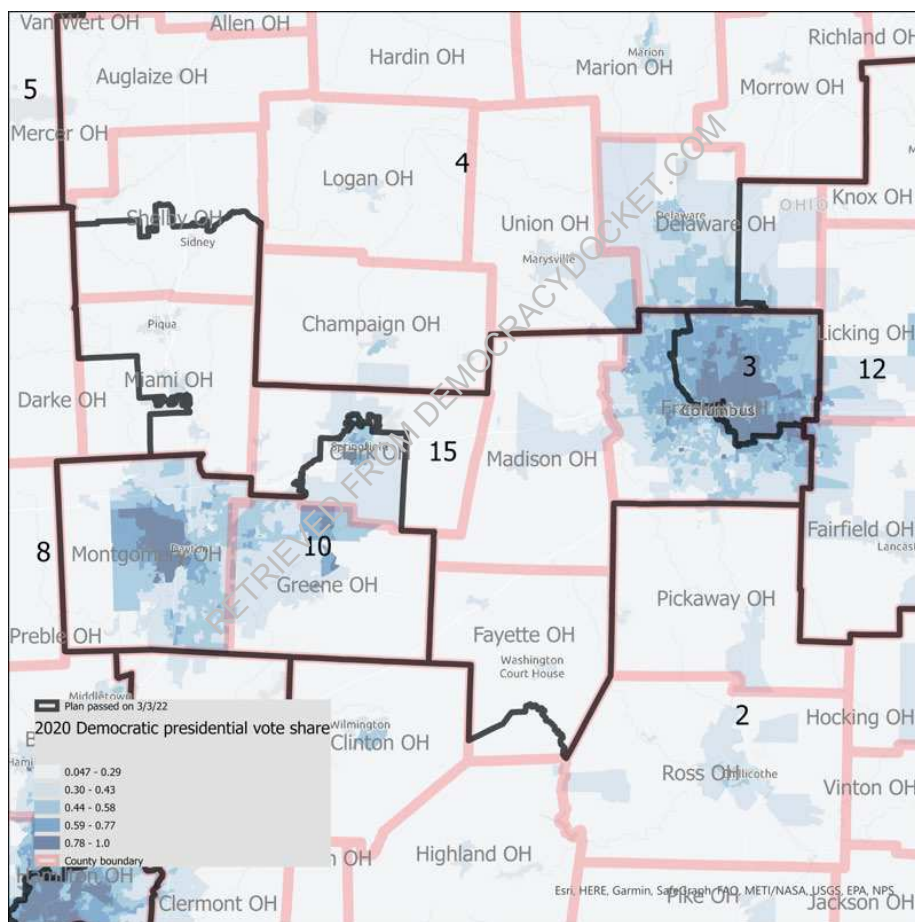
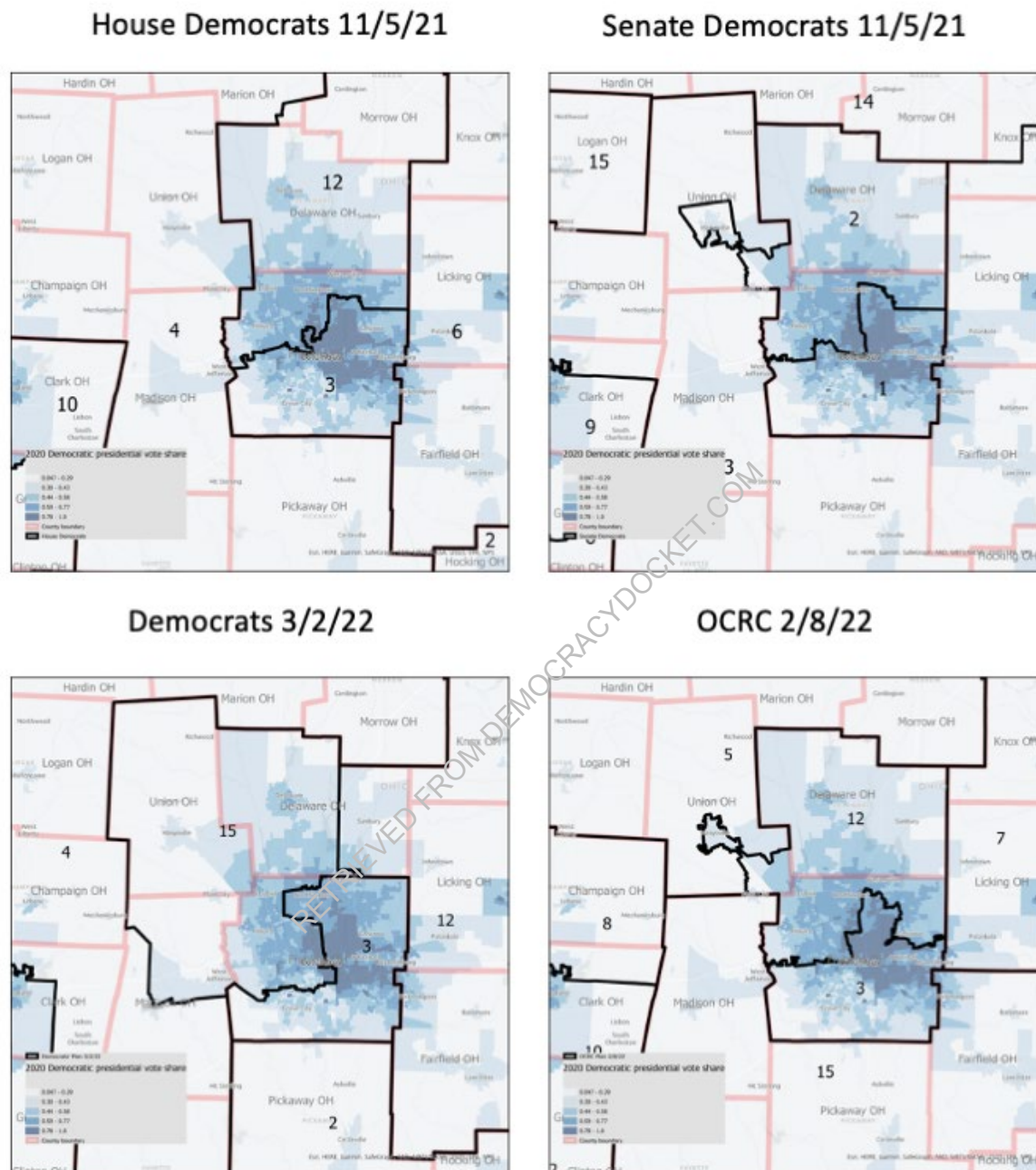


Figure 8: Columbus Area: Alternative Plans



40. Figure 8 displays the Columbus-area districts for four alternative plans. Each demonstrates ways to split fewer counties and draw more compact districts while keeping metro area communities together. District 15 in the New Plan has a Reock score of .28, whereas District 15 in the Democrats' most recent plan is .56, and District 12 in the most recent OCRC Plan is .59. As for the Polsby-Popper Score, it is .14 for the New Plan, .42 for the Democrats' Plan, and .3 for the OCRC Plan.

41. Next, let us examine the Cleveland Area. Figure 9 provides a map of the districts of the New Plan, and Figure 10 examines the alternative plans. A familiar strategy emerges again in the New Plan. The most Democratic parts of metro Cleveland are packed into one district, District 11, with the district lines carefully following the precinct-level vote shares. Instead of keeping the Western suburbs together and extending District 7 into Lorain County, the district reaches to the South and combines Democratic-leaning suburban areas with very rural areas to produce a comfortable Republican district 7 with a Republican incumbent.

Figure 9: Cleveland Area, New Plan

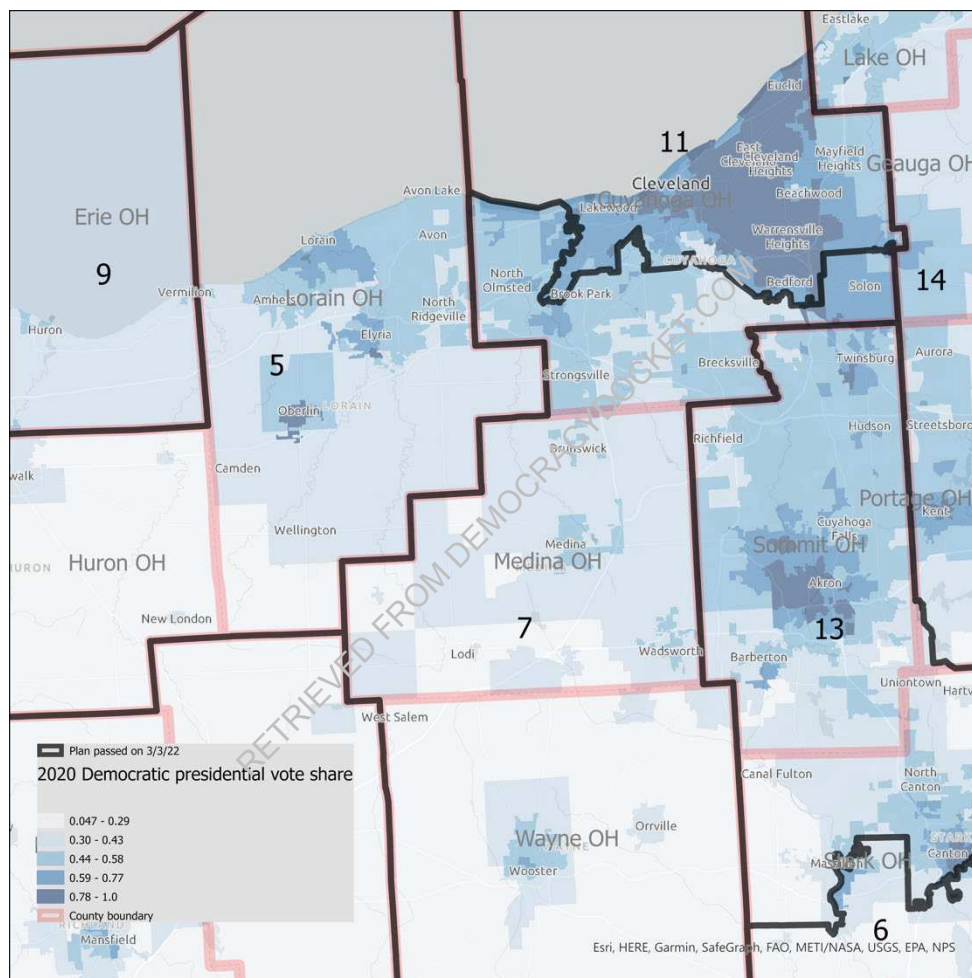
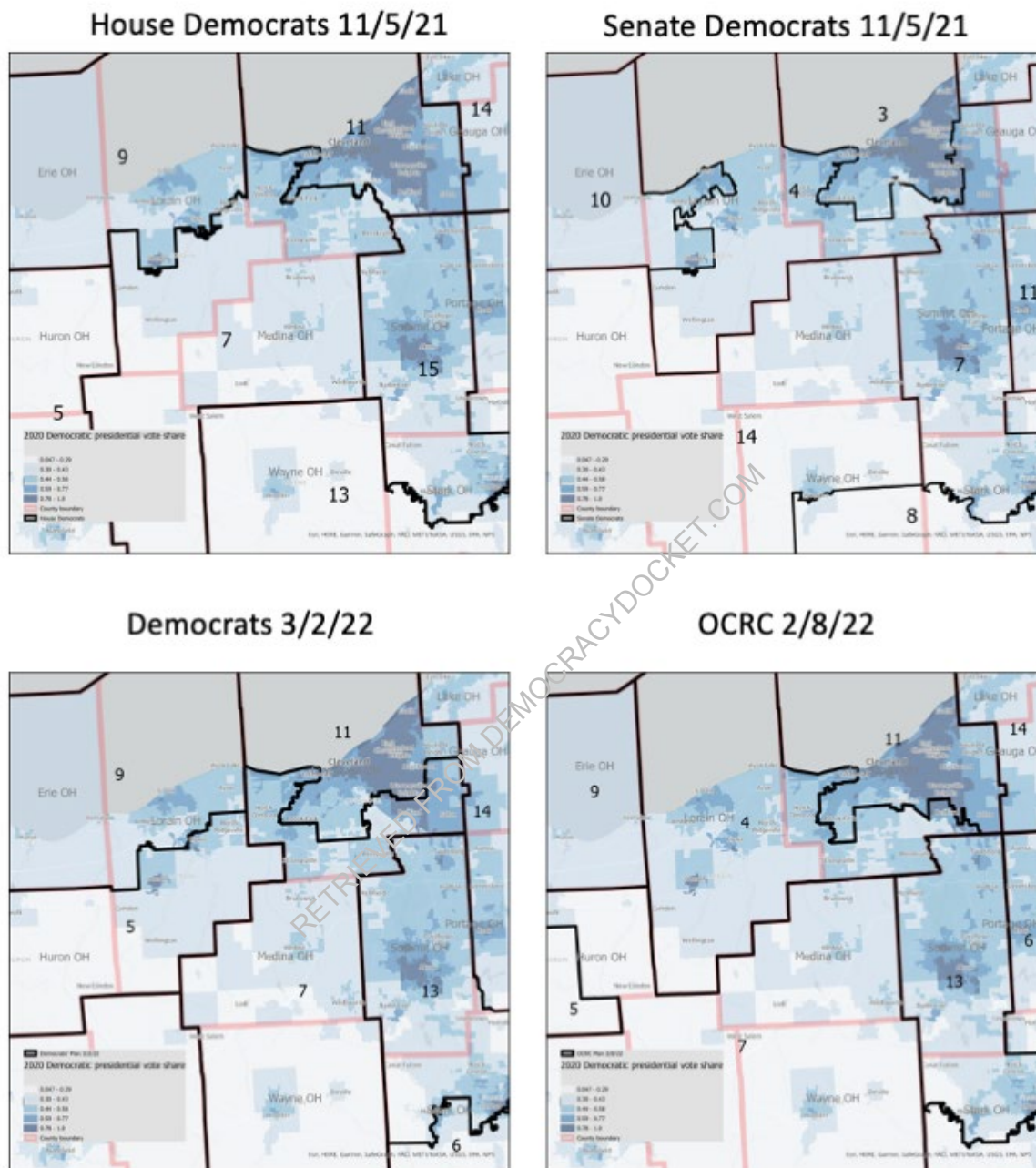


Figure 10: Cleveland Area: Alternative Plans



42. The alternative maps display a number of alternative approaches to the Cleveland area, several of which keep Democratic-leaning communities of Cuyahoga County together. For instance, using the most compact arrangement of the three, the OCRC Plan keeps the Western suburbs together, combining all of Lorain County with the suburban parts of Cuyahoga, creating a rather natural Western Cleveland district with a Democratic majority of the statewide vote.

43. Finally, let us consider Northwest Ohio. Figure 11 presents the districts of the New Plan, and Figure 12 displays the districts of alternative plans. The New Plan studiously avoids the creation of a clear Democratic district by combining metro Toledo with rural counties and avoiding a link to Lorain County. This results in a highly non-compact District 5, which extracts Lorain County and connects it via a narrow corridor of rural counties all the way to the Western border of the state.
44. In contrast, the alternative plans display more natural metro-oriented versions of District 9 that are also more compact. The Reock Score for District 9 in the New Plan is .26, compared with .33 for the Democrats' most recent plan, and .53 for the newest OCRC Plan. The Polsby-Popper Score for the New Plan is .27, compared with .34 for the Democrats' Plan and .58 for the OCRC Plan.

Figure 11: Northwest Ohio: New Plan

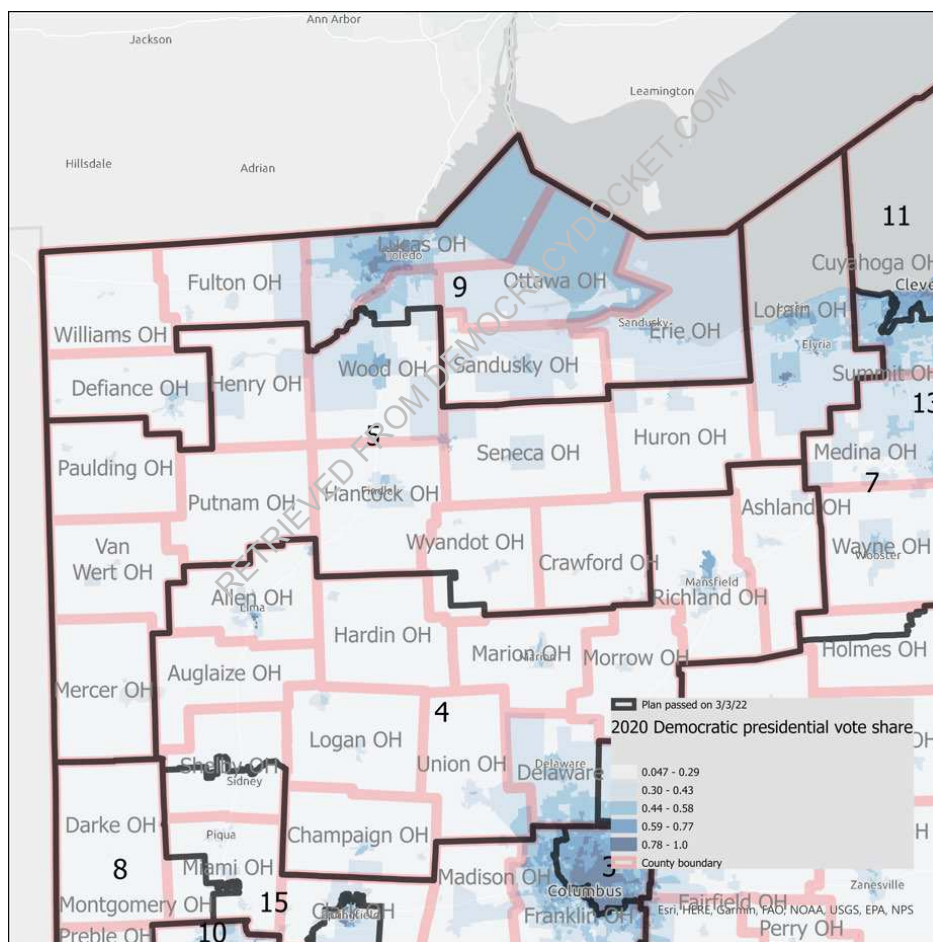
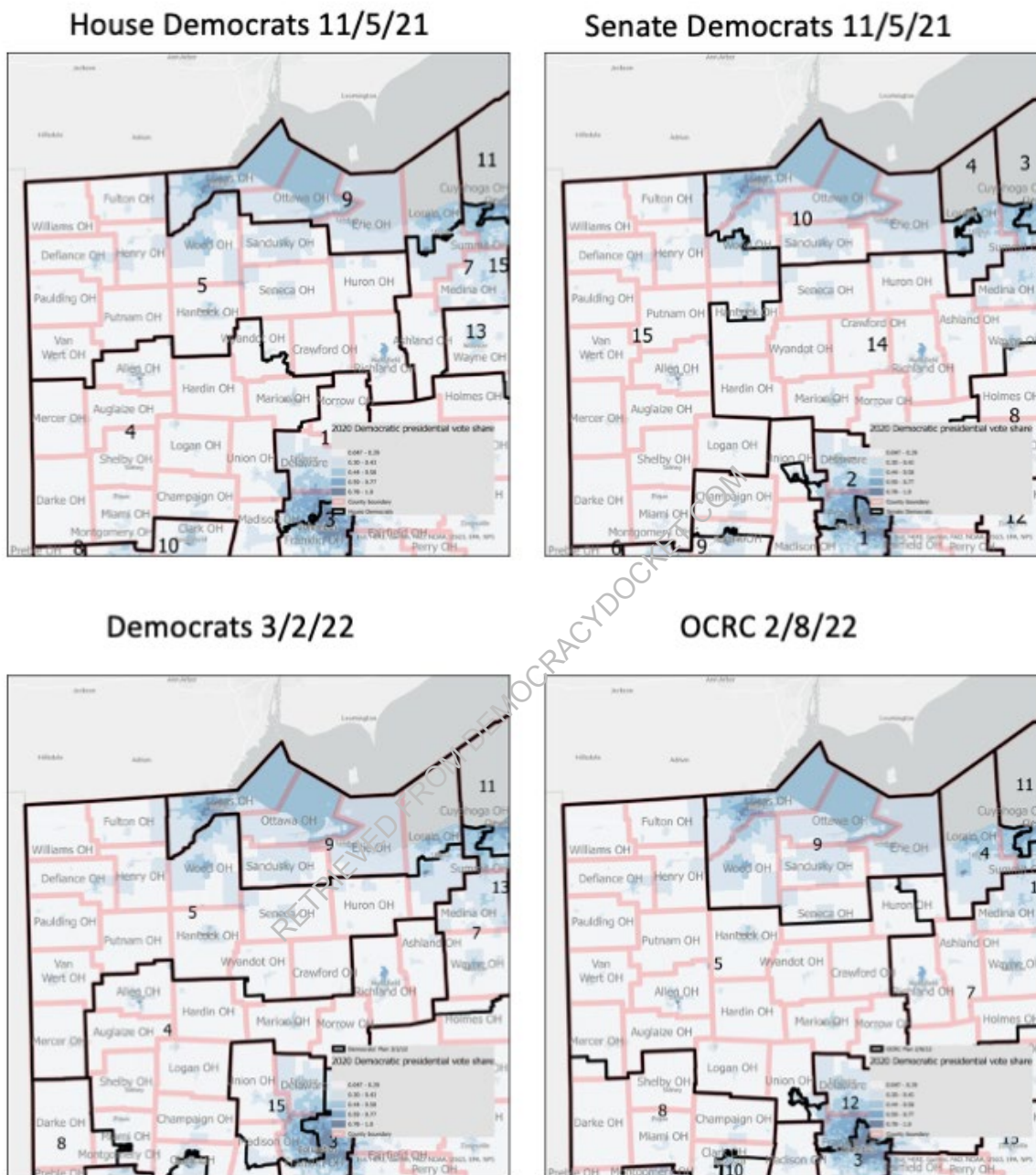


Figure 12: Northwest Ohio, Alternative Plans



45. The House Democrats' approach to Northwest Ohio, also reflected in the Democrats' March 2 map, includes the cities of Lorain County in District 9, while the OCRC version, as described above, combines Lorain with Western Cleveland in District 4. Needless to say, not only do they produce more compact districts, but both are more respectful of communities of interest than the New Plan, which extracts Lorain County from its environment altogether.

Table 1: Average Compactness Scores

	Reock	Polsby-Popper	Area/Convex Hull
New Plan	0.4	0.32	0.75
House Democrats 11/5/21 Plan	0.43	0.33	0.78
Senate Democrats 11/5/21 plan	0.43	0.29	0.76
Democrats 3/2/22 Plan	0.42	0.33	0.77
OCRC 2/8/22 Plan	0.46	0.34	0.79

46. In the paragraphs above, I have shown that efforts to split Democratic-leaning metro-area neighborhoods from their communities and combine them with rural areas while keeping Republican incumbents in their old districts sometimes required rather obvious violations of traditional redistricting criteria and non-compact districts. This also leads to districts that are, on average, less compact than those of the alternative plans, as set forth in Table 1. On each of three common measures of compactness, the House Democrats' Plan, the most recent Democratic Plan of March 2, 2022, and especially the OCRC Plan are more compact than the New Plan. The only exception is the Senate Democrats' Plan on the Polsby-Popper metric.
47. In my earlier report, I also reported simple statistics on the efficiency gap and electoral bias. Recall that electoral bias involves imagining a hypothetical tied election, and asking whether, and by how much, a party would exceed 50 percent of the seat share. As discussed above, the Democratic Party could expect 5 seats in this scenario, which corresponds to 33 percent of the seats for Democrats, and 67 percent for Republicans, for a bias measure of around 17 percent. As discussed in my initial report, this is identical to the Overturned Plan.
48. Table 2 provides information on the efficiency gap, using the statewide aggregate district-level votes shares that have been described throughout this report. By making the three swing districts slightly more Democratic, the New Plan reduces the efficiency gap from 24% to 10%, but this is still relatively high in comparison to other states, and to alternative Ohio Congressional plans.

Table 2: Efficiency Gap

	Efficiency Gap
Overturned Plan	24%
New Plan	10%
House Democrats 11/5/21 Plan	3.5%
Senate Democrats 11/5/21 plan	-3.7%
Democrats 3/2/22 Plan	-3.6%
OCRC 2/8/22 Plan	-3.6%

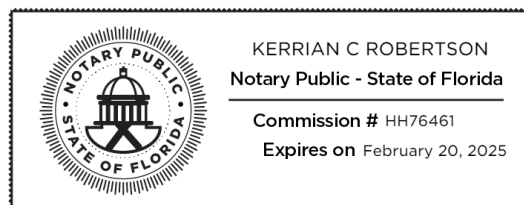
VII. CONCLUSION

49. Like the Overturned Plan, the New Plan is highly favorable to the Republican Party and its incumbents, and it disfavors the Democratic Party and its incumbents. This is true not because of the requirements of the Ohio Constitution or the political geography of Ohio, but because of discretionary choices made by those drawing the districts, which had the effect of “packing” Democrats into districts where they win by large majorities and “cracking” Democratic communities that would otherwise have produced majority-Democratic districts. In drawing districts to achieve partisan gain, the legislature sacrificed compactness, introduced unnecessary splits to urban counties, and divided a number of urban and suburban communities, including minority communities, throughout the state.

Sworn to before me this 4th day of March 2022.



Kerrian C. Robertson
Notary Public



Jonathan Rodden

Jonathan Rodden

Broward County, FL

Jurat
Jonathan Andrew Rodden
DRIVER LICENSE

Notarized online using audio-video communication

My commission expires 02/20/2025

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Exhibit A

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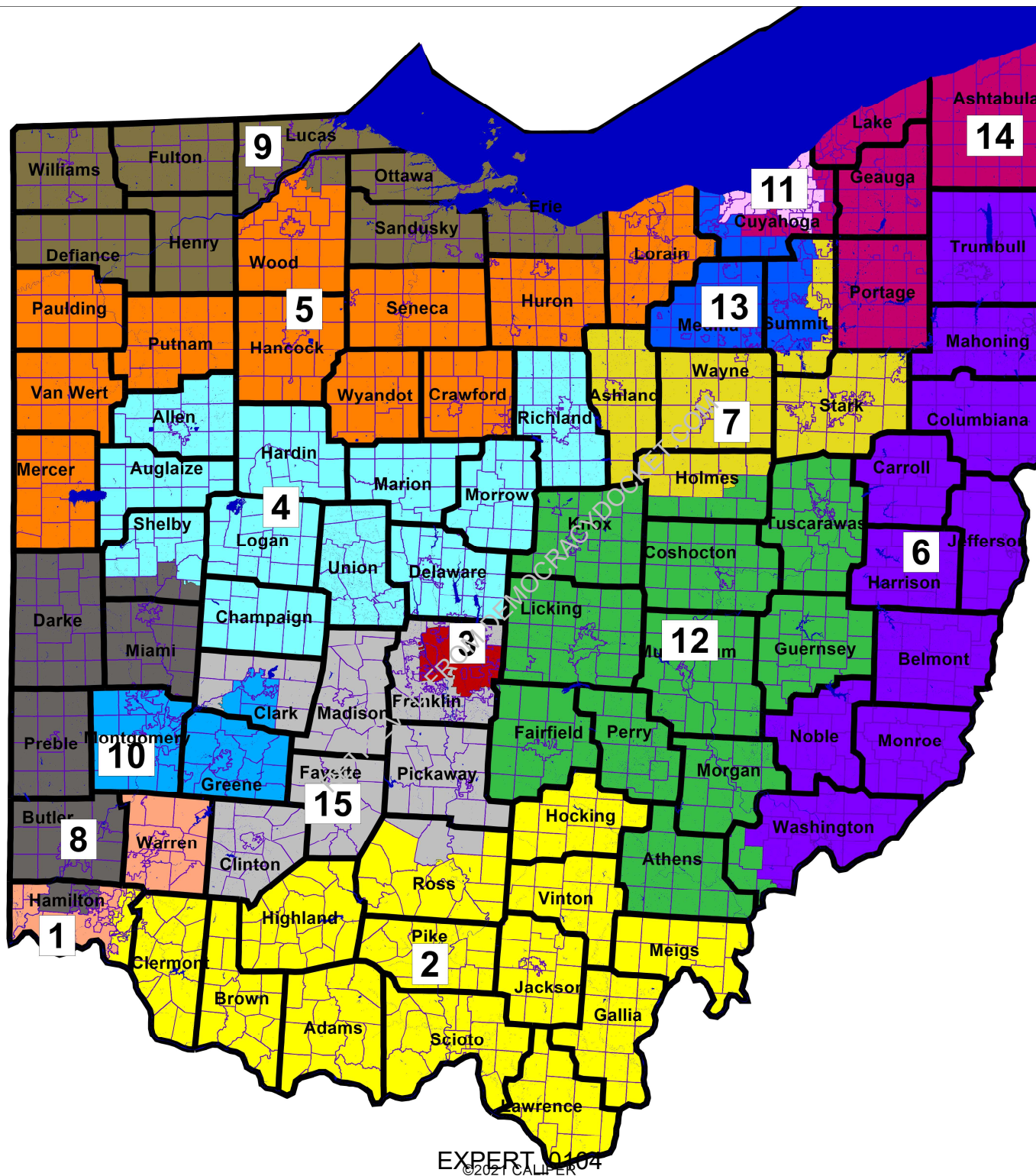


Exhibit B

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Exhibit C

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Exhibit D

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Proposed Sub SB 237 Map

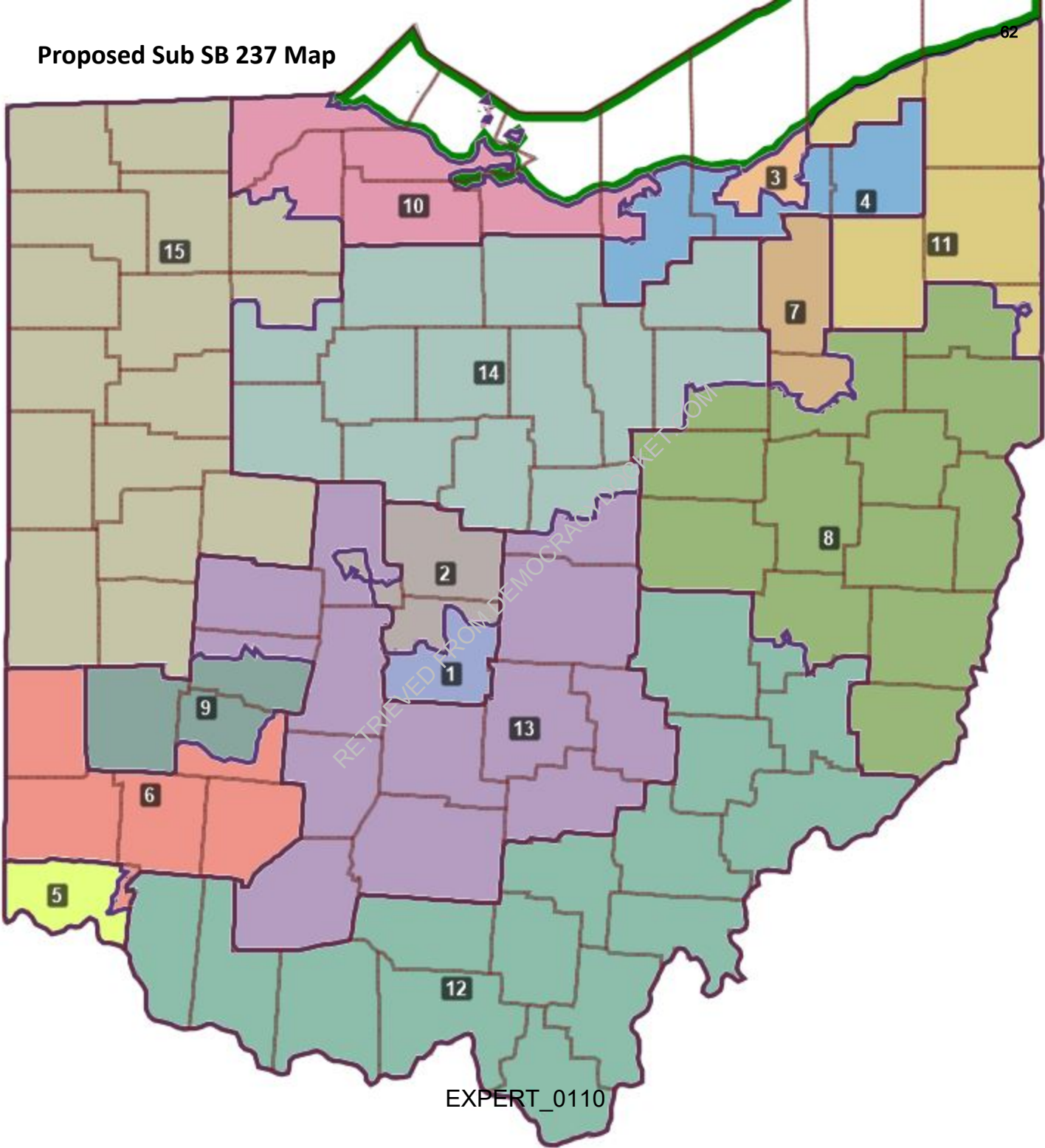


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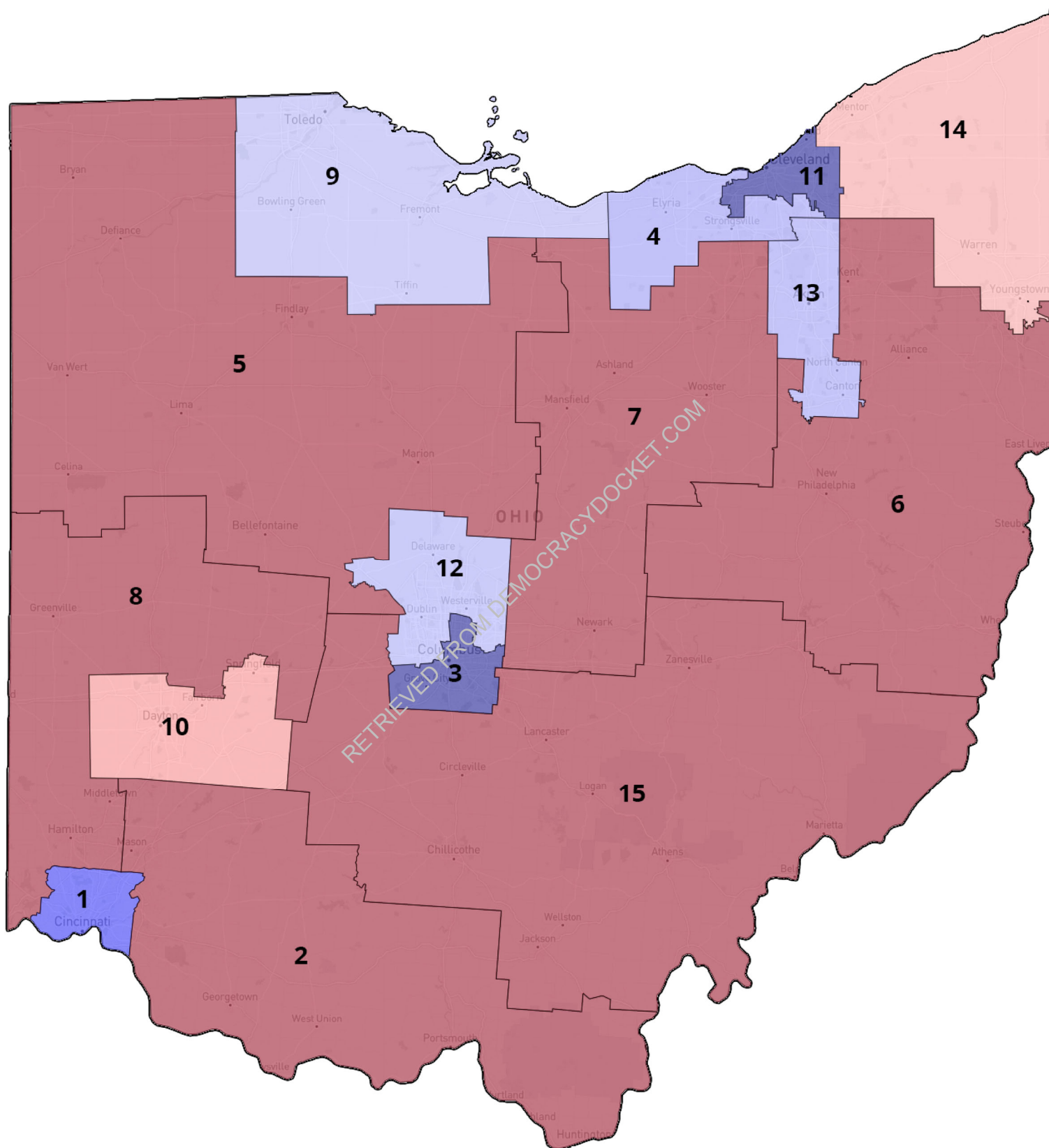


Exhibit F

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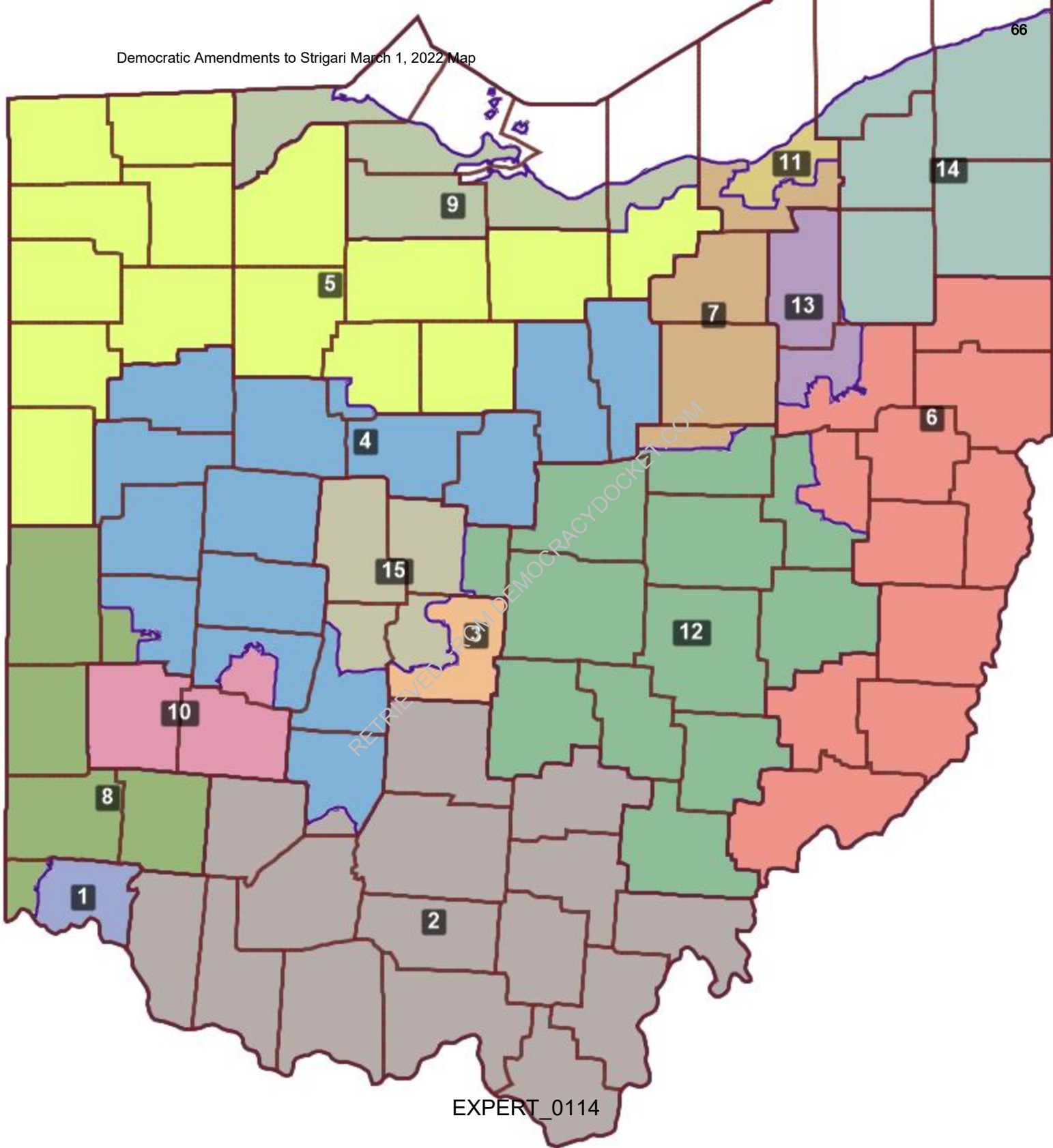


Exhibit G

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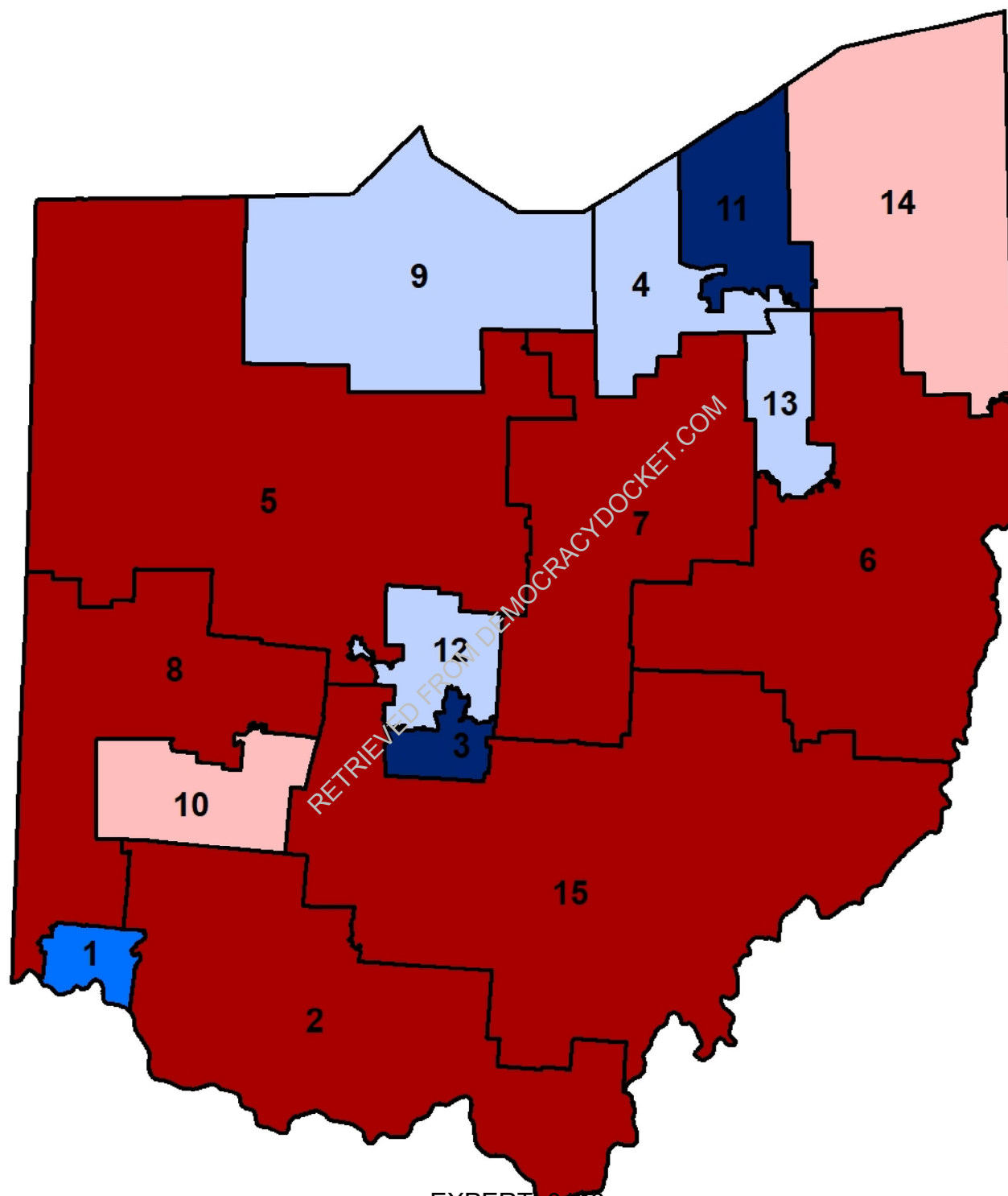


Exhibit H

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Personal

Born on August 18, 1971, St. Louis, MO.

United States Citizen.

Education

Ph.D. Political Science, Yale University, 2000.

Fulbright Scholar, University of Leipzig, Germany, 1993–1994.

B.A., Political Science, University of Michigan, 1993.

Academic Positions

Professor, Department of Political Science, Stanford University, 2012–present.

Senior Fellow, Stanford Institute for Economic Policy Research, 2020–present.

Senior Fellow, Hoover Institution, Stanford University, 2012–present.

Director, Spatial Social Science Lab, Stanford University, 2012–present.

W. Glenn Campbell and Rita Ricardo-Campbell National Fellow, Hoover Institution, Stanford University, 2010–2012.

Associate Professor, Department of Political Science, Stanford University, 2007–2012.

Fellow, Center for Advanced Study in the Behavioral Sciences, Palo Alto, CA, 2006–2007.

Ford Career Development Associate Professor of Political Science, MIT, 2003–2006.

Visiting Scholar, Center for Basic Research in the Social Sciences, Harvard University, 2004.

Assistant Professor of Political Science, MIT, 1999–2003.

Instructor, Department of Political Science and School of Management, Yale University, 1997–1999.

Publications

Books

Why Cities Lose: The Deep Roots of the Urban-Rural Divide. Basic Books, 2019.

Decentralized Governance and Accountability: Academic Research and the Future of Donor Programming. Co-edited with Erik Wibbels, Cambridge University Press, 2019.

Hamilton's Paradox: The Promise and Peril of Fiscal Federalism, Cambridge University Press, 2006. Winner, Gregory Luebbert Award for Best Book in Comparative Politics, 2007; Martha Derthick Award for lasting contribution to the study of federalism, 2021.

Fiscal Decentralization and the Challenge of Hard Budget Constraints, MIT Press, 2003. Co-edited with Gunnar Eskeland and Jennie Litvack.

Peer Reviewed Journal Articles

Who Registers? Village Networks, Household Dynamics, and Voter Registration in Rural Uganda, 2021, *Comparative Political Studies* forthcoming (with Romain Ferrali, Guy Grossman, and Melina Platas).

Partisan Dislocation: A Precinct-Level Measure of Representation and Gerrymandering, 2021, *Political Analysis* forthcoming (with Daryl DeFord Nick Eubank).

Who is my Neighbor? The Spatial Efficiency of Partisanship, 2020, *Statistics and Public Policy* 7(1):87-100 (with Nick Eubank).

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Viral Voting: Social Networks and Political Participation, 2020, *Quarterly Journal of Political Science* (with Nick Eubank, Guy Grossman, and Melina Platas).

It Takes a Village: Peer Effects and Externalities in Technology Adoption, 2020, *American Journal of Political Science* (with Romain Ferrali, Guy Grossman, and Melina Platas). Winner, 2020 Best Conference Paper Award, American Political Science Association Network Section.

Assembly of the LongSHOT Cohort: Public Record Linkage on a Grand Scale, 2019, *Injury Prevention* (with Yifan Zhang, Erin Holsinger, Lea Prince, Sonja Swanson, Matthew Miller, Garen Wintemute, and David Studdert).

Crowdsourcing Accountability: ICT for Service Delivery, 2018, *World Development* 112: 74-87 (with Guy Grossman and Melina Platas).

Geography, Uncertainty, and Polarization, 2018, *Political Science Research and Methods* doi:10.1017/psrm.2018.12 (with Nolan McCarty, Boris Shor, Chris Tausanovitch, and Chris Warshaw).

Handgun Acquisitions in California after Two Mass Shootings, 2017, *Annals of Internal Medicine* 166(10):698-706. (with David Studdert, Yifan Zhang, Rob Hyndman, and Garen Wintemute).

Cutting Through the Thicket: Redistricting Simulations and the Detection of Partisan Gerrymanders, 2015, *Election Law Journal* 14,4:1-15 (with Jowei Chen).

The Achilles Heel of Plurality Systems: Geography and Representation in Multi-Party Democracies, 2015, *American Journal of Political Science* 59,4: 789-805 (with Ernesto Calvo). Winner, Michael Wallerstein Award for best paper in political economy, American Political Science Association.

Why has U.S. Policy Uncertainty Risen Since 1960?, 2014, *American Economic Review: Papers and Proceedings* May 2014 (with Nicholas Bloom, Brandice Canes-Wrone, Scott Baker, and Steven Davis).

Unintentional Gerrymandering: Political Geography and Electoral Bias in Legislatures, 2013, *Quarterly Journal of Political Science* 8: 239-269 (with Jowei Chen).

How Should We Measure District-Level Public Opinion on Individual Issues?, 2012, *Journal of Politics* 74, 1: 203-219 (with Chris Warshaw).

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Does Religion Distract the Poor? Income and Issue Voting Around the World, 2008, *Comparative Political Studies* 41, 4: 437-476 (with Ana Lorena De La O).

Purple America, 2006, *Journal of Economic Perspectives* 20,2 (Spring): 97-118 (with Stephen Ansolabehere and James Snyder).

Economic Geography and Economic Voting: Evidence from the U.S. States, 2006, *British Journal of Political Science* 36, 3: 527-47 (with Michael Ebeid).

Distributive Politics in a Federation: Electoral Strategies, Legislative Bargaining, and Government Coalitions, 2004, *Dados* 47, 3 (with Marta Arretche, in Portuguese).

Comparative Federalism and Decentralization: On Meaning and Measurement, 2004, *Comparative Politics* 36, 4: 481-500. (Portuguese version, 2005, in *Revista de Sociologia e Politica* 25).

Reviving Leviathan: Fiscal Federalism and the Growth of Government, 2003, *International Organization* 57 (Fall), 695-729.

Beyond the Fiction of Federalism: Macroeconomic Management in Multi-tiered Systems, 2003, *World Politics* 54, 4 (July): 494-531 (with Erik Wibbels).

The Dilemma of Fiscal Federalism: Grants and Fiscal Performance around the World, 2002, *American Journal of Political Science* 46(3): 670-687.

Strength in Numbers: Representation and Redistribution in the European Union, 2002, *European Union Politics* 3, 2: 151-175.

Does Federalism Preserve Markets? *Virginia Law Review* 83, 7 (with Susan Rose-Ackerman). Spanish version, 1999, in *Quorum* 68.

Working Papers

Elections, Political Polarization, and Economic Uncertainty, NBER Working Paper 27961 (with Scott Baker, Aniket Baksy, Nicholas Bloom, and Steven Davis).

Federalism and Inter-regional Redistribution, Working Paper 2009/3, Institut d'Economia de Barcelona.

Representation and Regional Redistribution in Federations, Working Paper 2010/16, Institut d'Economia de Barcelona (with Tiberiu Dragu).

Chapters in Books

Political Geography and Representation: A Case Study of Districting in Pennsylvania (with Thomas Weighill), in *Political Geometry*, edited by Moon Duchin and Olivia Walch, forthcoming 2021, Springer.

Keeping Your Enemies Close: Electoral Rules and Partisan Polarization, in *The New Politics of Insecurity*, edited by Frances Rosenbluth and Margaret Weir, forthcoming 2021, Cambridge University Press.

Decentralized Rule and Revenue, 2019, in Jonathan Rodden and Erik Wibbels, eds., *Decentralized Governance and Accountability*, Cambridge University Press.

Geography and Gridlock in the United States, 2014, in Nathaniel Persily, ed. *Solutions to Political Polarization in America*, Cambridge University Press.

Can Market Discipline Survive in the U.S. Federation?, 2013, in Daniel Nadler and Paul Peterson, eds, *The Global Debt Crisis: Haunting U.S. and European Federalism*, Brookings Press.

Market Discipline and U.S. Federalism, 2012, in Peter Conti-Brown and David A. Skeel, Jr., eds, *When States Go Broke: The Origins, Context, and Solutions for the American States in Fiscal Crisis*, Cambridge University Press.

Federalism and Inter-Regional Redistribution, 2010, in Nuria Bosch, Marta Espasa, and Albert Sole Olle, eds., *The Political Economy of Inter-Regional Fiscal Flows*, Edward Elgar.

Back to the Future: Endogenous Institutions and Comparative Politics, 2009, in Mark Lichbach and Alan Zuckerman, eds., *Comparative Politics: Rationality, Culture, and Structure* (Second Edition), Cambridge University Press.

The Political Economy of Federalism, 2006, in Barry Weingast and Donald Wittman, eds., *Oxford Handbook of Political Economy*, Oxford University Press.

Fiscal Discipline in Federations: Germany and the EMU, 2006, in Peter Wierds, Servaas Deroose, Elena Flores and Alessandro Turrini, eds., *Fiscal Policy Surveillance in Europe*, Palgrave MacMillan.

The Political Economy of Pro-cyclical Decentralised Finance (with Erik Wibbels), 2006, in Peter Wierds, Servaas Deroose, Elena Flores and Alessandro Turrini, eds., *Fiscal Policy Surveillance in Europe*, Palgrave MacMillan.

Globalization and Fiscal Decentralization, (with Geoffrey Garrett), 2003, in Miles Kahler and David Lake, eds., *Governance in a Global Economy: Political Authority in Transition*, Princeton University Press: 87-109. (Updated version, 2007, in David Cameron, Gustav Ranis, and Annalisa Zinn, eds., *Globalization and Self-Determination: Is the Nation-State under Siege?* Routledge.)

Introduction and Overview (Chapter 1), 2003, in Rodden et al., *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Soft Budget Constraints and German Federalism (Chapter 5), 2003, in Rodden, et al, *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Federalism and Bailouts in Brazil (Chapter 7), 2003, in Rodden, et al., *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Lessons and Conclusions (Chapter 13), 2003, in Rodden, et al., *Fiscal Decentralization and the Challenge of Hard Budget Constraints* (see above).

Online Interactive Visualization

Stanford Election Atlas, 2012 (collaboration with Stephen Ansolabehere at Harvard and Jim Herries at ESRI)

Other Publications

Supporting Advanced Manufacturing in Alabama, Report to the Alabama Innovation Commission, Hoover Institution, 2021.

How America's Urban-Rural Divide has Shaped the Pandemic, 2020, *Foreign Affairs*, April 20, 2020.

An Evolutionary Path for the European Monetary Fund? A Comparative Perspective, 2017, Briefing paper for the Economic and Financial Affairs Committee of the European Parliament.

Representation and Regional Redistribution in Federations: A Research Report, 2009, in *World Report on Fiscal Federalism*, Institut d'Economia de Barcelona.

On the Migration of Fiscal Sovereignty, 2004, *PS: Political Science and Politics* July, 2004: 427-431.

Decentralization and the Challenge of Hard Budget Constraints, *PREM Note* 41, Poverty Reduction and Economic Management Unit, World Bank, Washington, D.C. (July).

Decentralization and Hard Budget Constraints, *APSA-CP* (Newsletter of the Organized Section in Comparative Politics, American Political Science Association) 11:1 (with Jennie Litvack).

Book Review of *The Government of Money* by Peter Johnson, *Comparative Political Studies* 32,7: 897-900.

Fellowships, Honors, and Grants

John Simon Guggenheim Memorial Foundation Fellowship, 2021.

Martha Derthick Award of the American Political Science Association for "the best book published at least ten years ago that has made a lasting contribution to the study of federalism and intergovernmental relations," 2021.

National Institutes of Health, funding for "Relationship between lawful handgun ownership and risk of homicide victimization in the home," 2021.

National Collaborative on Gun Violence Research, funding for "Cohort Study Of Firearm-Related Mortality Among Cohabitants Of Handgun Owners." 2020.

Fund for a Safer Future, Longitudinal Study of Handgun Ownership and Transfer (LongSHOT), GA004696, 2017-2018.

Stanford Institute for Innovation in Developing Economies, Innovation and Entrepreneurship research grant, 2015.

Michael Wallerstein Award for best paper in political economy, American Political Science Association, 2016.

Common Cause Gerrymandering Standard Writing Competition, 2015.

General support grant from the Hewlett Foundation for Spatial Social Science Lab, 2014.

Fellow, Institute for Research in the Social Sciences, Stanford University, 2012.

Sloan Foundation, grant for assembly of geo-referenced precinct-level electoral data set (with Stephen Ansolabehere and James Snyder), 2009-2011.

Hoagland Award Fund for Innovations in Undergraduate Teaching, Stanford University, 2009.

W. Glenn Campbell and Rita Ricardo-Campbell National Fellow, Hoover Institution, Stanford University, beginning Fall 2010.

Research Grant on Fiscal Federalism, Institut d'Economia de Barcelona, 2009.

Fellow, Institute for Research in the Social Sciences, Stanford University, 2008.

United Postal Service Foundation grant for study of the spatial distribution of income in cities, 2008.

Gregory Luebbert Award for Best Book in Comparative Politics, 2007.

Fellow, Center for Advanced Study in the Behavioral Sciences, 2006-2007.

National Science Foundation grant for assembly of cross-national provincial-level dataset on elections, public finance, and government composition, 2003-2004 (with Erik Wibbels).

MIT Dean's Fund and School of Humanities, Arts, and Social Sciences Research Funds.

Funding from DAAD (German Academic Exchange Service), MIT, and Harvard EU Center to organize the conference, "European Fiscal Federalism in Comparative Perspective," held at Harvard University, November 4, 2000.

Canadian Studies Fellowship (Canadian Federal Government), 1996-1997.

Prize Teaching Fellowship, Yale University, 1998-1999.

Fulbright Grant, University of Leipzig, Germany, 1993-1994.

Michigan Association of Governing Boards Award, one of two top graduating students at the University of Michigan, 1993.

W. J. Bryan Prize, top graduating senior in political science department at the University of Michigan, 1993.

Other Professional Activities

Selection committee, best paper award, American Journal of Political Science.

International Advisory Committee, Center for Metropolitan Studies, Sao Paulo, Brazil, 2006-2010.

Selection committee, Mancur Olson Prize awarded by the American Political Science Association Political Economy Section for the best dissertation in the field of political economy.

Selection committee, Gregory Luebbert Best Book Award.

Selection committee, William Anderson Prize, awarded by the American Political Science Association for the best dissertation in the field of federalism and intergovernmental relations.

Courses

Undergraduate

Politics, Economics, and Democracy
 Introduction to Comparative Politics
 Introduction to Political Science
 Political Science Scope and Methods
 Institutional Economics
 Spatial Approaches to Social Science

Graduate

Political Economy
 Political Economy of Institutions
 Federalism and Fiscal Decentralization
 Politics and Geography

Consulting

2017. Economic and Financial Affairs Committee of the European Parliament.

2016. Briefing paper for the World Bank on fiscal federalism in Brazil.

2013-2018: Principal Investigator, SMS for Better Governance (a collaborative project involving USAID, Social Impact, and UNICEF in Arua, Uganda).

2019: Written expert testimony in *McLemore, Holmes, Robinson, and Woullard v. Hosemann*, United States District Court, Mississippi.

2019: Expert witness in *Nancy Corola Jacobson v. Detzner*, United States District Court, Florida.

2018: Written expert testimony in *League of Women Voters of Florida v. Detzner* No. 4:18-cv-002510, United States District Court, Florida.

2018: Written expert testimony in *College Democrats of the University of Michigan, et al. v. Johnson, et al.*, United States District Court for the Eastern District of Michigan.

2017: Expert witness in *Bethune-Hill v. Virginia Board of Elections*, No. 3:14-CV-00852, United States District Court for the Eastern District of Virginia.

2017: Expert witness in *Arizona Democratic Party, et al. v. Reagan, et al.*, No. 2:16-CV-01065, United States District Court for Arizona.

2016: Expert witness in *Lee v. Virginia Board of Elections*, 3:15-cv-357, United States District Court for the Eastern District of Virginia, Richmond Division.

2016: Expert witness in *Missouri NAACP v. Ferguson-Florissant School District*, United States District Court for the Eastern District of Missouri, Eastern Division.

2014-2015: Written expert testimony in *League of Women Voters of Florida et al. v. Detzner, et al.*, 2012-CA-002842 in Florida Circuit Court, Leon County (Florida Senate redistricting case).

2013-2014: Expert witness in *Romo v Detzner*, 2012-CA-000412 in Florida Circuit Court, Leon County (Florida Congressional redistricting case).

2011-2014: Consultation with investment groups and hedge funds on European debt crisis.

2011-2014: Lead Outcome Expert, Democracy and Governance, USAID and Social Impact.

2010: USAID, Review of USAID analysis of decentralization in Africa.

2006-2009: World Bank, Independent Evaluations Group. Undertook evaluations of World Bank decentralization and safety net programs.

2008-2011: International Monetary Fund Institute. Designed and taught course on fiscal federalism.

1998-2003: World Bank, Poverty Reduction and Economic Management Unit. Consultant for *World Development Report*, lecturer for training courses, participant in working group for assembly of decentralization data, director of multi-country study of fiscal discipline in decentralized countries, collaborator on review of subnational adjustment lending.

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E-Signature 1: Kosuke Imai (KI)

April 21, 2022 13:11:52 -8:00 [CF0DCF694EE5] [108.26.227.252]
 imai@harvard.edu (Principal) (Personally Known)

E-Signature Notary: Theresa M Sabo (TMS)

April 21, 2022 13:11:52 -8:00 [A57D67DFF5A4] [65.60.141.105]
 tess.sabo@gmail.com
 I, Theresa M Sabo, did witness the participants named above electronically sign this document.



IN THE SUPREME COURT OF OHIO

LEAGUE OF WOMEN VOTERS OF
OHIO, *et al.*,

Petitioners,

v.

SECRETARY OF STATE FRANK
LAROSE, *et al.*,

Respondents.

Case No. 2022-0303

Original Action Filed Pursuant to
Ohio Const., Art. XIX, Sec. 1(C)(3)AFFIDAVIT OF KOSUKE IMAIFranklin County
/ss
State of Ohio

Now comes affiant Kosuke Imai, having been first duly cautioned and sworn,
deposes and states as follows:

1. I am over the age of 18 and fully competent to make this declaration. I have personal knowledge of the statements and facts contained herein.
2. For the purposes of this litigation, I have been asked by counsel for Petitioners to analyze relevant data and provide my expert opinions.
3. To that end, I have personally prepared the report attached to this affidavit as Exhibit A, and swear to its authenticity and to the faithfulness of the opinions expressed, and, to the best of my knowledge, the accuracy of the factual statements made therein.

FURTHER AFFIANT SAYETH NAUGHT

04/21/2022

Executed on _____, 2022.

Kosuke Imai

Signed on 2022/04/21 13:11:52 -000

Kosuke Imai

04/21/2022

Sworn and subscribed before me this _____ day of _____, 2022



Notary Stamp 2022/04/21 13:11:52 PST

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Notary Public

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IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*

Petitioners,

v.

Ohio Redistricting Commission, *et al.*

Respondents.

Original Action Filed Pursuant to Ohio
Const., Art. XIX, Sec. 3(A)

EXPERT REPORT

Kosuke Imai, Ph.D.

April 20, 2022

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EXPERT REPORT

I. INTRODUCTION AND SCOPE OF WORK

1. My name is Kosuke Imai, Ph.D., and I am a Professor in the Department of Government and the Department of Statistics at Harvard University. I specialize in the development of statistical methods and computational algorithms for and their applications to social science research. I am also affiliated with Harvard's Institute for Quantitative Social Science. My qualifications and compensation are described in my initial report that was submitted to this court.

2. I have been asked by counsel representing the petitioners in this case to analyze relevant data and provide my expert opinions related to whether Ohio's congressional districting plan enacted on March 2 (which I will refer to as the "revised plan" in this report) meets the criteria in Article XIX, Section 1(C)(3)(a) of Ohio's Constitution. More specifically, I have been asked to statistically analyze the revised plan's compliance with Article XIX, Section 1(C)(3)(a)'s requirement that "[t]he general assembly shall not pass a plan that unduly favors or disfavors a political party or its incumbents" by comparing it against the 5,000 alternative plans that were generated as the basis of simulation analysis in my initial report submitted on December 10, 2021 for Case No. 2021-1449.

II. SUMMARY OF OPINIONS

3. My analysis yields the following findings:
- The revised plan exhibits a significant partisan bias in favor of the Republican Party. Under the revised plan, the vote share margins for three nominally Democratic-leaning districts are unusually narrow when compared to my 5,000 simulated plans. In contrast, Republican-leaning districts are much safer under the revised plan than the corresponding districts in the simulated plans. These differences are substantial in magnitude and statistically significant.
 - This partisan bias of the revised plan originates from the Congressional districts in Hamilton and Franklin Counties. In Hamilton County, the revised plan cracks Democratic voters into Districts 1 and 8, reducing the Democratic advantage of District 1 and resulting in a toss-up district in place of a safe Democratic-leaning district. In Franklin County, the

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revised plan packs a disproportionately large number of Democratic voters into District 3, increasing the Republican advantage of the surrounding districts and creating a safe Republican-leaning District 15 while preventing the emergence of a second Democratic-leaning district. These patterns of cracking and packing are clear statistical outliers in comparison to my simulated plans.

- The revised plan’s decision to favor the Republican party in Hamilton and Franklin Counties led to highly non-compact districts. District 1, which combines a part of Cincinnati and its environs with Warren County, is much less compact than the corresponding districts under the simulated plans. Similarly, District 15, which combines a part of Franklin County with five other counties in the western part of the state, splits a total of five counties and is much less compact than the corresponding districts under the simulated plans. Districts 1 and 15 are clear statistical outliers for their lack of compactness in comparison to my 5,000 simulated plans.
- I submitted an example plan to the Ohio Redistricting Commission on February 22, 2022 that is compliant with Article XIX of the Ohio Constitution. This example plan is less biased, has fewer county splits, and is more compact than the revised plan.

III. METHODOLOGY

4. In my initial expert report submitted on December 10, 2021, I conducted simulation analyses to evaluate the enacted plan (SB 258; hereafter “enacted plan”). As explained in that report, the redistricting simulation analysis has the ability to directly account for political geography and redistricting rules specific to the state. By comparing a proposed plan with simulated plans that are generated using a set of redistricting criteria, it is possible to assess the partisan bias of the plan relative to the set of alternative plans one could have drawn by following those specified criteria.

5. I evaluate the revised plan’s compliance with Article XIX, Section 1(C)(3)(a) by comparing it with the same set of 5,000 simulated plans as those used in my initial report to

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evaluate the enacted plan. Recall that these simulated plans are equally or more compliant with other relevant requirements of Article XIX than the enacted plan (see the initial report for details). In Appendices A and B, I show that my simulated plans are also more compact and have fewer county splits than the revised plan. I present the evaluation of the revised plan based on a total of nine statewide elections from 2016 to 2020, which were used by the Commission.

IV. OUTLIER ANALYSIS

6. I evaluate the partisan bias of the revised plan by comparing its district-level vote shares against those under my 5,000 simulated plans. In Figure 1, for any given plan (revised or simulated), I ordered the districts based on the magnitude of their expected Republican vote share. This means that under any given plan, district R1 yields the highest expected vote share while district R15 is expected to give the least support to the Republican candidate (to be clear, the R1 through R15 district identifiers do not correspond to the Congressional district numbers in the revised or enacted plan). If the expected Republican vote share of each ordered district under the revised plan (red square) diverges from the corresponding distribution of the simulated plans (boxplot), it constitutes evidence of possible partisan bias. Note that in a boxplot, the “box” contains 50% of the data points (those from 25 percentile to 75 percentile to be exact) with the horizontal line indicating the median value whereas the vertical lines coming out of the box, called “whiskers”, indicate the range, which contains most data. Any data points that are beyond these whiskers are considered as outliers according to the most common definition, which was also used in my initial report.¹

7. The figure shows clear evidence that the revised plan favors the Republican party. For all of my 5,000 simulated plans, districts R9 and R10 (the 9th and 10th most Republican-leaning districts, respectively) slightly lean toward the Republican party with narrow margins. The expected median Republican vote shares for these districts are equal to 51.1% and 50.6%,

1. According to this definition (Tukey, John W. 1977. *Exploratory Data Analysis*. Pearson), an outlier represents a data point that is beyond a distance of 1.5 interquartile range (IQR) below the first quartile or above the third quartile. If the data based on the simulated plans were normally distributed, the revised plan is regarded as an outlier if it is at least 2.70 standard deviations away from the average simulated plan.

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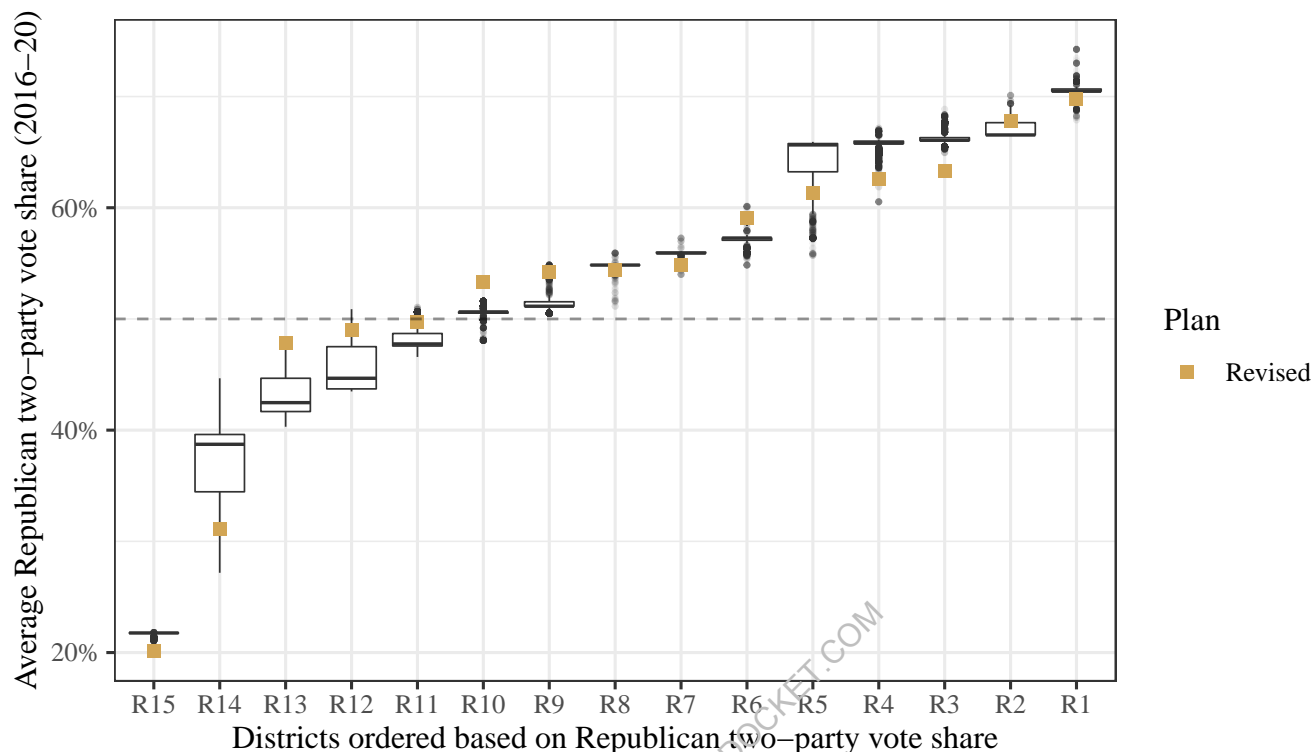


Figure 1: Expected Republican vote share for districts using the statewide elections from 2016 to 2020. For any given plan, the districts are ordered based on their expected Republican vote share. Boxplots represent the distribution of the expected Republican vote share across the simulated plans, whereas the orange square corresponds to the expected Republican vote share under the revised plan.

respectively. In other words, they are toss-up districts under the simulated plans. Yet under the revised plan, both of these districts are safely Republican with the expected Republican vote shares equal to 54.2% and 53.3%. According to the aforementioned definition, these two points associated with the revised plan are clear statistical outliers, with the vote shares of district R9 and R10 under the revised plan being 3.4 and 5.5 standard deviations away from the simulation median, respectively.

8. Furthermore, under the revised plan, districts R11, R12, and R13 lean much less strongly towards the Democratic party than under a vast majority of the simulated plans. For example, the expected median Republican vote share for R11 under the simulated plans is 47.8%. In other words, this district strongly leans towards the Democratic party under the simulated plans. Under the revised plan, however, it becomes a toss-up district. Its expected Republican vote share

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is 49.7%, which is 1.9 percentage points (or 1.9 standard deviations) higher than the simulation median. Indeed, 86.6% of my 5,000 simulated plans have a lower expected Republican vote share for R11 than the revised plan.

9. Similarly, the expected median Republican vote shares for R12 and R13 are 44.7% and 42.5%, respectively, under my simulated plans, implying that these are safe Democratic districts. Under the revised plan, however, the expected vote shares for R12 and R13 are 49.0% and 47.8%, respectively, which are 4.3 and 5.3 percentage points (or 2.8 and 3.5 standard deviations) higher than the corresponding simulation median. That is, the Democratic advantages of these districts are substantially reduced under the revised plan. Indeed, for these two districts, less than 0.25% of my 5,000 simulated plans yield as high levels of expected Republican vote share as the revised plan.

10. Lastly, the revised plan packs Democratic voters in districts R14 and R15, which are the two most Democratic-leaning districts. This is indicated by the fact that these districts have much lower levels of expected Republican vote shares under the revised plan than under the simulated plans. In contrast, the revised plan avoids packing Republican voters in the five safest Republican districts (districts R1 to R5). Indeed, R3, R4, and R5 have much lower levels of expected Republican vote shares under the revised plan than under the simulated plans. The expected Republican vote shares for districts R3 and R4 are also statistical outliers, which are 5.0 and 5.1 standard deviations away from the simulation median, respectively.

11. In sum, my outlier analysis shows that the revised plan clearly favors the Republican party in comparison with my 5,000 simulated plans. The revised plan does so by turning Democratic-leaning districts into toss-up districts while making slightly Republican-leaning districts into safe Republican districts.

V. LOCAL ANALYSIS

12. Next, as done in my initial report, I conduct a detailed analysis of the Congressional districts in Hamilton and Franklin Counties. I show that the partisan bias of the revised plan identified in my outlier analysis above originates in these districts. In Hamilton County, the revised plan

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cracks Democratic voters into Districts 1 and 8, substantially reducing the Democratic advantage of District 1. In Franklin County, the revised plan packs Democratic voters into District 3, increasing the Republican advantage of the surrounding districts. Thus, my local analysis shows that Hamilton and Franklin Counties are primarily responsible for the Republican bias of the revised plan.

13. My analysis of each county proceeds as follows. For each precinct, I first compute the expected two-party vote share of the district to which the precinct is assigned under the revised plan. I then perform the same calculation under each simulated plan and average these expected vote shares across all of the simulated plans. Comparison of these two numbers reveals whether the revised plan assigns a precinct to a district whose political leaning is different from what would be expected under the simulated plans.

A. Hamilton County

14. I begin by illustrating the above calculation through an example. Precinct 061031BEZ of Cincinnati lies within District 1 of the revised map, which has an expected Republican two-party vote share of 49.00%. The same precinct, however, belongs to different districts in most of the simulated maps, each with their own Republican vote share. The average Republican vote share for the districts to which this precinct is assigned across all of the simulated plans is 44.42%, which is 5.48 percentage points lower than under the revised plan. So, based on the representative set of simulated plans that have less partisan bias, precinct 061031BEZ is assigned to a more Republican-leaning district under the revised plan than under the average simulation plan.

15. The left map of Figure 2 presents the expected vote shares of districts under the revised plan, while the right map shows, for each precinct, the average expected two-party vote share of districts to which the precinct is assigned across the simulated plans. Under the revised plan, Democratic areas are cracked to yield two Republican-leaning districts and one highly competitive district, despite a significant concentration of Democratic voters in and around Cincinnati. As the right figure indicates, a large part of the area north of the city of Cincinnati, which is part of Dis-

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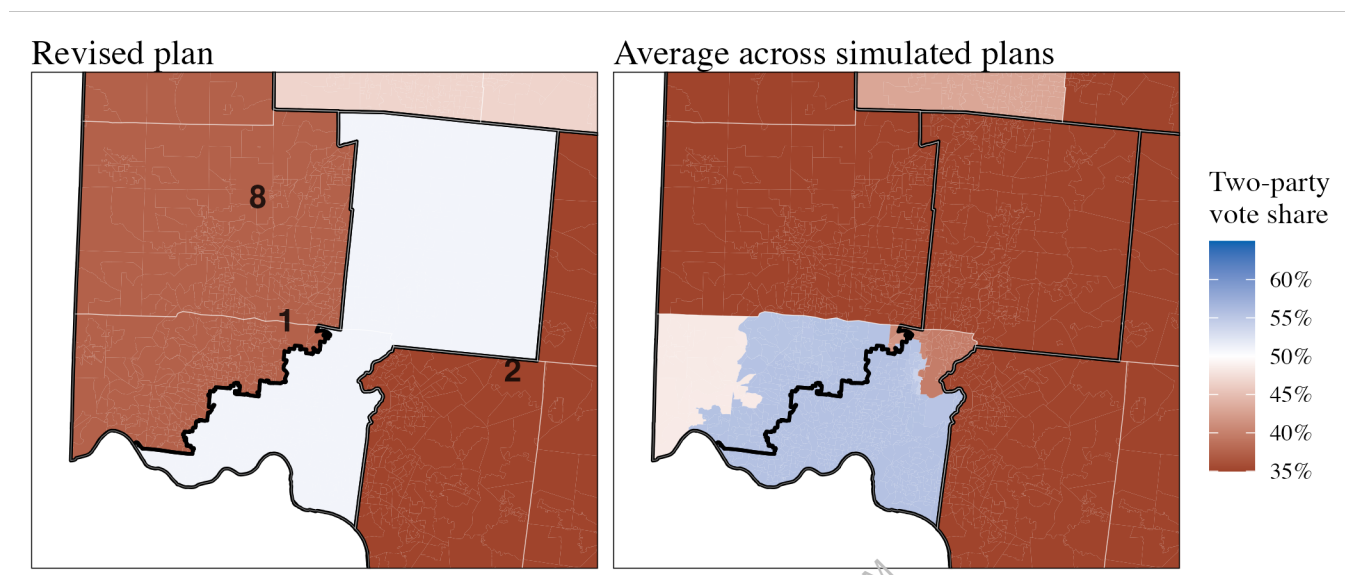


Figure 2: Congressional districts in Hamilton County. The left map presents the expected two-party vote shares of districts under the revised plan, while the right map shows, for each precinct, the average expected two-party vote share of districts to which the precinct is assigned across the simulated plans. The revised plan's district boundaries are shown with thick black lines. While under the simulated plans, Cincinnati and its environs are expected to belong to a safe Democratic-leaning district, the revised plan cracks Democratic voters, resulting in a toss-up district.

trict 8 under the revised plan, would normally be expected to belong to a safe Democratic district. Because the revised plan lumps it with District 8, this area instead belongs to safely Republican districts.

16. Similarly, voters in Cincinnati would normally be expected to belong to a strongly Democratic-leaning district under the simulated plans, as indicated by its darker blue color in the right map. The unusual pairing of Hamilton and Warren counties in the revised plan's District 1, however, makes these voters part of a much less Democratic-leaning district. The histogram in Figure 3 represents the simulated distribution of the population-weighted average Republican vote share of a district to which the portion of District 1 lying in Hamilton County belongs. The simulated plan assigns this area to a Democratic-leaning district with the average Republican share of 45.6%, which is much lower than the corresponding vote share of 49.0% under the revised plan (vertical yellow line). This difference, which equals 3.0 standard deviations of the simulated

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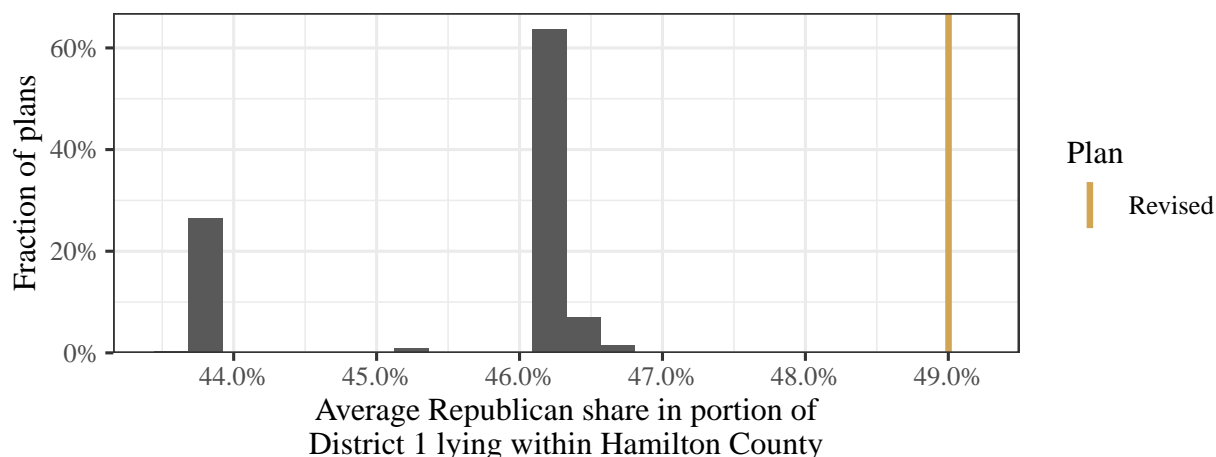


Figure 3: Average district-level Republican vote share across the simulated plans for the portion of Hamilton County that belongs to District 1 under the revised plan. The histogram represents the simulated distribution of the population-weighted average Republican vote share of a district to which the portion of District 1 lying in Hamilton County belongs. The revised plan is indicated by the vertical yellow line. No simulated plan assigns this area to a district that has as high as the Republican vote share under the revised plan.

distribution, is statistically significant. In fact, no simulated plan assigns this area to a district whose Republican vote share is as high as the revised plan, showing that the revised plan is a clear outlier in this regard.

17. Figure 13 of Appendix C presents the corresponding histogram for the portion of Warren County that belongs to District 1 under the revised plan. The figure shows that no simulated plan assigns this area to a district whose Republican vote share is lower than the revised plan. In fact, this area belongs to a much more strongly Republican-leaning district under the simulated plans. Lastly, according to Figure 14 of the same appendix, no simulated plan assigns the portion of Hamilton County that belongs to District 8 under the revised plan to a district whose Republican vote share is higher than the revised plan. This area belongs to a Democratic-leaning district under the simulated plans. These findings reaffirm the conclusion that the revised plan cracks Democratic voters in Hamilton County and combine them with Republican voters in Warren County.

18. As a result of these manipulations and additional splits of Hamilton County, the revised plan has no safe Democratic seats under the average statewide contest, whereas the simulated plans are expected to yield a relatively safe Democratic seat. In sum, in Hamilton County,

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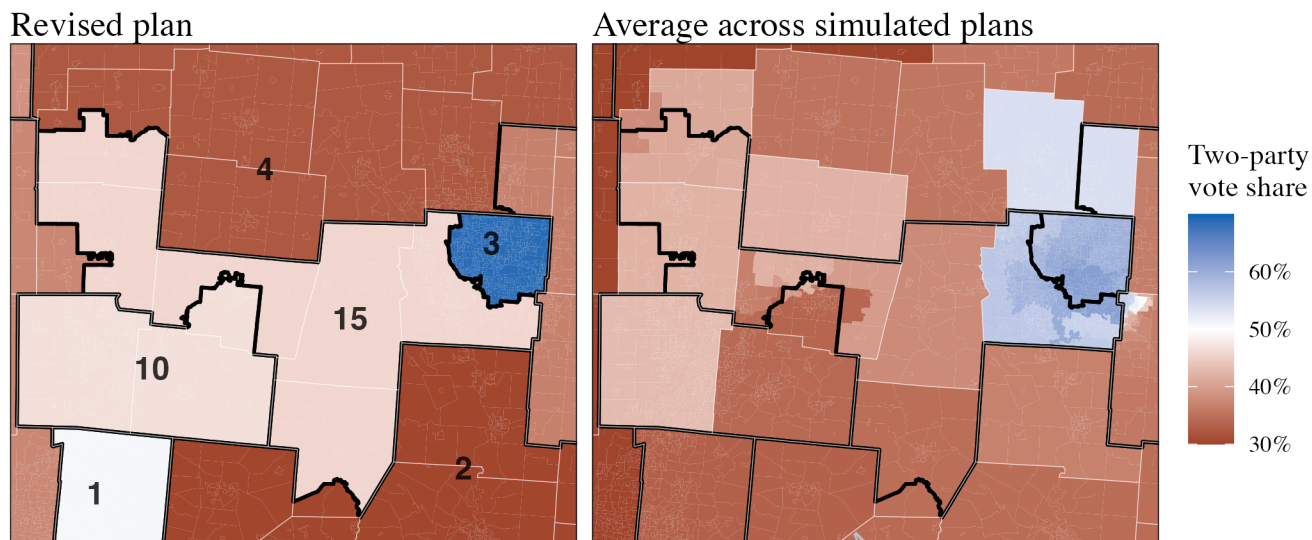


Figure 4: Congressional districts in Franklin County. The left map presents the expected two-party vote shares of districts under the revised plan, while the right map shows, for each precinct, the average expected two-party vote share of districts to which the precinct is assigned across the simulated plans. The revised plan's district boundaries are shown with thick black lines. While under the simulated plans, all of Franklin County are expected to belong to a Democratic district, the revised plan packs Democratic voters, leaving much of the city of Columbus and much of Franklin County in a Republican district stretching most of the way to Cincinnati.

the revised plan turns one safe Democratic district into a toss-up district by cracking Democratic voters.

B. Franklin County

19. Analogous to the above analysis of Hamilton county, Figure 4 compares the revised plan with the average across the simulated plans in Franklin County. In this county, the revised plan packs Democratic voters into a single, heavily Democratic, District 3, leaving Districts 4, 12, and 15 to be safely Republican. Much of the area inside Franklin County belongs to District 15, which is a safe Republican district, under the revised plan. In contrast, under the simulated plans, the entire area of Franklin County is expected to belong to a Democratic-leaning district, as is Delaware County and part of Fairfield County.

20. The histogram in Figure 5 represents the simulated distribution of the average Re-

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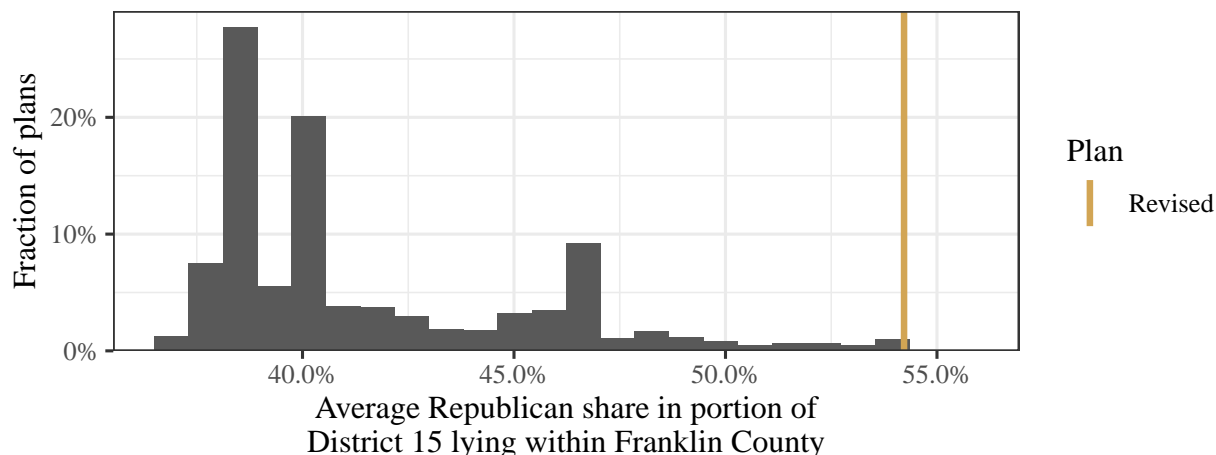


Figure 5: Average district-level Republican vote share across the simulated plans for the portion of Franklin County that belongs to District 15 under the revised plan. The histogram represents the simulated distribution of the population-weighted average Republican vote share of a district to which the portion of District 15 lying in Franklin County belongs. The revised plan is indicated by the vertical yellow line. Only 0.18% of the simulated plan assign this area to a district that has a higher Republican vote share than the corresponding vote share under the revised plan.

publican vote share of a district to which the portion of District 15 lying in Franklin County belongs. The simulated plan assigns this area to a strongly Democratic-leaning district with a population-weighted average Republican share of 41.5%, which is much lower than the corresponding vote share of 54.2% under the revised plan (vertical yellow line). This difference, which equals 3.4 standard deviations of the simulated distribution, is statistically significant. In fact, only 0.18% of the simulated plan assign this area to a district whose Republican vote share is higher than the revised plan, showing that the revised plan is a clear outlier in this regard.

21. Figures 15 and 16 in Appendix C show the same histograms for the portions of Delaware County that belong to Districts 4 and 12, respectively. They show that the revised plan assigns these areas to districts whose Republican vote shares are unusually high. In contrast, under the simulated plans, Delaware County is always kept together in a single district and tends to be part of a Democratic-leaning district, with an average Republican vote share of 46.2%. In other words, most simulated plans do not split Delaware County and instead combine it with the northern part of Franklin County, yielding an additional Democratic-leaning district.

22. In sum, the revised plan packs Democratic voters into District 3 and submerges the

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Democratic voters in the rest of Franklin County into District 15 that stretches out to the west rather than to the north as done under most of the simulated plans. By doing so, the revised plan creates a safe Republican district and deprives Democratic voters in the rest of the county of a reasonable opportunity to elect a Democratic candidate.

VI. COMPACTNESS ANALYSIS

23. The signs of partisan biases in Hamilton and Franklin Counties under the revised plan manifest as highly non-compact districts in these counties. I analyze the compactness of two relevant districts, Districts 1 and 15 of the revised plan, by comparing them with the average compactness under my simulated plans. My analysis shows that these two districts are highly non-compact in comparison to the corresponding districts in my simulated plans.

A. District 1 of the Revised Plan

24. The left map of Figure 6 shows the compactness of District 1 under the revised plan. This district combines part of Cincinnati and its environs with Warren County, resulting in a highly non-compact shape with the Polsby-Popper compactness score of 0.241. In contrast, as shown in the right map of the figure, the simulated plans on average assign the precincts of District 1 to much more compact districts. In particular, because a majority of my simulated plans keep Cincinnati and its environs in the same district, these areas are expected to belong to a more compact district (indicated by a lighter color).

25. Figure 7 shows the histogram for the simulated distribution of the population-weighted average Polsby-Popper compactness score for a district to which the precincts of District 1 belong. The average district compactness score for these precincts under the simulated plans is 0.341, which is 42% higher than the compactness score of District 1 under the revised plan. In fact, all of the simulated plans assign these precincts to a district that is, on average, more compact than District 1.

B. District 15 of the Revised Plan

26. The left map of Figure 8 shows the compactness of District 15 under the revised plan. This district combines part of Columbus and its environs with Madison County and extends

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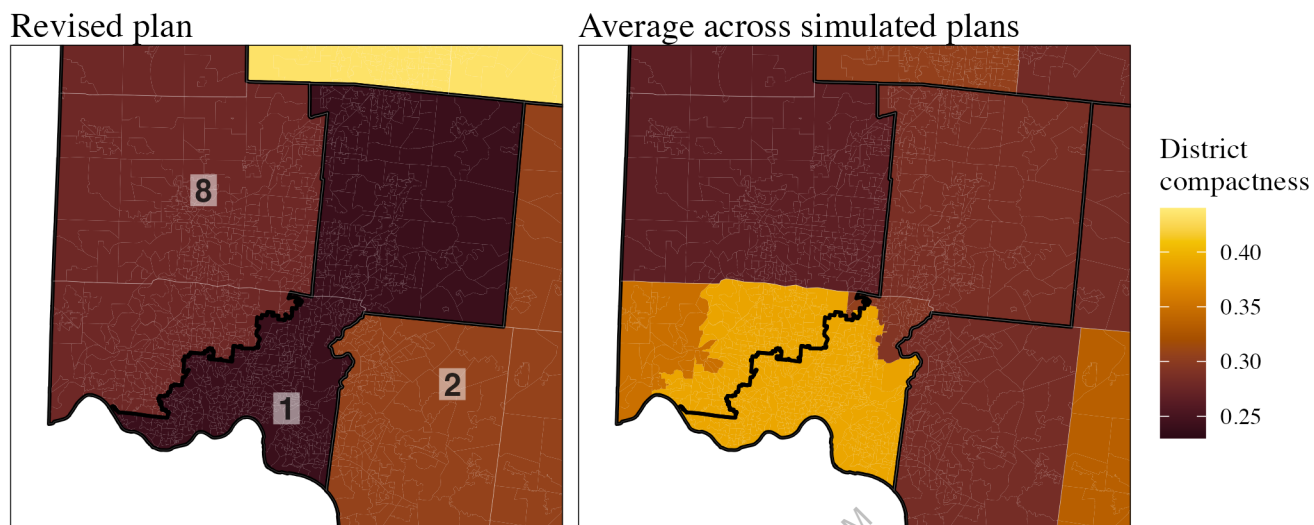


Figure 6: Compactness of District 1 under the Revised Plan. The left map presents the Polsby-Popper compactness score of each district under the revised plan, while the right map shows, for each precinct, the average compactness of districts to which the precinct is assigned across the simulated plans. The revised plan's district boundaries are shown with thick black lines. District 1 is highly non-compact as indicated by a dark color while under the simulated plans the precincts of District 1 are expected to belong to much more compact districts as indicated by a much lighter color.

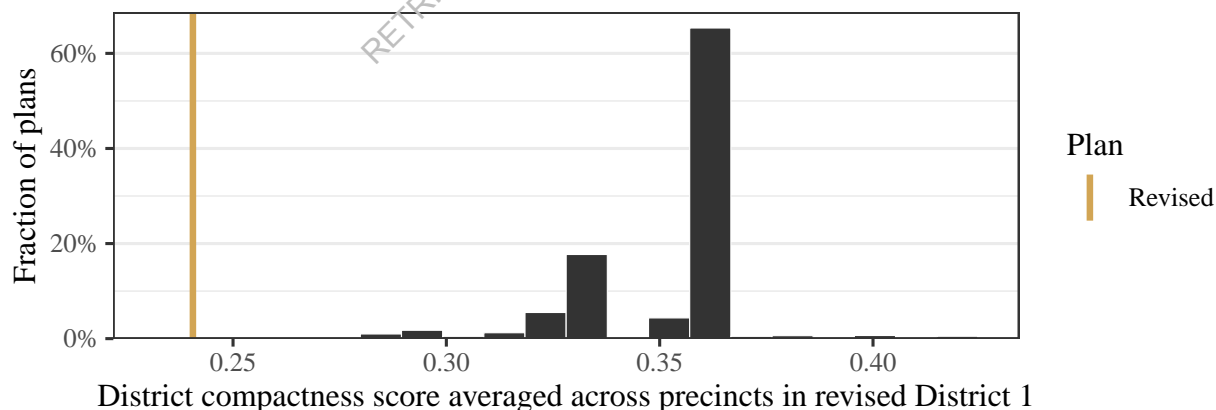


Figure 7: Average district-level Polsby-Popper compactness score across the simulated plans for the precincts that belong to District 1 under the revised plan. The histogram represents the simulated distribution of the population-weighted average compactness score of a district to which these precincts belong. The revised plan is indicated by the vertical yellow line. None of the simulated plans assigns this area to a district that is less compact than District 1 under the revised plan.

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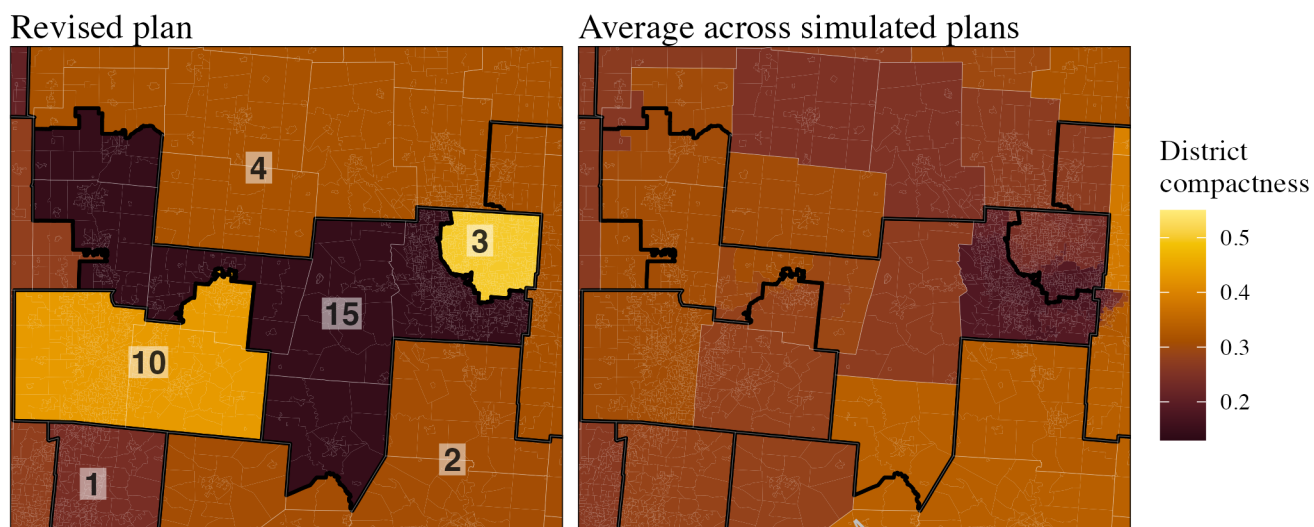


Figure 8: Compactness of District 15 under the Revised Plan. The left map presents the Polsby-Popper compactness score of each district under the revised plan, while the right map shows, for each precinct, the average compactness of districts to which the precinct is assigned across the simulated plans. The revised plan's district boundaries are shown with thick black lines. District 15 is highly non-compact as indicated by a dark color while under the simulated plans the precincts of District 15 are expected to belong to much more compact districts as indicated by a much lighter color.

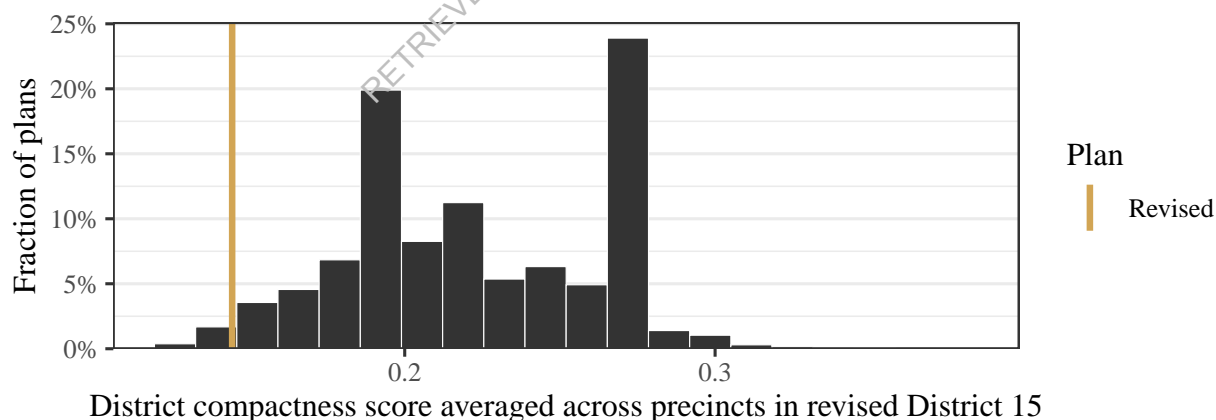


Figure 9: Average district-level Polsby-Popper compactness score across the simulated plans for the precincts that belong to District 15 under the revised plan. The histogram represents the simulated distribution of the population-weighted average compactness score of a district to which these precincts belong. The revised plan is indicated by the vertical yellow line. Only 1.1% of the simulated plans assigns this area to a district that is less compact than District 15 under the revised plan.

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into five other counties in the west. As a result, the district splits a total of five counties and has a highly non-compact shape with the Polsby-Popper compactness score of 0.144, the lowest of all fifteen districts under the revised plan (though District 3 that packs Democratic voters of Columbus is highly compact). In contrast, as shown in the right map of the figure, the simulated plans on average assign the precincts of District 15 to much more compact districts (indicated by a lighter color).

27. Figure 9 shows the histogram for the simulated distribution of the population-weighted average Polsby-Popper compactness score for a district to which the precincts of District 15 belong. The average district compactness score for these precincts under the simulated plans is 0.224, which is 55% higher than the compactness score of District 15 under the revised plan. In fact, more than 98.9% of the simulated plans assign these precincts to a district that is, on average, more compact than District 15.

VII. EXAMPLE PLAN

28. On February 22, 2022, more than a week before the revised plan was enacted, I submitted an example plan (hereafter “example plan”) that is more compliant with Article XIX of the Ohio constitution than the revised plan. This example plan, shown in Figure 10, demonstrates that it is possible to generate a redistricting plan, which is free of the partisan bias and compactness problems while complying with the other redistricting requirements of the Ohio Constitution.

29. One important difference between the example plan and the revised plan is how Hamilton County is treated. Under the example plan, District 1 is wholly contained in Hamilton County without spilling into Warren County as done in the revised plan. As a result, District 1 does not cross a county line and is much more compact under the example plan (Polsby-Popper compactness score of 0.474) than under the revised plan (compactness score of 0.241). Unlike the revised plan, which cracks Democratic voters in Cincinnati and its northern environs into two districts (Districts 1 and 8), the example plan keeps these areas together in a single compact district (District 1). This makes District 1 a safer Democratic district under the example plan (Democratic vote share of 56.3%) than under the revised plan (Democratic vote share of 51.0%).

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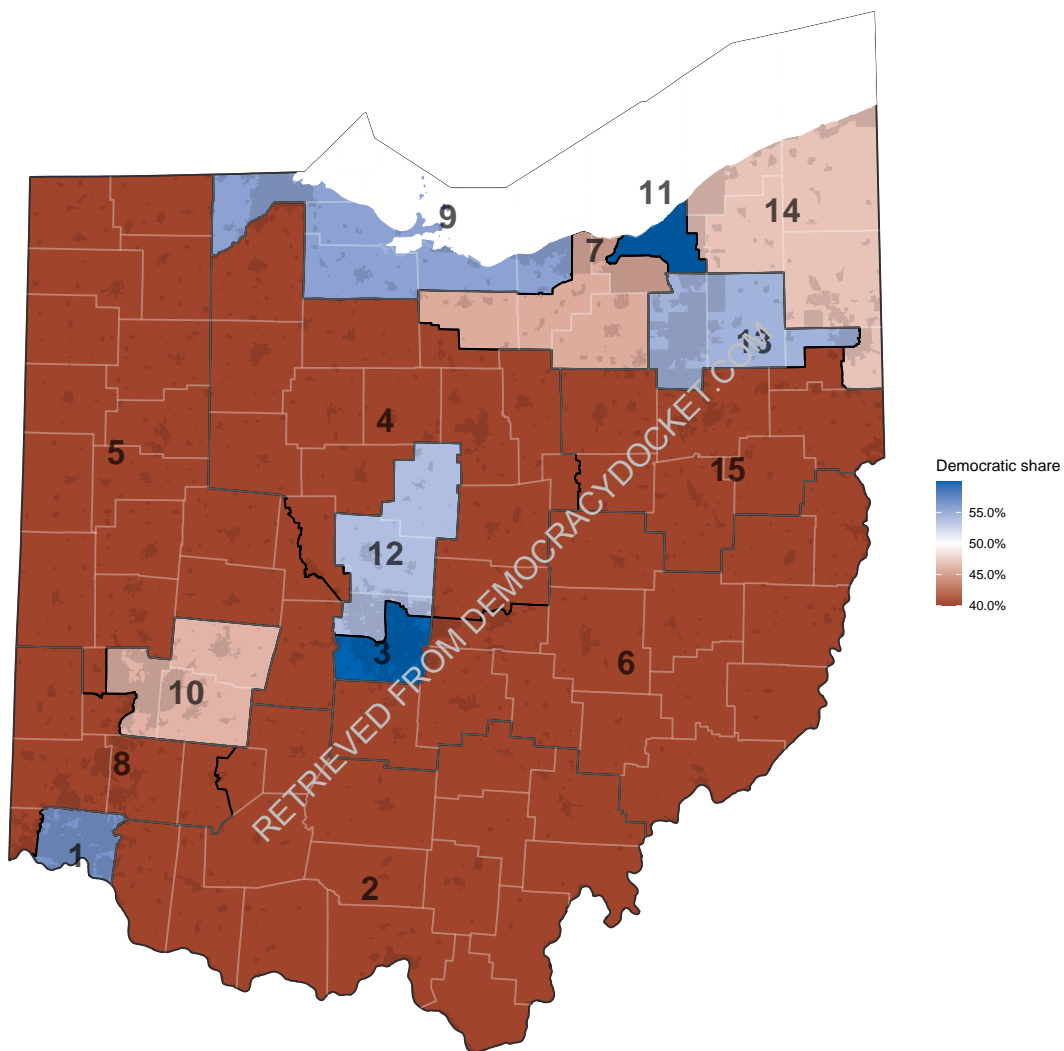


Figure 10: Example Congressional Plan Submitted to the Ohio Redistricting Commission on February 22, 2022.

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30. Another key difference lies in Franklin County. Under the example plan, this county is split into two districts. District 3 contains the southern part of Franklin County while the northern part of the county is included in District 12. This way of splitting Franklin County is consistent with a majority of my simulated plans and avoids creating a highly non-compact district. The revised plan's decision to spill into Madison County rather than Delaware County led to the creation of District 15, which splits five counties and has an extremely low compactness score of 0.144. In contrast, District 12 of the example plan is much more compact with a compactness score of 0.250. The partisan implication of this difference is clear. Under the example plan, both Districts 3 and 12 are Democratic-leaning with Democratic vote shares of 65.7% and 53.7%, respectively, whereas the revised plan ends up with one packed Democratic district (District 3 with the Democratic vote share of 68.9%) and one safe Republican district (District 15 with the Democratic vote share of 45.8%).

31. Beyond these two key differences, the example plan is much more compact than the revised plan. Indeed, the example plan is even more compact than the simulated plans (see Appendix A). The example plan also has fewer county splits than the revised plan (see Appendix B).

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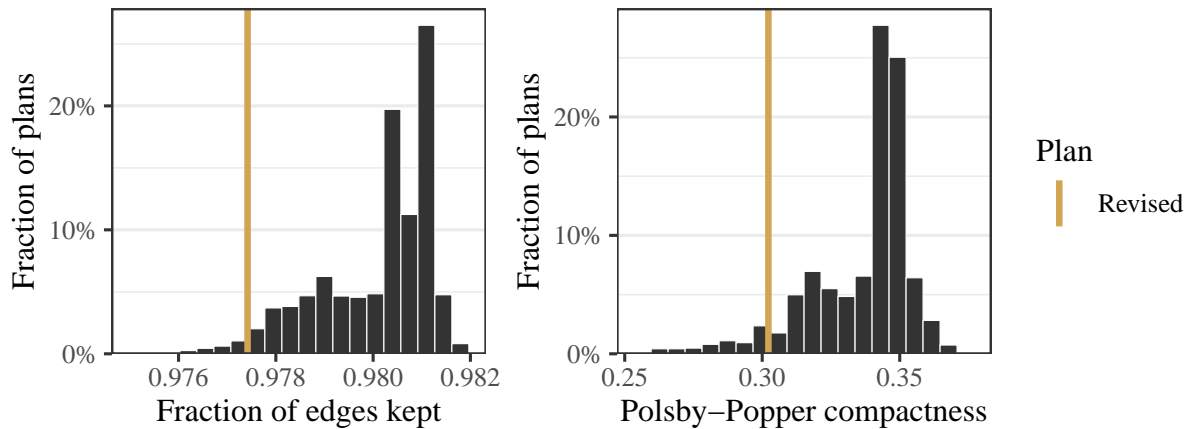


Figure 11: Fraction of edges kept and Polsby–Popper compactness scores for the simulated redistricting plans. Overlaid are scores for the revised plan (orange) and example plan (red). For both measures, greater values indicate more compact districts. The fraction of edges kept measure is not computed for the example plan because this plan is based on the census-block data while the simulated plans are based on the precinct-level data, making the direct comparison impossible.

VIII. APPENDIX

A. Compactness of the Revised, Simulated and Example Plans

1. In this appendix, I show that the simulated plans are more compact than the revised plan. I also show that the example plan is more compact than either the revised plan or simulated plans. I use the fraction of edges kept and the Polsby–Popper score, two commonly-used quantitative measures of district compactness. Note that I do not compute the fraction of edges kept for the example plan because the latter is built on the census-block level data rather than the precinct level data, making the comparison impossible. Figure 11 shows that a vast majority (roughly 93%) of the simulated plans are more compact than the revised plan according to the Polsby–Popper score. A similar conclusion holds even when one uses the fraction of edges kept measure. Moreover, the example plan is more compact than any of the simulated plans. The result clearly implies that it is possible to be compliant with Section 1(C)(3)(a) without sacrificing compliance with the requirement of an “attempt to draw districts that are compact.”

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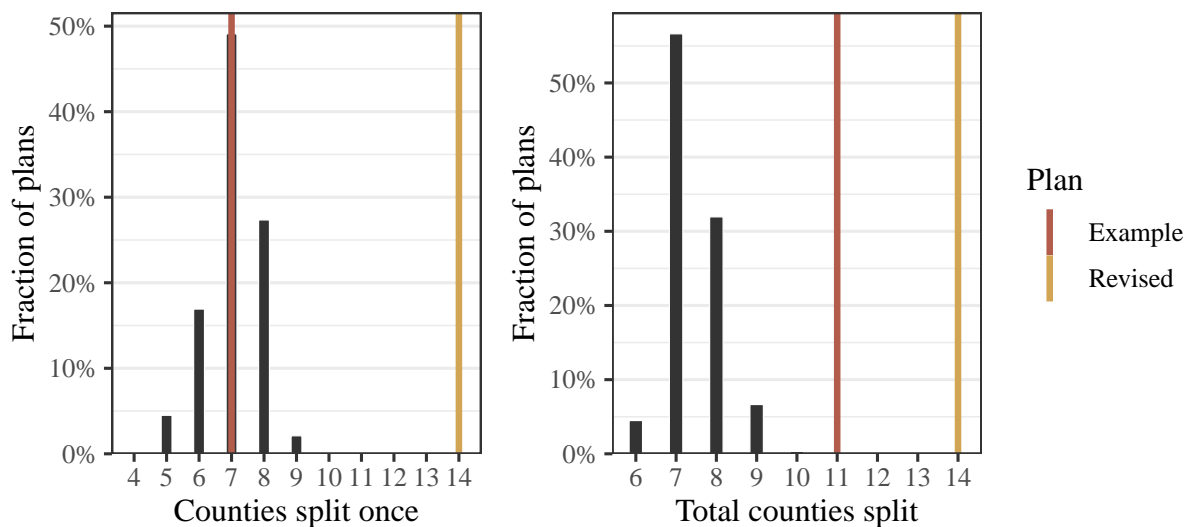


Figure 12: The number of county splits for the simulated redistricting plans. Overlaid are the scores for the revised plan (orange) and example plan (red). The left plot shows the number of counties that are split once under each plan, whereas the right plot shows the number of counties that are split either once or twice. No county is split more than twice under the revised plan, the example plan, or any of the simulated plans.

B. County Splits of the Revised, Simulated and Example Plans

2. Similar to compactness, it is possible to be compliant with Section 1(C)(3)(a) without splitting counties more than the revised plan. The left plot of Figure 12 shows that the number of counties split once is much less under any of the simulated plans than under the revised plan. The bulk of the simulated plans, as well as the revised plan, do not split any counties twice. As a result, the total number of counties split under the revised plan is much greater than that under any of the simulated plans, and is also greater than the total number of counties split under my example plan (see the right plot of the figure).

C. Additional Empirical Results for the Local Analyses

Figures 13, 14, 15, and 16 present additional empirical results for the local analyses presented in Section V where the discussions of these figures are given.

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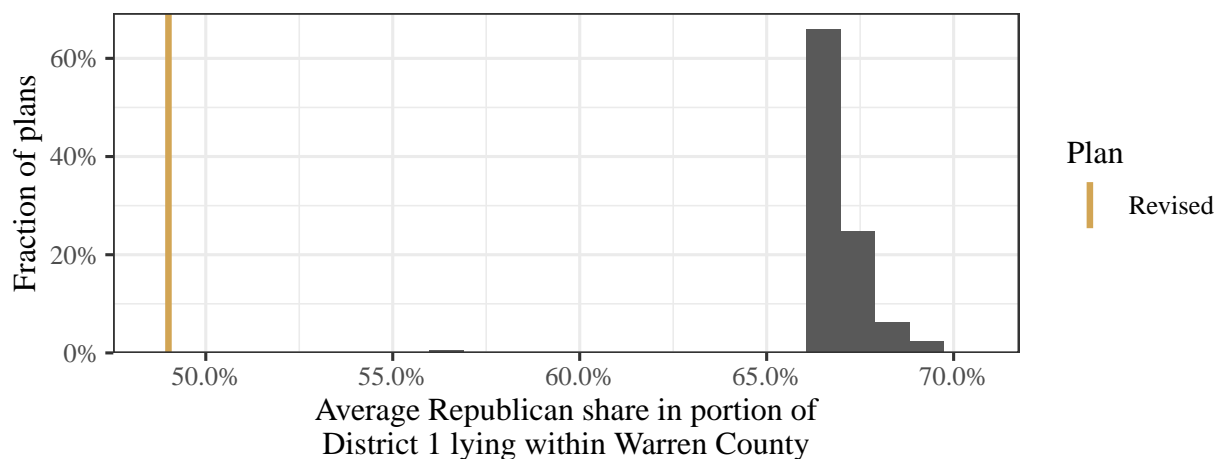


Figure 13: Average district-level Republican vote share across the simulated plans for the portion of Warren County that belongs to District 1 under the revised plan. The histogram represents the simulated distribution of the population-weighted average Republican vote share of a district to which the portion of District 1 lying in Warren County belongs. The revised plan is indicated by the vertical yellow line. None of the simulated plans assign this area to a district that has a lower Republican vote share than the corresponding vote share under the revised plan.

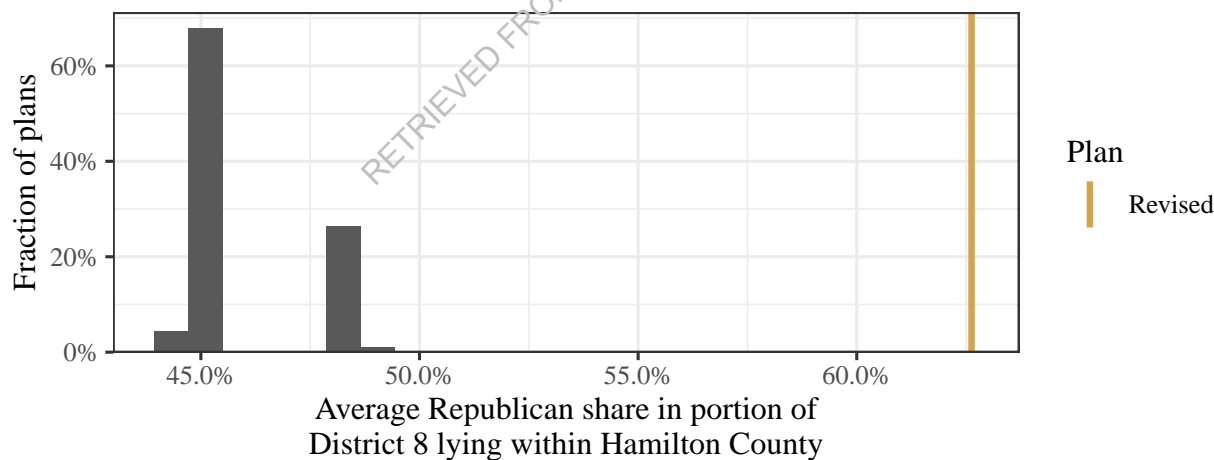


Figure 14: Average district-level Republican vote share across the simulated plans for the portion of Hamilton County that belongs to District 8 under the revised plan. The histogram represents the simulated distribution of the population-weighted average Republican vote share of a district to which the portion of District 8 lying in Hamilton County belongs. The revised plan is indicated by the vertical yellow line. None of the simulated plans assign this area to a district that has a lower Republican vote share than the corresponding vote share under the revised plan.

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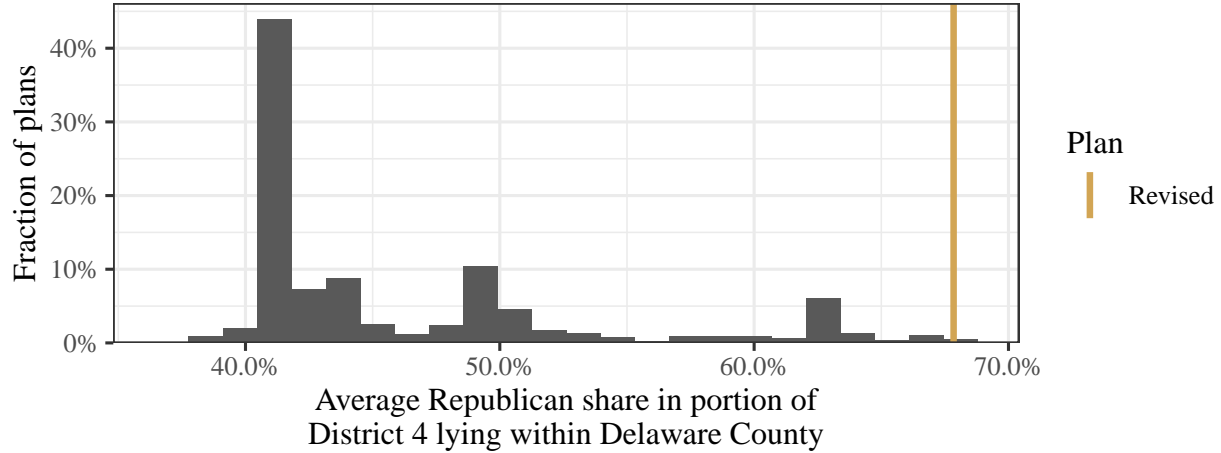


Figure 15: Average district-level Republican vote share across the simulated plans for the portion of Delaware County that belongs to District 4 under the revised plan. The histogram represents the simulated distribution of the population-weighted average Republican vote share of a district to which the portion of District 4 lying in Delaware County belongs. The revised plan is indicated by the vertical yellow line. Only 0.4% of the simulated plans assign this area to a district that has a higher Republican vote share than the corresponding vote share under the revised plan.

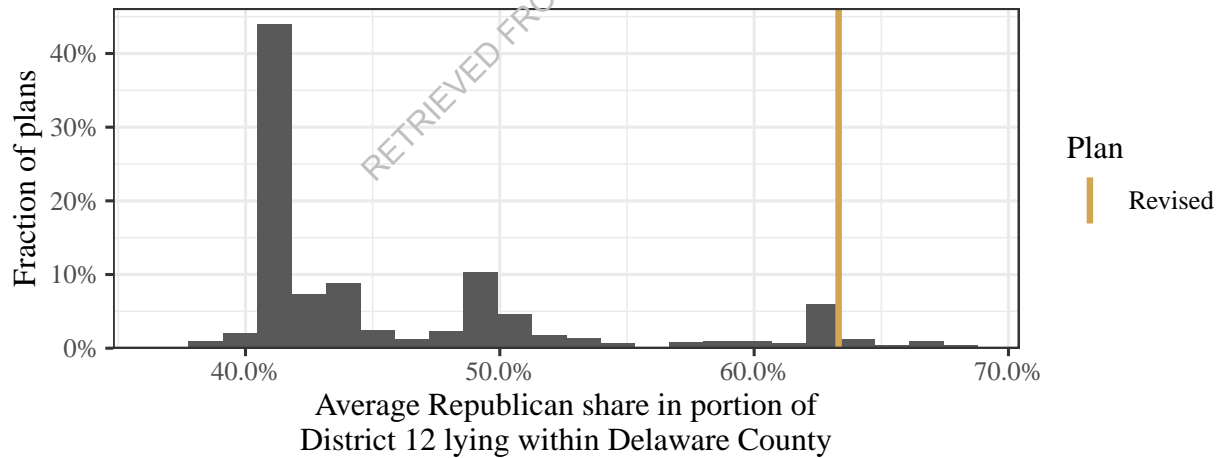


Figure 16: Average district-level Republican vote share across the simulated plans for the portion of Delaware County that belongs to District 12 under the revised plan. The histogram represents the simulated distribution of the population-weighted average Republican vote share of a district to which the portion of District 12 lying in Delaware County belongs. The revised plan is indicated by the vertical yellow line. Only 3.0% of the simulated plans assign this area to a district that has a higher Republican vote share than the corresponding vote share under the revised plan.

Statewide Issue

JON HUSTED

Ohio Secretary of State



I, Jon Husted, certify that printed below are the full text, ballot language, explanation and arguments that were certified to me by the Ohio Ballot Board, or filed with the Secretary of State as prescribed by law, for the constitutional amendment proposed by the Ohio General Assembly pursuant to Article XVI, Section 1 of the Ohio Constitution.

IN TESTIMONY WHEREFORE, I have subscribed my name in Columbus, Ohio, this fifteenth day of April, 2018.

In addition to certifying the following State Issue for the Primary Election occurring May 8, 2018, R.C. 3505.062(G) and Ohio Constitution Article II, Section 1g require the Secretary of State to contract for the publication of this information once a week for three (3) consecutive weeks preceding the election in at least one (1) newspaper of general circulation in each county in the state where a newspaper is published.

Jon Husted
OHIO SECRETARY OF STATE

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Ballot Language

Issue 1

Creates a bipartisan, public process for drawing congressional districts

Proposed Constitutional Amendment

Proposed by Joint Resolution of the General Assembly

To amend the version of Section 1 of Article XI that is scheduled to take effect January 1, 2021, and to enact Sections 1, 2, and 3 of Article XIX of the Constitution of the State of Ohio to establish a process for congressional redistricting.

A majority yes vote is necessary for the amendment to pass.

The proposed amendment would:

- End the partisan process for drawing congressional districts, and replace it with a process with the goals of promoting bipartisanship, keeping local communities together, and having district boundaries that are more compact.
- Ensure a transparent process by requiring public hearings and allowing public submission of proposed plans.
- Require the General Assembly or the Ohio Redistricting Commission to adopt new congressional districts by a bipartisan vote for the plan to be effective for the full 10-year period.
- Require that if a plan is adopted by the General Assembly without significant bipartisan support, it cannot be effective for the entire 10-year period and must comply with explicit anti-gerrymandering requirements.

If passed, the amendment will become effective immediately.

Shall the amendment be approved?

- ☐ YES
☐ NO

Explanation for Issue 1

The proposed amendment would end the current partisan process for drawing congressional districts by a simple majority vote of the General Assembly. This amendment requires a map be adopted with significant bipartisan support, with the goals of keeping local communities together and having district boundaries that are more compact. If bipartisan support cannot be obtained, strict anti-gerrymandering criteria would apply when adopting a congressional map.

Proposed Constitutional Amendment

Argument FOR Issue 1

Vote YES on Issue 1

A FAIR, BIPARTISAN, and TRANSPARENT PROCESS

VOTE YES on Issue 1. A YES vote will create a fair, bipartisan, and transparent process when drawing congressional districts that will **make politicians more accountable** to the voters. Issue 1 is supported by an overwhelming bipartisan majority of legislators as well as nonpartisan advocates.

Currently, it is too easy for one political party to gerrymander safe seats in Congress by dividing local communities and drawing a map without bipartisan support. Voting **YES on Issue 1** will limit gerrymandering by requiring that congressional districts be drawn with **bipartisan approval or utilizing strict anti-gerrymandering criteria**. It will also **keep communities together** by limiting splits of counties, townships and cities and promote geographically compact districts.

Fair

Voting YES on Issue 1 will establish fair standards for drawing congressional districts through its requirement of **bipartisan approval, or use of strict anti-gerrymandering criteria**.

Voting YES on Issue 1 will help keep our communities together by limiting the number of splits of counties, cities, and townships.

Bipartisan

Voting YES on Issue 1 will require significant bipartisan support to adopt new congressional districts for 10 years.

Transparent

Voting YES on Issue 1 will require multiple public meetings before adopting a proposed plan for congressional districts.

Voting YES on Issue 1 will guarantee public participation by allowing members of the public to submit a plan for congressional districts.

Voting YES on Issue 1 will preserve citizens' right to referendum and the veto power of the Governor when the General Assembly passes a plan for congressional districts.

Make your vote count, **vote YES on ISSUE 1**

Prepared by Senators Matt Huffman and Vernon Sykes and Representatives Kirk Schuring and Jack Cera

Argument AGAINST Issue 1

The current process for drawing new congressional districts is adequate and has served Ohio well for many years. Although the current system allows for one-party control, the voters can hold their state legislators responsible and vote against them if they believe those legislators are too partisan.

Even when this process is controlled by a single party, it is still representative of the people's will since any map is passed by statewide officials, who were themselves elected by popular vote. Historically, one party's control doesn't last forever.

The current process can be trusted to maintain fair district lines; a "no" vote maintains the status quo.

Prepared by the Ohio Ballot Board as required by Ohio Revised Code Section 3505.063(A).

Full Text of Amendment

(132nd General Assembly)

(Substitute Senate Joint Resolution Number 5)

A JOINT RESOLUTION

Proposing to amend the version of Section 1 of Article XI that is scheduled to take effect January 1, 2021, and to enact Sections 1, 2, and 3 of Article XIX of the Constitution of the State of Ohio to establish a process for congressional redistricting.

Be it resolved by the General Assembly of the State of Ohio, three-fifths of the members elected to each house concurring herein, that there shall be submitted to the electors of the state, in the manner prescribed by law at a special election to be held on May 8, 2018, a proposal to amend the version of Section 1 of Article XI that is scheduled to take effect January 1, 2021, and to enact Sections 1, 2, and 3 of Article XIX of the Constitution of the State of Ohio to read as follows:

ARTICLE XI

Section 1. (A) The Ohio redistricting commission shall be responsible for the redistricting of this state for the general assembly. The commission shall consist of the following seven members:

- (1) The governor;
- (2) The auditor of state;
- (3) The secretary of state;

(4) One person appointed by the speaker of the house of representatives;

(5) One person appointed by the legislative leader of the largest political party in the house of representatives of which the speaker of the house of representatives is not a member;

(6) One person appointed by the president of the senate; and

(7) One person appointed by the legislative leader of the largest political party in the senate of which the president of the senate is not a member.

No appointed member of the commission shall be a current member of congress.

The legislative leaders in the senate and the house of representatives of each of the two largest political parties represented in the general assembly, acting jointly by political party, shall appoint a member of the commission to serve as a co-chairperson of the commission.

(B)(1) Unless otherwise specified in this article or in Article XIX of this constitution, a simple majority of the commission members shall be required for any action by the commission.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a majority vote of the members of the commission, including at least one member of the commission who is a member of each of the two largest political parties represented in the general assembly, shall be required to do any of the following:

Proposed Constitutional Amendment

Full Text of Amendment - Cont.

- (i) Adopt rules of the commission;
- (ii) Hire staff for the commission;
- (iii) Expend funds.

(b) If the commission is unable to agree, by the vote required under division (B)(2)(a) of this section, on the manner in which funds should be expended, each co-chairperson of the commission shall have the authority to expend one-half of the funds that have been appropriated to the commission.

(3) The affirmative vote of four members of the commission, including at least two members of the commission who represent each of the two largest political parties represented in the general assembly shall be required to adopt any general assembly district plan. For the purpose purposes of this division and of Section 1 of Article XIX of this constitution, a member of the commission shall be considered to represent a political party if the member was appointed to the commission by a member of that political party or if, in the case of the governor, the auditor of state, or the secretary of state, the member is a member of that political party.

(C) At the first meeting of the commission, which the governor shall convene only in a year ending in the numeral one, except as provided in Sections 8 and 9 of this article and in Sections 1 and 3 of Article XIX of this constitution, the commission shall set a schedule for the adoption of procedural rules for the operation of the commission.

The commission shall release to the public a proposed general assembly district plan for the boundaries for each of the ninety-nine house of representatives districts and the thirty-three senate districts. The commission shall draft the proposed plan in the manner prescribed in this article. Before adopting, but after introducing, a proposed plan, the commission shall conduct a minimum of three public hearings across the state to present the proposed plan and shall seek public input regarding the proposed plan. All meetings of the commission shall be open to the public. Meetings shall be broadcast by electronic means of transmission using a medium readily accessible by the general public.

The commission shall adopt a final general assembly district plan not later than the first day of September of a year ending in the numeral one. After the commission adopts a final plan, the commission shall promptly file the plan with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

Four weeks after the adoption of a general assembly district plan or a congressional district plan, whichever is later, the commission shall be automatically dissolved.

(D) The general assembly shall be responsible for making the appropriations it determines necessary in order for the commission to perform its duties under this article and Article XIX of this constitution.

ARTICLE XIX

Section 1. (A) Except as otherwise provided in this section, the general assembly shall be responsible for the redistricting of this state for congress based on the prescribed number of congressional districts apportioned to the state pursuant to Section 2 of Article I of the Constitution of the United States.

Not later than the last day of September of a year ending in the numeral one, the general assembly shall pass a congressional district plan in the form of a bill by the affirmative vote of three-fifths of the members of each house of the general assembly, including the affirmative vote of at least one-half of the members of each of the two largest political parties represented in that house. A congressional district plan that is passed under this division and becomes law shall remain effective until the next year ending in the numeral one, except as provided in Section 3 of this article.

(B) If a congressional district plan is not passed not later than the last day of September of a year ending in the numeral one and filed with the secretary of state in accordance with Section 16 of Article II of this constitution, then the Ohio redistricting commission described in Article XI of this constitution shall adopt a congressional district plan not later than the last day of October of that year by the affirmative vote of four members of the commission, including at least two members of the commission who represent each of the two largest political parties represented in the general assembly. The plan shall take effect upon filing with the secretary of state and shall remain effective until the next year ending in the numeral one, except as provided in Section 3 of this article.

(C)(1) If the Ohio redistricting commission does not adopt a plan not later than the last day of October of a year ending in the numeral one, then the general assembly shall pass a congressional district plan in the form of a bill not later than the last day of November of that year.

(2) If the general assembly passes a congressional district plan under division (C)(1) of this section by the affirmative

vote of three-fifths of the members of each house of the general assembly, including the affirmative vote of at least one-third of the members of each of the two largest political parties represented in that house, and the plan becomes law, the plan shall remain effective until the next year ending in the numeral one, except as provided in Section 3 of this article.

(3) If the general assembly passes a congressional district plan under division (C)(1) of this section by a simple majority of the members of each house of the general assembly, and not by the vote described in division (C)(2) of this section, all of 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) to (c) of this section.

(e) If the plan becomes law, the plan shall remain effective until two general elections for the United States house of representatives have occurred under the plan, except as provided in Section 3 of this article.

(D) Not later than the last day of September of the year after the year in which a plan expires under division (C)(3)(e) of this section, the general assembly shall pass a congressional district plan in the form of a bill by the affirmative vote of three-fifths of the members of each house of the general assembly, including the affirmative vote of at least one-half of the members of each of the two largest political parties represented in that house. A congressional district plan that is passed under this division and becomes law shall remain effective until the next year ending in the numeral one, except as provided in Section 3 of this article.

A congressional district plan passed under this division shall be drawn using the federal decennial census data or other data on which the previous redistricting was based.

(E) If a congressional district plan is not passed not later than the last day of September of the year after the year in which a plan expires under division (C)(3)(e) of this section and filed with the secretary of state in accordance with Section 16 of Article II of this

constitution, then the Ohio redistricting commission described in Article XI of this constitution shall be reconstituted and reconvene and shall adopt a congressional district plan not later than the last day of October of that year by the affirmative vote of four members of the commission, including at least two members of the commission who represent each of the two largest political parties represented in the general assembly. A congressional district plan adopted under this division shall take effect upon filing with the secretary of state and shall remain effective until the next year ending in the numeral one, except as provided in Section 3 of this article.

A congressional district plan adopted under this division shall be drawn using the federal decennial census data or other data on which the previous redistricting was based.

(F)(1) If the Ohio redistricting commission does not adopt a congressional district plan not later than the last day of October of the year after the year in which a plan expires under division (C)(3)(e) of this section, then the general assembly shall pass a congressional district plan in the form of a bill not later than the last day of November of that year.

A congressional district plan adopted under this division shall be drawn using the federal decennial census data or other data on which the previous redistricting was based.

(2) If the general assembly passes a congressional district plan under division (F)(1) of this section by the affirmative vote of three-fifths of the members of each house, including the affirmative vote of at least one-third of the members of each of the two largest political parties represented in that house, and the plan becomes law, it shall remain effective until the next year ending in the numeral one, except as provided in Section 3 of this article.

(3) If the general assembly passes a congressional district plan under division (F)(1) of this section by a simple majority vote of the members of each house of the general assembly, and not by the vote described in division (F)(2) of this section, all of 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

Proposed Constitutional Amendment

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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) to (c) of this section.

(e) If the plan becomes law, the plan shall remain effective until the next year ending in the numeral one, except as provided in Section 3 of this article.

(G) Before the general assembly passes a congressional district plan under any division of this section, a joint committee of the general assembly shall hold at least two public committee hearings concerning a proposed plan. Before the Ohio redistricting commission adopts a congressional district plan under any division of this section, the commission shall hold at least two public hearings concerning a proposed plan.

(H) The general assembly and the Ohio redistricting commission shall facilitate and allow for the submission of proposed congressional district plans by members of the public. The general assembly shall provide by law the manner in which members of the public may do so.

(I) For purposes of filing a congressional district plan with the governor or the secretary of state under this article, a congressional district plan shall include both a legal description of the boundaries of the congressional districts and all electronic data necessary to create a congressional district map for the purpose of holding congressional elections.

(J) When a congressional district plan ceases to be effective under this article, the district boundaries described in that plan shall continue in operation for the purpose of holding elections until a new congressional district plan takes effect in accordance with this article. If a vacancy occurs in a district that was created under the previous district plan, the election to fill the vacancy for the remainder of the unexpired term shall be held using the previous district plan.

Section 2. (A)(1) Each congressional district shall be entitled to a single representative in the United States house of representatives in each congress.

(2) The whole population of the state, as determined by the federal decennial census or, if the federal decennial census is unavailable, another basis as directed by the general assembly, shall be divided by the number of congressional districts apportioned to the state pursuant to Section 2 of Article I of the Constitution of the United States, and the quotient

shall be the congressional ratio of representation for the next ten years.

(3) Notwithstanding the fact that boundaries of counties, municipal corporations, and townships within a district may be changed, district boundaries shall be created by using the data from the most recent federal decennial census or from the basis directed by the general assembly, as applicable.

(B) A congressional district plan shall comply with all of the following requirements:

(1) The plan shall comply with all applicable provisions of the constitutions of Ohio and the United States and of federal law, including federal laws protecting racial minority voting rights.

(2) Every congressional district shall be compact.

(3) Every congressional district shall be composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line.

(4) Except as otherwise required by federal law, in a county that contains a population that exceeds the congressional ratio of representation, the authority drawing the districts shall take the first of the following actions that applies to that county:

(a) If a municipal corporation or township located in that county contains a population that exceeds the congressional ratio of representation, the authority shall attempt to include a significant portion of that municipal corporation or township in a single district and may include in that district other municipal corporations or townships that are located in that county and whose residents have similar interests as the residents of the municipal corporation or township that contains a population that exceeds the congressional ratio of representation. In determining whether the population of a municipal corporation or township exceeds the congressional ratio of representation for the purpose of this division, if the territory of that municipal corporation or township completely surrounds the territory of another municipal corporation or township, the territory of the surrounded municipal corporation or township shall be considered part of the territory of the surrounding municipal corporation or township.

(b) If one municipal corporation or township in that county contains a population of not less than one hundred thousand and not more than the congressional ratio of representation, that municipal corporation or township shall not be split. If that county contains two or more such municipal corporations

or townships, only the most populous of those municipal corporations or townships shall not be split.

(5) Of the eighty-eight counties in this state, sixty-five counties shall be contained entirely within a district, eighteen counties may be split not more than once, and five counties may be split not more than twice. The authority drawing the districts may determine which counties may be split.

(6) If a congressional district includes only part of the territory of a particular county, the part of that congressional district that lies in that particular county shall be contiguous within the boundaries of the county.

(7) No two congressional districts shall share portions of the territory of more than one county, except for a county whose population exceeds four hundred thousand.

(8) The authority drawing the districts shall attempt to include at least one whole county in each congressional district. This division does not apply to a congressional district that is contained entirely within one county or that cannot be drawn in that manner while complying with federal law.

(C)(1) Except as otherwise provided in division (C)(2) of this section, for purposes of this article, a county, municipal corporation, or township is considered to be split if, based on the census data used for the purpose of redistricting, any contiguous portion of its territory is not contained entirely within one district.

(2) If a municipal corporation or township has territory in more than one county, the contiguous portion of that municipal corporation or township that lies in each county shall be considered to be a separate municipal corporation or township for purposes of this section.

Section 3. (A) The supreme court of Ohio shall have exclusive, original jurisdiction in all cases arising under this article.

(B)(1) In the event that any section of this constitution relating to congressional redistricting, any congressional district plan, or any congressional district or group of congressional districts is challenged and is determined to be invalid by an unappealed final order of a court of competent jurisdiction then, notwithstanding any other provisions of this constitution, the general assembly shall pass a congressional district plan in accordance with the provisions of this constitution that are then valid, to be used until the next time for redistricting under this article in accordance with the provisions of this constitution that are

then valid.

The general assembly shall pass that plan not later than the thirtieth day after the last day on which an appeal of the court order could have been filed or, if the order is not appealable, the thirtieth day after the day on which the order is issued.

A congressional district plan passed under this division shall remedy any legal defects in the previous plan identified by the court but shall include no changes to the previous plan other than those made in order to remedy those defects.

(2) If a new congressional district plan is not passed in accordance with division (B)(1) of this section and filed with the secretary of state in accordance with Section 16 of Article II of this constitution, the Ohio redistricting commission shall be reconstituted and reconvene and shall adopt a congressional district plan in accordance with the provisions of this constitution that are then valid, to be used until the next time for redistricting under this article in accordance with the provisions of this constitution that are then valid.

The commission shall adopt that plan not later than the thirtieth day after the deadline described in division (B)(1) of this section.

A congressional district plan adopted under this division shall remedy any legal defects in the previous plan identified by the court but shall include no other changes to the previous plan other than those made in order to remedy those defects.

EFFECTIVE DATE AND REPEAL

If adopted by a majority of the electors voting on this proposal, the version of Section 1 of Article XI amended by this proposal and Sections 1, 2, and 3 of Article XIX of the Constitution of the State of Ohio enacted by this proposal take effect January 1, 2021, and the existing version of Section 1 of Article XI of the Constitution of the State of Ohio that is scheduled to take effect January 1, 2021, is repealed from that effective date.

Ohio Redistricting Commission - 3-1-2022.mp4

<https://ohiochannel.org/video/ohio-redistricting-commission-3-1-2022>

Co-Chair Senator Vernon Sykes [00:00:01] Meeting of the Ohio Redistricting Commission to order, will the staff please call the roll?

staff member [00:00:08] Co-Chair Speaker Cupp?

Co-Chair Speaker of the House Bob Cupp [00:00:09] Present

staff member [00:00:09] Co-Chair Senator Sykes?

Co-Chair Senator Vernon Sykes [00:00:13] Present

staff member [00:00:12] Governor DeWine?

Governor Mike DeWine [00:00:14] Here

staff member [00:00:14] Auditor Faber?

Auditor Keith Faber [00:00:15] Yes

staff member [00:00:16] President Huffman?

Senate President Matt Huffman [00:00:16] Here

staff member [00:00:17] Secretary LaRose?

Secretary of State Frank LaRose [00:00:18] Here

staff member [00:00:18] Leader Russo?

House Minority Leader Representative Allison Russo [00:00:19] Here

Co-Chair Senator Vernon Sykes [00:00:21] With a quorum being present, we will meet as a full committee. The minutes are in your folder from a previous meeting. Is there a motion to accept the minutes?

Co-Chair Speaker of the House Bob Cupp [00:00:33] I'll move the minutes be accepted.

Co-Chair Senator Vernon Sykes [00:00:35] is there a second?

Senate President Matt Huffman [00:00:39] second

Co-Chair Senator Vernon Sykes [00:00:42] Are there any changes to the minutes? Any objections to the minutes? We will accept the minutes as presented, at this time we have before the commission another item The Tribune, The Chronicle, an expense that's eligible to be paid by the commission, is their motion to approve this expenditure,

Co-Chair Speaker of the House Bob Cupp [00:01:17] I'll move to approve the payment in the amount of \$7004.61 for the advertisement.

Co-Chair Senator Vernon Sykes [00:01:27] Is there a second?

Co-Chair Speaker of the House Bob Cupp [00:01:29] or notice I guess, rather an advertisement.

House Minority Leader Representative Allison Russo [00:01:34] Second

Co-Chair Senator Vernon Sykes [00:01:37] Any the comments or questions on the motion? Are there any objections to approving this expenditure? Seeing and hearing none, we will accept the expenditure approved the expenditure. The next item on the agenda will be presentations of congressional maps, this proceeding will be recorded so that we can deliberate over it and it will be archived. We ask that the audience today, refrain from clapping or the loud noise out of respect for the witnesses and the persons watching the this remotely. If you want to testify, please complete a witness slip and we'll take care of that. The witnesses can testify up to 10 minutes is regulated by the co-chairs. The first person to testify and present a plan is Ryan Brune. Can you state and spell your name for the record, please?

Ryan Brune [00:03:00] Yes. My name is Ryan Brune, R-Y-A-N B-R-U-N-E

Co-Chair Senator Vernon Sykes [00:03:05] You have 10 minutes sit, thanks.

Ryan Brune [00:03:08] How many minutes?

Co-Chair Senator Vernon Sykes [00:03:09] 10.

Ryan Brune [00:03:10] All right. So I had some prepared remarks which you find in front of you today. I'm going to change it up a little bit, though, given the the new map that I see will be vote well, not voted on today, but likely tomorrow. Before we begin, though, I'd like to say that it's an incredible experience to be before all of you. I've never seen the governor, I've never seen the auditor. I've never seen the majority of the minority leaders have never seen the secretary of state. The fact that that's possible is truly awesome and that maybe one of the better things about this commission, which is obviously had some problems. So the map that I made and present before you is not my favorite map. It is not an ideal map. In my opinion. An ideal map would be a proportional map, but I think everybody, everybody here knows that's not in the cards. If you want a map that I think is ideal, I would look at the League of Women Voters map. But the map that I have before you here today has a slight Republican bias, but I think does not disfavor any political party too much one way or the other. I would note that unlike the legislative maps, there are no there are no constitutional requirements for a strictly proportional map. But as Maureen O'Connor said in her, in her and her brief, it's a starting place to where to look. My map has, you know, it varies a little bit throughout elections and the 2020 presidential election. Trump won 10 districts, Biden won 5, but Biden was 0.1 percent short, carrying a 6th, 2% short of carrying a 7th. The 2018 gubernatorial election Cordray, DeWine's 2018 opponent, won 7 to DeWine's 8. You can vary around a little bit. Also, I went to great lengths to ensure that incumbents should be pretty happy with this map. No incumbents that are running for reelection are double bunked with the exception of Lada and Kaptur and the 8th, You know, maybe you think of it as the 9th, but I call it the 8th. But in that district, it is narrowly democratic by composite, but is actually Trump, Trump won it in 2020. It's, you know, about as even of a district as you can possibly have, it would be a fair fight between the two of them. I think that's the most reasonable way to have an incumbent non-incumbent matchup. You can look through the document I provided for

specific partisan breakdowns between the 2020 presidential and 2018 gubernatorial elections. It's not a perfect map. It's a good map, in my opinion, satisfies all the constitutional requirements that are laid out. And I think it's a reasonable map in that I would hope that you guys would be able to accept it. I mean, I'm just looking at this new map that you have here, and I'm sure it follows all the requirements regarding splitting not, you know, not splitting cities, et cetera, et cetera, et cetera, zeroed out population like everything like I have. But I hope I hope the commissioners here know like, I'm sure this is going to pass tomorrow, but there's no way that the Supreme Court is going to accept this map. Like it's just a fact. I mean, like, it's just going to create more chaos. If you if you pass your map, it's they're not. I mean, there's even like a chance of a special master, unlike for the legislative redistricting where I believe Section 5 strictly prohibits the court for ordering a specific map. Or drawing a map themselves, there's no such requirement for the Supreme Court in this case. I mean, if you draw this map, I think there's a strong chance that incumbents from both parties are going to be drawn in in a court ordered map into districts together, and everyone's going to be unhappy. I'm offering a map, in my opinion, where I think both parties aren't exactly happy, but both parties, you know, can live with it. I mean, that's what I'm trying to offer a map. You can live with. The map that's going to pass tomorrow isn't going to be the map. I mean, I'm convinced of that. But I will take questions.

Co-Chair Senator Vernon Sykes [00:07:08] Thank you. Appreciate it. Any questions.

Co-Chair Speaker of the House Bob Cupp [00:07:10] I have a question

Co-Chair Senator Vernon Sykes [00:07:11] Yes.

Co-Chair Speaker of the House Bob Cupp [00:07:12] Thank you, Mr. Chairman. I have a question. Ryan, what, what got you interested in this and what is your occupation or or status?

Ryan Brune [00:07:24] Sure. So I work at Huntington Bank as a model risk analyst. I'm also pursuing a master's degree at Ohio State University in statistics.

Co-Chair Speaker of the House Bob Cupp [00:07:31] And what got you interested in this statistics? Modeling?

Ryan Brune [00:07:36] I don't know. I don't exactly know what started, but I run a Twitter account @BruheElections which has nearly 10,000 followers now, so it's kind of a passion.

Co-Chair Speaker of the House Bob Cupp [00:07:48] Have, have you met all of the constitutional requirements about in terms of not splitting or splitting and keeping districts within certain counties and not, sure you're familiar with those?

Ryan Brune [00:08:02] Yes.

Co-Chair Speaker of the House Bob Cupp [00:08:05] Great, That was it

Co-Chair Speaker of the House Bob Cupp [00:08:07] Are there any additional questions? If not, we'd like to thank you very much. Appreciate it. Hope you had a good opportunity here to meet everybody.

Ryan Brune [00:08:16] Yeah

Co-Chair Senator Vernon Sykes [00:08:17] You didn't mention my name, but that's all right.

Ryan Brune [00:08:24] ok, I'm so sorry, Mr. Sykes.

Co-Chair Senator Vernon Sykes [00:08:31] Next, we have David Helmick, who is written testimony only and then Michael Metzinger. Michael Metzinger. He's not here. OK? Is there any other business to be brought before the commission? Commissioner Huffman.

Senate President Matt Huffman [00:09:08] Thank you very much. Co-Chairman Sykes I would like to present, although I think we're going to wait till tomorrow's hearing to make a motion. I understand that's the preferred procedure for from the chair like to present the map. I think it's styled now on the website as Strigari 2022 Congressional Map. Certainly, we get the name right, but it might be a little bit longer, but so present that at the time it is present on the website pursuant to requests from Leader Russo that was presented to, I believe, to the at least leader Russo and Senator Sykes earlier today for their examination. And I'm not. I'm not sure, frankly, about the other commissioners. I think they've had an opportunity to look at it. As I mentioned in my letter of last week, I invited all the commissioners and or their staff to visit, at least with the folks who are working on the map for the Senate. I believe that happened with the House also, so it's been about a five day process. So this is the map that I'm presenting to the commission today. And again, I understand that the formal motion and vote would be tomorrow and the map is there, the index and then all of the specifics. If people want to look at particular counties or townships or what have you, that's all they can do that on the the commission website. So I'll be happy to answer any questions now. Or perhaps that's better for tomorrow. Whatever the preference of the members,.

Co-Chair Senator Vernon Sykes [00:10:57] Leader Russo?

House Minority Leader Representative Allison Russo [00:10:59] Thank you, Mr. Co-Chair. Thank you. Commissioner Huffman, I do appreciate the invitation on Friday from both you and Speaker Cupp. I believe our staff were able to meet on Sunday and we there was not a map to share at that point. And I appreciate you honoring my request this morning to send over. I think we got it at about 12 o'clock, so we have had just a few minutes to look over the map before coming in here. And I guess my first, you know, a couple of questions for you. And again, I know we will have more questions tomorrow because we've had a very limited amount of time so far to look at the details of this. But when I look at Hamilton County, currently the Hamilton County district that you've drawn here, which looks like it's got a Dem index, well, I would call it maybe a Warren County, Cincinnati district of 51% Is there a reason that this a congressional district for Hamilton County was not drawn to be included entirely within Hamilton County is their reason to split Hamilton County? I mean, we have kept at least the city of Cleveland, all within Cuyahoga County. We've in a Cuyahoga County district. We've kept Columbus entirely within a Franklin County district. Is there a reason that we're not keeping Cincinnati within a Hamilton County district and in moving it up and to Warren County?

Senate President Matt Huffman [00:12:43] Well, the first, Mr. Chairman, Co-Chair Sykes, I can proceed?

Co-Chair Senator Vernon Sykes [00:12:48] Yes

Senate President Matt Huffman [00:12:48] Thank you. First thing is, you know, the first thing that we tried to do as pursuant to the Constitution, which is section 3B-2, is remedy any legal defects in the previous plan identified by the court, which include no other changes. Everyone can read the rest of the language there if they want to that's relevant. And the court did identify Cuyahoga County and Hamilton County as two problematic areas. I guess I'll put it, I'm not sure. I don't think they used that word, but those are two things that they did. So part of this is trying to draw draw a map, and that, first of all, comports with what the Supreme Court directed. We think that it does that now. After that, there are still policy preferences and choices that commission members make. We, of course, are bound by the Constitution, and the law in this case is the Supreme Court identifies it. But I don't think that simply means that the commission members individually and then collectively as a body, don't have any separate preferences, so it may be your preference that it's all inside Hamilton County. We think this is a better version of the map

House Minority Leader Representative Allison Russo [00:14:17] and follow up?

Co-Chair Senator Vernon Sykes [00:14:19] Yes.

House Minority Leader Representative Allison Russo [00:14:20] So looking back at the decision specifically about Hamilton County, I believe the concern of the enacted plan, I think it was justice, Donnelly concluded. Carves out the Hamilton County's northern black population from its surrounding neighborhoods and combines it with mostly a rural district that ends 85 miles to the north in Cincinnati from its immediate inner ring suburbs and combines the city proper with Warren County. Do you think that this map addresses the concern about carving out another the northern black suburban populations and Hamilton County from the surrounding neighborhoods in Hamilton County by drawing it upward with Warren County? Would it be more compact, for example, to draw this district entirely within Hamilton County?

Senate President Matt Huffman [00:15:11] through the chair, I'll try to answer each of those. As I've indicated, throughout this process, we did not use racial data when drawing these maps. And so, you know, obviously that was not an intent or motive of any kind. And you know, again, I think, you know, each of us can have policy preferences. Perhaps somebody from Hamilton County is in a better position to say what goes with what. As you know, in the multiple public hearings we had on the General Assembly map in this map, keeping that some people talked about splitting up various communities, but you know, at some point you have to draw a line someplace. And I think this is appropriate, but certainly didn't have anything to do with racial data since we didn't have we didn't use that.

House Minority Leader Representative Allison Russo [00:16:11] Thank you.

Co-Chair Senator Vernon Sykes [00:16:12] Yes.

House Minority Leader Representative Allison Russo [00:16:12] Mr. Co-Chair, I have a couple of other questions. And thank you, Commissioner Huffman. You know, I would say just about the Hamilton County District. If we're making a list of recommendations, at least from me as a commissioner, it would be to consider drawing a district that is entirely within Hamilton County. And I think that that is achievable. My second question is in northwest Ohio specifically is there we seem to have two districts, nine and five that are quite extensive. And I'm trying to understand why Lucas County, for example, in District 9, to make it more compact, would not be drawn over to Lorain County to create one district, which would certainly be more compact than I think what we currently see for 9 I know. I

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

Senate President Matt Huffman [00:17:33] Through the chair, I guess I respond to a variety of things there, if I could, just so I know that I covered this, Mr. Chair. The map is uploaded under the name Frank Stigari it is called March 1st, 2022. For those who the public who may be looking for that. So back to the comments regarding the congressional district number 9. You know, one of the things that we tried to do and I think we did a pretty good job accomplishing this is to try to keep areas together where there were there are some central cities now. Some may say, well, you know, Warren County and in parts of Hamilton County. Certainly, if you look at population growth and these are just these are just observations. A lot of the folks who live in Butler and Warren and Claremont County at some point lived in Hamilton County. That's not necessarily true for everyone. But when you look at Toledo, folks from Toledo look at Toledo as the central core city for what we call the lakefront in northwest Ohio. Now folks in Lima don't consider themselves in northwest Ohio. We're in west central Ohio. And but everybody has their own versions of what regions there are. And the I'm not sure who first term the the District 9 is the Snake-on-the-Lake. That was maybe Jim Province did, I would guess it's clever enough that he probably did it. But the that, of course, district was created because there was a deal that Democrats wanted to make in 2011 to make sure that Dennis Kucinich couldn't run and beat Marcy Kaptur. So we consented to that, and that's how we ended up getting Democrat votes for the map in 2011. This map doesn't do that, although all of these districts, with the exception of Defiance County, are either on the lake or on on the Michigan border. So if you're traveling in those parts, if you're traveling on the interstate or traveling on Route 20, I think it is. It goes through that those are all convenient places to go to and from Lorain's a little bit further away, obviously. So, you know, again, choices, wherever you start drawing the line, someone can say, well, it would be better to include this county here. And as you know, this is a little bit like a, you know, the toy where if you push down here, another another part pops up. But for the folks who would represent District 9, it's it's a pretty consistent part of the state.

House Minority Leader Representative Allison Russo [00:20:26] Thank you, Mr. Co-Chair. Thank you, Commissioner Huffman, for answering that question. You know, again, the decision to not include Lucas County with going towards the East with Lorain County not only makes it more compact, but frankly, you know this drawing this decision seems to unduly favor Republicans and disfavor Democrats because it frankly drives the DPI down. My second my third question is in again, you know, this would be another recommendation that I would add that you consider redrawing this, these two districts, so that they are more compact in these areas. My third question here regards Franklin County and District 15 in Franklin County. And at this point, we've got Franklin County, of course, paired it goes almost all the way over to the western side of the state. Just looking at this map, I'm not entirely sure what counties those are. But is there a reason that the decision was made not to make this district more compact, for example, by pairing it with Union County or Delaware County or some combination of both?

Senate President Matt Huffman [00:21:55] Yeah, and through the chair, Senator Sykes, just real quickly on District 9, I think that district remains unchanged from the previous map, and the court did not comment on that map or on that district. And again, the constitutional charge is to to try to to make changes or remedy the defects that a court identifies in their opinion. So back to your question regarding 15, however. So one of the phenomenon is as you try to draw compact districts in districts that don't carve up counties

in as most of these districts don't at some point really as a necessity, you end up with what I would call a maybe a Frankenstein district or a district that is the parts that are left over. And we've largely avoided that in this map, as you can see on the new District 13, all of Summit County and a portion of Stark County. We've eliminated the where previous. I think the current map maybe has four splits in Summit County. We've taken that down to one or four districts. We're taking it down to two. So Summit County had two or three divisions in it. It's a whole Stark County with only one in. As you look around, you can see this is just a much different looking map than there was before. But as you try to do that, you know you have to make choices in particular places. So, for example, in the 10th District, which includes Montgomery and Greene County and the request from ten years ago from Republicans and Democrats and independents alike is that Wright-Patterson Air Force Base should be in the same district because part of it is in Greene County and part of that Montgomery County. If those two are combined, there have to be with our equal population requirement, those. There has to be folks who come from somewhere. So those trying to keep each of these districts and not divide counties at some point, I think you have to have a district where there are. That certainly is less compact than other districts and that's what you have with 15. But again, going back to the court's decision in the Constitution, what we've done in this map is remedy those things that the court pointed out.

House Minority Leader Representative Allison Russo [00:24:19] Through the co-chair. Thank you, Commissioner Huffman. You know, I would say again, 15 looks pretty much like a Frankenstein district to me when you could simply go north into Union and Delaware County, and it certainly would look prettier and would be more compact. And there is an argument, particularly for that north western corner of Franklin County, which shares, in fact, even a school district with some of Union County and Delaware County. And again, you know, the decision, I think not to do that to me represents a potential example where the Republicans were unduly favored and the Democrats unduly disfavored. My fourth question is about Cuyahoga County. You have a second district that is drawn in Cuyahoga County. I do appreciate that at least the Cleveland district was included entirely in Cuyahoga County, but that Second District has the western and southern suburbs of Cuyahoga County going all the way into Amish country? That seems like very dissimilar communities there. Is there a reason, you know, to me, there were a couple of choices that could have been made. You could have gone to Lorain, Geauga County, you could have gone to Lake and Ashtabula County. That certainly would have perhaps made the district more compact and kept areas that were a little bit more similar together. Can you explain why the decision was made to go down into Wayne and Holmes County and include that with the suburbs of Cuyahoga County?

Senate President Matt Huffman [00:26:11] Through the chair Sykes, thanks. So just, I guess, for the public's edification and frankly, maybe for some of the commission members, because this is actually a new phenomenon to me. There is an animal called the Polby-Popper Scoring having to do with compactness. Is that right? I get that right, guys. And this is this is a scoring method that they used to look at maps and decide how compact they are. It doesn't talk about other constitutional principles, some of the other things, but just a compact. So this proposal taken as a whole, and certainly we can look at one district and et cetera. But this proposal taken as a whole is either as compact or more compact than the Senate Democrat proposals as in. And again, taking the proposal altogether. So I would invite commission members to look at that scoring and see that. So it doesn't mean we can't be critical of individual districts, so we shouldn't ask opinions. But if this is a compactness argument, then then this is actually a better proposal than what Senate Democrats have put together. So. So onto the questions regarding Cuyahoga

County, the there's really and I think most people know this, but really a pretty massive concentration of population in northeast Ohio in first what I would call the the kind of seven districts and then from Cuyahoga to Summit, Geauga, Portage, Trumbull, Ashtabula, and Lake County and then kind of an outer ring that would include Medina and Wayne and Stark and on into Mahoning County. And I might've left one out there. So the first thing you have to consider and again, you need to draw these and consider these with all of the other population in mind. You can say we'll do this instead of that again. How does that affect everything? So the 14th District, which is bounded, of course, on the east by Pennsylvania, in the north, by Lake Erie, there's only so many places you can go. Well, we've been able to draw this district, as you can see with simply five counties in there. I think there's an incursion in one of those counties. And again, that's strictly for the population. So I don't think there's there can be much of an argument about the compactness of that. Next is the 13th district, which is again all of Summit County, what the court specifically provided in part of a Stark County and that is a democratic drawn district. And that district, of course, is also as compact as it can be one full county in a part of another county. We hear a lot the phrase the Canton-Akron corridor. If you're from Akron, I guess you say the Akron-Canton corridor, but those, in fact, are often twin cities. So those those districts are combined. And then, you know, the parts of inner city Cleveland now perhaps the 7th District is a little bit like 15th where it's made up of parts, but you have two full counties in the which are Wayne and Medina, I believe, and then the rest of Cuyahoga County. So we've done is the court instructed us, let's only have two districts inside Cuyahoga County. Let's try to keep counties whole. That's been part of the charge in this thing. And you know, these are the things that not only the court has dictated in the Constitution, but these are things that have been part of this public discussion for years and years. So, you know, we can say the 7th District is not compact. Well, it's, you know, it's one continuous line. I think some of these are appearance things. Some of these are, you know, how how to govern after the district is created and after the election. But I certainly think 7 is a compact district, as is 13 and 11 and 14.

House Minority Leader Representative Allison Russo [00:30:24] Thank you, Mr. Co-Chair. Thank you, Commissioner Huffman. You know, just to clarify, again, this would be another area that I would recommend changes to the draft map that we see before us because again, my concern here really goes back to the question of again, with what the Constitution makes very clear is that a congressional plan shall not unduly favor or disfavor a political party. And my concern about some of the decisions that are made that I've asked about in these districts is that it appears that decisions were made and intentionally not made again to favor Republicans and unduly favored Democrats. But I look forward to more discussions, and I hope that you will take some of these areas of recommended changes into consideration before we come back tomorrow and again, make myself and my staff available to have those discussions. And that's all that I have right now, Mr. Co-Chair.

Co-Chair Senator Vernon Sykes [00:31:32] I'd like to also thank Commissioner Huffman for extending his staff that they did meet over the weekend and had an opportunity to to have some dialog. You know, unfortunately it was. It was. It was just a one way communication for the most part, and we were sharing our ideas about what we thought, our suggestions and recommendations. There weren't any necessarily forthcoming suggestions from the majority as it relates to the map. So the first time we got any indication of what the map your proposal looks like is just a just hour or so ago. And I'm just wondering in the in this phase of of cooperation or lack of cooperation in trying to make sure we collaborate, particularly as it relates to this commission, this commission about in guidance in conformity with the Constitution is put in place to really try to promote

a bipartisan process, particularly as relates to the congressional districts. In fact, going through the second step is that you in fact have a bipartisan plan, have an opportunity to adopt a bipartisan plan through the commission. And I'm just concerned about you being open to some of the recommendations. Some suggestions of Leader Russo have indicated. We have others. We haven't had a whole lot of time to look at this, but I'm hopeful that some consideration would be given to suggestions and recommendations to try to move this in a more collaborative way into in a more bipartisan way for a 10 year, 10 year plan.

Senate President Matt Huffman [00:33:36] Mr. Chairman can I respond?

Co-Chair Senator Vernon Sykes [00:33:38] Yes.

Senate President Matt Huffman [00:33:38] First of all, I differ with you in your characterization of the meetings over the weekend. As you know, I wrote a letter to you and to all the commissioners inviting them to meet personally with Mr. De Rossi. Mr. Springetti works for the speaker, and I think he did the same thing and you were invited personally to come. You sent staff that's fine with you, but I I guess I'm going to disagree with you that that was all one way. Mr. De Rossi came to you, asked what your ideas were told them, what they were thinking. If you want to characterize it as a one way conversation, I think that's unfair. But everybody has their own ideas. The second thing I would say is it's one thing to say we have recommendations if you have a motion to change this map when this is formally moved, if you have specific ideas, let's hear them. We kind of got to this with the map where there were criticisms, but no changes recommended. And you know, we so I throughout this process, there's been sort of this suggestion that we were unwilling to work with you. I think that's unfair. When I met with you last April and the other caucus leaders, I suggested that we get another 30 days in September because we would be on very short time to work out. The result of that wasn't someone coming back to me and saying, No, we disagree. How about 60 days? How about 15? It was a press conference where I was told what a rotten idea that was. So that's not my idea of working together. Now I think we have the same issue here and throughout this process is there have to be alternative ideas, specific alternative ideas coming back and not merely criticisms of what's been done. And finally, I would say. I'm not the only commissioner on this, I'm one of seven. I don't have the ability to force a vote or get three other people to agree to this. I have ideas that I've brought forth that not only are comport with the Constitution and what the court said, but are based on the input of all of the commissioners or at least the commissioners who came and met or sent staff or otherwise send ideas. I think it was all of them. It may not be that we did what you wanted to do, but as we know, that's probably not possible because not only do you and I disagree about all of these things, but Speaker Cupp I disagree, and Auditor Faber and I disagree and on and on and on. And that's the difficulty of saying, well, somehow four people are going to agree on something anyway. So if there are changes to the this map that you have Leader Russo, have sSpeaker Cupp or anybody else love to hear them. This is a proposal I'm bringing forward. I think it addresses what the court wanted to do. And I stand ready to hear those at this moment later tonight, tomorrow morning, whenever it is, the commission would meet.

Co-Chair Senator Vernon Sykes [00:36:51] And thank you for your comments. We will have particular specific suggestions or recommendations or motions as it relates. I've talked previously with the co-chair seeing if you're the majority was open to suggestions, recommendations or amendments in the meetings that were held. Again, I say they were one way in that we did not receive any detailed information about what ideas that you were

having, and we did not receive those until we got access to this map. Just it just an hour or so ago. So we will have more detailed recommendations and motions, and we're hopeful that they will be considered.

House Minority Leader Representative Allison Russo [00:37:39] Mr. Co-Chair,

Co-Chair Senator Vernon Sykes [00:37:40] Yes

House Minority Leader Representative Allison Russo [00:37:41] I do have a question in regards to that. You know, if if the members of this commission would consider any of our recommended changes, what is the timeline in which they would like to receive them to fairly consider them other than making motions tomorrow before the meeting? Because I think we all know that they will be denied at that point. Are there is there a time that other commissioners would like to have those changes? Again, we got the map at 12 o'clock, about 12 o'clock a little bit after. But you know, certainly we can put forward those changes so that you all have time to fairly consider them.

Co-Chair Speaker of the House Bob Cupp [00:38:32] Mr. Chairman, I'll just speak for myself, I'm available this afternoon and early evening to sit down and see what those changes are. The one of the one of the constraints, of course, is the time it would take to move things around because it's very difficult to move one thing without having to move a whole bunch of things because they're so interrelated. So I certainly make myself available to to listen that and then go back and see whether these are feasible or not. So I'm open to that.

House Minority Leader Representative Allison Russo [00:39:07] Well, thank you, Mr. Co-Chair. I appreciate that and we will certainly work on these as quickly as possible. You know, when we met, our staff met on Sunday afternoon at one o'clock. It was one of the reasons that we repeatedly asked for a draft of the map, which I understand some other members of this commission actually saw on Sunday evening. But yet we were not able to, and we certainly would have been able to give some of this feedback at that point as well. But we can work as quickly as possible and get those to you as quickly as possible.

Co-Chair Senator Vernon Sykes [00:39:36] We're just hopeful that we take the adequate time to be able to review the proposals that we have available.

Senate President Matt Huffman [00:39:43] Mr. Co-Chair,

Co-Chair Senator Vernon Sykes [00:39:43] Yes

Senate President Matt Huffman [00:39:44] I'd like to clarify comment that Leader Russo made. There was no map for other members of the commission to look at on Sunday night. That is not true because it this is the map that I am proposing. This map did not exist until sometime Monday afternoon or Monday night, so there was certainly there were concepts that were presented to members of the commission that were concepts that were presented by Mr. DeRossi to your staff. This map did not exist on Sunday, so that's not true. And you know, one of the problems with this whole thing is we all want to talk about who got to see what, when and how, instead of making specific proposals on how to change this. So that's what this is if you want to make a motion and change something on the map. Certainly, the commission will consider it. That's what we're here to do. But there has to be a proposal for the commission to consider.

Co-Chair Senator Vernon Sykes [00:40:43] One thing to just clarify, we have had a proposal on the table. Our map has been on the table as and then our suggestion or recommendation all along. And we did make additional recommendations and suggestions as we move around the map to explain different aspects of it. But we did not get that same type of input when we met when our staff met and that was just the issue.

House Minority Leader Representative Allison Russo [00:41:16] Mr. Co-Chair

Co-Chair Senator Vernon Sykes [00:41:17] Yes

House Minority Leader Representative Allison Russo [00:41:17] Mr Co-Chair, and again, you know, I believe I said a draft map, not the map that sits before us, and I do want to clarify that our staff did not get any concepts presented to them during that meeting. But the other question I have for this commission is, you know, there seems to maybe not be agreement in the constitutional requirement that in order for a map to come out of this commission, it does have to have Democratic votes with it. So we are very motivated to get some to get to some agreement about the map. But my understanding from my conversations with Commissioner Huffman is that he does not agree with that assessment. That Article 19 does explicitly lay out that at this stage in the process when it comes back to the commission, that it requires minority votes for us to even have a map come out of this commission.

Co-Chair Speaker of the House Bob Cupp [00:42:18] Mr. Chairman,.

Co-Chair Senator Vernon Sykes [00:42:19] Yes

Co-Chair Speaker of the House Bob Cupp [00:42:20] I would like to address that issue because I know this discussion has been at least bouncing around for a couple of weeks as to what kind of vote is required and whether this commission can do a four year map or must only do a 10 year map and must only be approved with members of the minority party. So in order to kind of get some clarity to that, I asked the attorney general if he would issue an opinion on it. That is something the attorney general does when requested by the General Assembly. And I'll just pass out the full, full opinion, but just read the the syllabus on it, which I think is is sort of that sort of is the conclusion that the commission acting under Ohio constitutional Article 11, Section 3-B2, may enact a congressional map by a simple majority vote, and the second paragraph on the syllabus is a map adopted to Ohio Constitution. Article 11 Section 3-B2 is valid for the time period that the previous map was valid for before becoming unconstitutional. This means that for the current redistricting cycle and adopted map would be valid for four years as the map that was found unconstitutional was valid for only four years and then their citation. Then there was rationale, and so we happy to to to pass that out. But that is the official opinion from the state attorney general.

Co-Chair Senator Vernon Sykes [00:43:57] Got a question. Just a point of order, really. And that is that the General Assembly can ask the attorney general, not the Speaker of the House or a co-chair. Maybe the co-chairs could have asked the attorney general, but not just one co-chair. And so actually, what authority did you have to for the attorney general to give you this opinion?

Co-Chair Speaker of the House Bob Cupp [00:44:24] I asked the attorney general what his opinion was and because it was necessary to resolve the issue. And in response, this is the opinion the attorney general issued. So I mean, you're all free to disregard it, but I

think it is certainly persuasive in in deciding, you know, what is what, what the Constitution requires or not.

Co-Chair Senator Vernon Sykes [00:44:53] Yeah, I think it's improper to reach out unilaterally to the attorney general without it being a request from the General Assembly or the co-chairs of this commission. So I don't think it's proper.

House Minority Leader Representative Allison Russo [00:45:11] Mr. Co-Chair.

Co-Chair Senator Vernon Sykes [00:45:12] Yes.

House Minority Leader Representative Allison Russo [00:45:12] In response to that, you know, to be clear, the Constitution and Article 11 says unless otherwise specified in this article or in Article 19 of the Constitution, well, Article 19 does in fact otherwise specify. Article 19 provides in Section 1B that the Commission shall adopt a 10 year congressional map by the affirmative votes of four members of the commission, including at least two members of the commission, who represent each of the two largest political parties represented in the General Assembly. And you know, certainly there can be some discussion about the appropriateness of asking the attorney general to issue an opinion on this. But frankly, the attorney general, both solicited and not, has issued many opinions throughout the course of this commission. This commission's meetings that the court has firmly disagreed with. So I think that if we're going to go down this path and use this opinion as a reason not to get bipartisan support of a map, then we will certainly find ourselves back in the same position that we have been in, both with the state maps and with this map previously in that this will be determined by the court and will be no further, along with the citizens of Ohio, knowing exactly what these districts are so that we can conduct an election.

Co-Chair Speaker of the House Bob Cupp [00:46:34] Mr Co-Chair may I respond to that?

Co-Chair Senator Vernon Sykes [00:46:36] Yes.

Co-Chair Speaker of the House Bob Cupp [00:46:37] Well, first of all, it was my understanding before, and it's just been reconfirmed that there's a long history of the Speaker of the House being able to ask the attorney general for an opinion on some constitutional issue that is coming before the the General Assembly or in this case, you know, as a member of the redistricting commission. And so this is not unusual. The second is, I don't think this should be taken as an indication that there is not a desire for a 10 year bipartisan map. I think it should be taken as an indication that if we aren't able to do that within the timeframe that we have facing us. That is there is not a constitutional requirement for it, that doesn't mean there wasn't necessarily a desire for it or an ability to do it, so that would be what I would want to impression that I would want to leave in regard to to this matter.

Senate President Matt Huffman [00:47:41] Mr Co-Chair

Co-Chair Senator Vernon Sykes [00:47:42] Yes.

Senate President Matt Huffman [00:47:42] Could I just comment on this issue? So part of I think if we can, we can read different parts of the Constitution. The redistricting commission was created in Article 11. Article 11 clearly says that unless otherwise

specified, all actions of the commission will be taken by a majority vote. And that's the provision that that guides here. And but for, you know, we can read that obviously look at the attorney general's decision. But for those who who like would like a little more global understanding of this. So, you know, obviously there's a census every 10 years, and what this says is when that census ready, it's on the blocks. There's a lot of discussion that if in the year ending in 1 the General Assembly by the end of September passes a map that has sort of these super majorities in both caucuses, we have a 10 year map that didn't happen in this case. And then the redistricting commission has an opportunity to pass a to work on this during the month of October, when but the redistricting commission in that can only pass a 10 year map. And what that, of course, means is that that that must include minority party votes in order to do that. Well, there actually wasn't a vote and unlikely that there. There wasn't a map presented in October, and this then went back to the General Assembly in the month of November. Under this scheme, under this constitutional scheme that is set up. There's two things that can happen. The General Assembly can pass a map also requiring certain minority party votes. It's just it's lesser than it is in September, but under a lesser requirement one third of the minority party in order to get a 10 year map so you can still get a 10 year map in November of the year ended and 1 in this case 2021. If only one third of the minority party will agree in both the House and the Senate, well, we didn't get one third. In fact, none of the minority party voted for this, so we went ahead and passed a man with no Democratic support at the end of November's close to the maybe mid to late November. So there we are. We've passed a map. It's November of 2021. We've got a map or ready to run, run an election, and we had no Democratic votes for that because that's what the Constitution requires. The map was challenged in court, the Supreme Court comes back and says we see these problems, especially specifically in Cuyahoga and Hamilton and in Summit County, and those are specific things that we think need to be remedied. So we look at section 3 of Article 19 that tells us how to do this. And there's two things that can happen. And if you look at this is you can look at them in stages stage one, two and three at the beginning. If it's challenged and sent back stages four and five or silos four and five, whatever. So in silo for the General Assembly, then has 30 days to pass a map. There is no requirement that the General Assembly include Democratic or Minority Party votes. In fact, we can pass a new map as long as it does the things that the Supreme Court told us to do with no Democratic or minority party votes. Now, in fact, that might have happened. But because of the time crunch, we needed to do that with a emergency or 66 votes in the House and 22 votes in the Senate, in all probability achievable in the Senate. But as I understood it, not achievable in the House because there would not be minority enough minority party votes to get sixty six votes in the House. So and that was only to suspend it so we could do certain things and make it available for for the for the May 3rd primary. So we then go on to the map had to be available by May 3rd. By the time it got there wouldn't be effective by May 3rd, and therefore we had to have 66 votes and didn't do it. So then we move on to the redistricting commission, which is where we are now. This comes back on February 14th. We have until March 14th to do something. The attorney general, through the opinion requested by the speaker, is confirming what of course the constitutional scheme is. We are now in stage five, where at the end of this, which necessarily after you've gotten to the end of November, there's been a challenge. The court has sent it back. The General Assembly has 30 days. This redistricting commission could not even act until that 30 days was up after the General Assembly. So in every situation when this redistricting commission, when we get to stage five, it's really close to the primary. And if the answer is now, even though we didn't need any minority party votes and stage four and we didn't need any in stage three in order to pass a map, now we need minority votes in stage five as we get close to the election. It not only doesn't comport with the plain language of the Constitution, it doesn't make sense in the whole scheme of how this works. And again, the

point of all of this is at the very beginning. There are set of incentives for the minority party and the majority party to get together in September and see if they can come up with a deal. And that's why I thought it was so important last April that we had additional time to work this out. And that was rejected. No one apparently thought that was a good idea other than Speaker Cupp and I. And but we weren't. That was rejected by the minority party. And that's the time when we can get together, make a deal. There can be concessions made on both sides to get a 10 year map. Now, can that still happen? Yes. But there has to be something specific for there to be a yay and a nay rather than simply we'd like to hear. We'd like for you to hear our proposals. We have to have something to specific act on. It would have been good to do this in September or October or November, but those weren't forthcoming. So constitutional language is clear, the attorney general has opined it makes sense in terms of the scheme, and that's why I wanted to give that history. Thank you, Mr. Co-Chair.

Co-Chair Senator Vernon Sykes [00:54:39] Thank you, Mr. President, for the history lesson, although it's just really reliving, it is still a little painful.

Senate President Matt Huffman [00:54:48] I'm with you brother.

Co-Chair Senator Vernon Sykes [00:54:53] Are there any other items?

House Minority Leader Representative Allison Russo [00:54:55] Mr Co-Chair, I would like to respond to that, and I will respectfully disagree. I do agree that the constitutional language is very plain and I think any argument at this stage in the process that, you know, there is no check and that the people who voted for these changes didn't intend for there to be a check on gerrymandering is just simply a convenient interpretation of the Constitution. I think the Constitution is very clear that at this point, after the court has invalidated maps and you've exhausted the G.A., which, by the way, there was no plan presented for legislators to even vote on. And nor did we ever see a map to say if we would have the votes, not have the votes or the commission. You know, there are no more get out of jail free cards. It is time for us to come to the table and come up with some agreement that we can all agree to, and it is possible. I've laid out a few suggestions. You certainly don't have to take all of those suggestions and we will give more specifics about that. But to at least have the conversation and have some good faith negotiations at this stage in the process is, I think, both required by the Constitution for this commission to even have valid maps come out of it. But it's also what the people of Ohio are asking us to do. And you know, certainly we can all die on this hill if we want to. But again, that then leaves it up to the court yet again to decide whether or not these were constitutional maps and whether or not they were even valid maps that came out of this commission without Democratic votes. So that's all that I have to say. Thank you,.

Senate President Matt Huffman [00:56:47] Mr. Co-Chair.

Co-Chair Senator Vernon Sykes [00:56:48] Yes

Senate President Matt Huffman [00:56:49] I want to. One of the things that is seemingly lost over this is it when leader Russo says there's not a check. There is a check. This map, unless it gets minority party support, is only for four years. And that build in check is a concession automatically to the minority party unless the majority party does what they want or concedes. Or there can be some sort of agreement, however, we want to describe it. The majority party doesn't get to do what the majority party gets to do everywhere else. And that is, draw a map for the next 10 years. And that is the check. If there was a version

of this, which isn't quite as good from the majority party standpoint, again, assuming we could get a majority of the commissioner Republican commissioners to vote for it. That may or may not be true, but if there's some version of that, that is, I'll just call it less than this, that that the minority party would vote for. Well, then we could get our 10 year map, but the majority is already penalized by only getting a four year map. And that's the penalty that is built in. And unless we can come to some consensus is the majority is going to be penalized and there is going to be a check.

Co-Chair Senator Vernon Sykes [00:58:15] The only other comment is that also the maps should be constitutional, they should comply with the Constitution and the Ohio Supreme Court still has some purview as a rule too. Yeah, absolutely. To be considered, at this time, seeing and hearing no other comments. I don't believe we should.

Co-Chair Senator Vernon Sykes [00:58:37] Yes.

Auditor Keith Faber [00:58:38] Do we have tomorrow's meeting scheduled, decided already?

Co-Chair Senator Vernon Sykes [00:58:41] You know, we have tentatively agreed. We have agreed ten o'clock tomorrow morning to recess until 10:00 tomorrow morning, hopefully during that time. We will have an opportunity to exchange ideas and possibly come up with a collaboration.

Auditor Keith Faber [00:59:03] Do we have a meeting time set for Thursday?

Co-Chair Senator Vernon Sykes [00:59:06] We have not. We do not at this time. Seeing and hearing no further business, we will recess until tomorrow at 10 a.m..

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Co-chair Speaker Bob Cupp [00:00:00] Restricting Commission will come back to order. I would ask that the staff please call the roll at this time.

Clerk [00:00:07] Co-Chair Speaker Cupp.

Co-chair Speaker Bob Cupp [00:00:08] Present.

Clerk [00:00:09] Co-chair Senator Sykes.

Co-chair Sen. Vernon Sykes [00:00:10] Present.

Clerk [00:00:11] Governor DeWine.

Gov. Mike DeWine [00:00:11] Here.

Clerk [00:00:12] Auditor Faber

Auditor of State Keith Faber [00:00:14] yes.

Clerk [00:00:14] President Huffman.

Senate President Matt Huffman [00:00:14] Here.

Clerk [00:00:15] Secretary LaRose.

Secretary of State Frank LaRose [00:00:15] Here.

Clerk [00:00:16] Leader Russo.

House Minority Leader Allison Russo [00:00:17] Here.

Clerk [00:00:19] You have a quorum.

Co-chair Speaker Bob Cupp [00:00:21] All members are present. Is there business to come before the meeting, this meeting of the Ohio Redistricting Commission Yes. Chair recognizes co-chair Sykes.

Co-chair Sen. Vernon Sykes [00:00:40] Thank you, Mr. Co-Chair. At this time I'd like to move to amend. The amendment aims to replace the map that's before us and to accept our map that we submitted here before into the commission. It's Senate Bill 237. We have three different versions of it, but this would be the most recent version. It is a eight-seven map and it does not unduly favor a political party and we would ask that the commission consider this map.

Co-chair Speaker Bob Cupp [00:01:29] There's a motion to adopt the map presented. What is the designation on that map, do we know? Or the date that it was uploaded on the website,

Co-chair Sen. Vernon Sykes [00:01:43] February the 8th.

Co-chair Speaker Bob Cupp [00:01:46] February, the 8th map. I'm not sure what name it was uploaded under. But is there a second to the motion?

House Minority Leader Allison Russo [00:01:57] Second.

Co-chair Speaker Bob Cupp [00:01:57] It's been moved and seconded. Is there discussion?

Senate President Matt Huffman [00:02:00] Mr. Chairman?

Co-chair Speaker Bob Cupp [00:02:02] Senator Huffman.

Senate President Matt Huffman [00:02:03] Yeah, just just to clarify the if - there was a motion to amend and then a motion to adopt, is this motion to amend the fact there's no amendment,

Co-chair Sen. Vernon Sykes [00:02:16] The amendment - we are looking at the General Assembly Motion, map, that was presented and was denied invalidated by the court. And so we're offering it as an amendment to that.

Co-chair Speaker Bob Cupp [00:02:34] Are you offering an amendment to the General Assembly map or to the congressional map?

Co-chair Sen. Vernon Sykes [00:02:40] to the congressional map that was that was approved by, adopted initially by the General Assembly, but was in fact invalidated by the court.

Co-chair Speaker Bob Cupp [00:02:53] My understanding is the motion is to amend the map, it was previously approved by the commission and returned to to to the commission by the - The map that was adopted by the General Assembly for Congressional districts and that was invalidated by the Ohio Supreme Court and is, and returned to the redistricting process.

Co-chair Sen. Vernon Sykes [00:03:29] Yes.

Co-chair Speaker Bob Cupp [00:03:29] Right. And you have amendments to that map.

Co-chair Sen. Vernon Sykes [00:03:36] Yes, we're offering the map that we submitted to the commission on February the 8th to amend that map.

Co-chair Speaker Bob Cupp [00:03:48] Are you? I'm sorry. Are you offering a whole map?

Co-chair Sen. Vernon Sykes [00:03:52] Yes, a whole map. It's like a supplement as an amendment.

Co-chair Speaker Bob Cupp [00:03:58] All right. Are we able to identify what that is?

Co-chair Sen. Vernon Sykes [00:04:12] We have -- it's on the commission's web site of February the 8th.

Co-chair Speaker Bob Cupp [00:04:20] February eight, is that the only one? Or is it under a name as well?

Co-chair Sen. Vernon Sykes [00:04:28] It was the Dems congressional map

Co-chair Speaker Bob Cupp [00:04:31] Democrat Congressional Map, Yuko - would this be the title? Yuko Sykes Substitute Senate Bill 237 February 8th revision is a map that is offered. You want to describe the map or your amendments?

Co-chair Sen. Vernon Sykes [00:04:51] It is a 8-7 map that complies with the Constitution. It was presented prior and you've gone over it in detail in the prior meeting, and we'd just like it to be considered now.

Co-chair Speaker Bob Cupp [00:05:08] All right. It's been moved and seconded that the Yuko Sykes Senate Bill 237 February 8 revised map that was uploaded to be adopted by the commission. Discussion? There's no discussion. I'll ask the clerk to call the roll. Is to correct the caller on. All right. The commission will be at ease for a moment while we make some copies.

Co-chair Speaker Bob Cupp [00:07:42] Waiting for the copies of the maps to come. We had a request from Ryan Brune. I'm not sure I'm pronouncing your name right, but you testified yesterday and you have an updated map. Do you want to take a few moments to tell us what that is? Would you come up to the microphone and state your name for the record, please?

Ryan Brune [00:08:06] Thank you. My name's Ryan Burnett presented yesterday with a map. I'm here to present a different map, calling it Compromise Map V2. This map that I'm presenting is identical to the one that the Republicans proposed yesterday, with two districts being changed. The 4th District and the 15th District, I made some simple county swaps, which citizens can see on the redistricting website. The commissioners, you have these in front of you. All the changes I've made, I have reduced the total number of county splits. I've combined municipalities that were previously split. Municipalities that's across county lines are allowed to be split given the guidelines. But what I was able to do is able to reconnect Dublin with its Union and Franklin portions, and I was able to reconnect Plain City, which is in Madison in Union County. I talk a little bit about the compactness in my brief, but basically what I propose is the exact same as the Republican map. Two districts changed. It's more compact and pretty much any metric you use, it doesn't have a split district, connect to a split district, connect to a split district, and it has the added benefit of being a little bit more fair. Instead of having five composite Democratic districts, it now has six and all that it, one change. This maps pretty much the exact same thing you presented yesterday, just a little bit better in every way.

Co-chair Speaker Bob Cupp [00:09:39] Thank you. Any questions for the witness? Thank you for your continued work on this. It's quite impressive that you have this kind of interest in and continue to work on it. Thank you.

Ryan Brune [00:09:52] Thank you.

Co-chair Speaker Bob Cupp [00:09:56] The commission will be back in ease while we're waiting on the map copies.

Co-chair Speaker Bob Cupp [00:12:44] Distributed, they're entitled Yuco Sykes SB 237 February 8th revision that is before the commission. Is there any discussion on the motion. Chair recognizes Sen. Huffman.

Senate President Matt Huffman [00:13:01] Yeah, thank you. Thank you, Mr. Chairman. So there is a map that was presented, although not yet moved, which I'll be doing later in this meeting. And there was a series of meetings as there have been. But I met with Senator Sykes and Leader Russo. I, as I understand it, the speaker did. I believe the auditor did. There may have been a meeting also with with secretary and variety of folks. And then last night, there was a series of amendments proposed to that map by the, I believe, by Senator Sykes and Leader Russo. So there is that version of that map, which is also on the website. This is a completely different setup. And as of today, I guess maybe if we're trying to negotiate, this is a step backwards in what at least we were talking about and is a completely different consideration. So it's unclear to me why this is even being presented at this time since it's. Not related at all to what we were, we were discussing, at least in the meeting, that I was in last night, so I think it's a step backwards in terms of of, you know, trying to put in a capsule what the differences are between the parties. So I would oppose the motion.

Co-chair Speaker Bob Cupp [00:14:27] Further discussion. The the motion is to adopt the plan that has been presented and the staff will call the roll, please.

Clerk [00:14:40] Co-Chair Speaker Cupp

Co-chair Speaker Bob Cupp [00:14:41] No.

Clerk [00:14:42] Co-Chair Senator Sykes

Co-chair Sen. Vernon Sykes [00:14:43] Yes.

Clerk [00:14:44] Governor DeWine.

Gov. Mike DeWine [00:14:46] No.

Clerk [00:14:46] Auditor Faber

Auditor of State Keith Faber [00:14:46] No.

Clerk [00:14:48] President Huffman.

Senate President Matt Huffman [00:14:48] No.

Clerk [00:14:48] Secretary LaRose

Secretary of State Frank LaRose [00:14:49] No.

Clerk [00:14:51] Leader Russo

House Minority Leader Allison Russo [00:14:52] Yes

Clerk [00:14:53] Thank you. 5-2 Mr. Co-chair.

Co-chair Speaker Bob Cupp [00:14:57] Vote is five to two. No, the vote is two to five. The motion has not carried. Is there further business come for the commission, Senator Huffman?

Senate President Matt Huffman [00:15:08] Thank you. At this time, Mr. Chairman, I move the commission, adopt the updated Congressional District Plan, which is uploaded the commission's website this morning that is called March 2nd, 2022. Under the name of Franks to Gary and

Co-chair Speaker Bob Cupp [00:15:26] Sykes, Senator Huffman is at the map. That is, if we have the PorterWright distributed, that's correct. All right, so everyone have that map. All right, you may proceed.

Senate President Matt Huffman [00:15:36] Do I need a second?

Co-chair Speaker Bob Cupp [00:15:37] Is there a second to the motion? I'll second the motion.

Senate President Matt Huffman [00:15:41] OK, thank you. So, Mr. Chairman, members of the commission, this map is identical to the map that was submitted yesterday and with two slight changes. One is our changes then in Franklin County, which really completes a series of changes that were made in regarding districts three and 15 are my office and perhaps other offices received inquiry from Congresswoman Beatty's office. I think one of the initial maps that was or renderings here in the last week or so had Congresswoman Beatty's district office outside of District three. And it might be a federal requirement, but but I believe that it's required that congressional district offices be inside the congressional district. So they asked us to make that change. And initially, I believe also Congresswoman Betty's residence was outside of District three. And so there were some changes made regarding both of those also resulting in Congressman Carey outside of District 15. So the net result of all these changes, including the one we're including today, is that Congressman Beatty's district office in District three, her residence is. And Congressman Carey is in his District 15. When I say his and hers, of course that I'm referring to the fact that they're both incumbents, so that solves that problem. So that's one change. The second change is in Hamilton County and was pointed out to us that we could eliminate some subdivision splits in District one. And so if you if you compare, if you have both of the maps in front of you yesterday, today not only did we repair those subdivisions splits, but certainly the the how the district is divided is is much cleaner. So those are the two changes, of course, in moving the map as a whole. And I would ask the commission to adopt the map pursuant to my amendment.

Co-chair Speaker Bob Cupp [00:18:05] Thank you. It's been moved in second and that do we have a just description for this map and name on this? Yeah.

Senate President Matt Huffman [00:18:15] Excuse me. This this is called March, the March 2nd 2022 map, and it's submitted under the name of Frank Strigari.

Co-chair Speaker Bob Cupp [00:18:24] Thank you. It's been moved in. Second, is there discussion?

House Minority Leader Allison Russo [00:18:27] Mr. Co-Chair,

Co-chair Speaker Bob Cupp [00:18:29] The chair recognizes Rep. Russo.

House Minority Leader Allison Russo [00:18:30] So thank you, Mr. Co-Chair. Just to clarify the difference specifically and districts 3 and 15 from the map that we saw yesterday that was uploaded to the website, to the map, we saw today that the primary difference here is that this revision puts Congressman Carey back into the 15th because I believe the issues with Congresswoman Beatty and her office were resolved in the map that we saw yesterday. So the primary change here is to put Congressman Carey back in his 15th district. Is that correct? His residence.

Co-chair Speaker Bob Cupp [00:19:06] Sen. Huffman?

Senate President Matt Huffman [00:19:07] Yeah. Mr. Chairman, that is accurate in doing those other changes. I think we had that. That's that's what resulted in that. So we're trying to in remedying some things, we caused other problems. And so but the only change today from yesterday does as Leader Russo described.

Co-chair Speaker Bob Cupp [00:19:26] Further discussion?

House Minority Leader Allison Russo [00:19:28] Mr Mr. Co-Chair, would it be appropriate? I'd like to suggest some amendments to this.

Co-chair Speaker Bob Cupp [00:19:34] Yes.

House Minority Leader Allison Russo [00:19:34] Thank you.

Co-chair Speaker Bob Cupp [00:19:34] That would be an order.

House Minority Leader Allison Russo [00:19:36] Thank you. I have a number of amendments here because we are here because the General Assembly drew a map that the state court held violated the state constitution. Specifically the court was clear that the Congressional District Plan that the General Assembly passed in November is invalid in its entirety because it unduly favors the Republican Party and disfavors the Democratic Party in violation of Article 19, Section one C three A. The court gave the example of Franklin County, where Democratic leaning voters were packed into only one district to confer partisan advantage to the party drawing the map. And the court also held that the plan unduly splits Hamilton, Cuyahoga and Summit counties in violation of section one C three B. The court has ordered the General Assembly or the Commission, if needed, to adopt a new Congressional District plan that complies in full with Article 19 of the Ohio Constitution and the directives of the court. So the task now in the commission is in the commission's hands because the state constitution calls for the commission to act as backup to the General Assembly when the General Assembly fails to assemble the bipartisan vote required by the voters in the state constitution reform to pass a replacement map. So my amendment, as was discussed with I believe nearly every member of this commission over the last 12 hours, makes four primary changes to the map that we see before. It was the map that was presented yesterday, but these changes would also apply to the maps that we see before us today. We have actually uploaded these democratic amendments to the Strigari March 1st, 2022 map on the commission website for the public to see and commissioners to see. Of course, we can slightly adapt that uploaded map to accommodate the two small changes that have been described by Senate President Huffman this morning with the map that he has offered before us. But here are the four amendments again that have been discussed in detail with multiple members of this commission. And to note these changes abide by the principle of taking the map that has

been presented to us and making the least changes necessary to get this map to a map that we feel again upholds the Constitution by not unduly favoring the Republicans and disfavoring the Democrats. So the first change is to amend the districts in southwest Ohio, specifically districts one and eight. This amendment or modification, or this change sorry, swaps territory from one district to the other with the result that District one would still contain Cincinnati, but it would be wholly within Hamilton County. District eight would now contain Warren County instead of Warren County being disconnected from Cincinnati, and the partisan Index would change on each district accordingly. District one would move slightly above the toss up range, and the heavily Republican leaning District eight would be slightly more Republican. And you can see those changes in the map out that we have provided, as well as the table. Amendment, the second change is to amend districts in northwest Ohio. This amendment specifically would change the boundary between districts five and nine. And this modification swaps territory from one district to the other, with the result that district nine would be more compact and its partisan index would move slightly above the tossup range. And we also believe that the communities linked in this district would be more cohesive. The partisan index would change and each district accordingly. Again, you can see that in the print out that was provided. Now I will note specifically about this change. We had a nice long discussion with Auditor Faber last evening. He had some other changes in this part of the state that we were very willing to consider and discuss further if we are given time to do that. The Third Amendment is, it would change the districts in central Ohio specifically centered on District 15. This amendment would change the boundaries between 15, four and three. This modification swaps territory from one district to another, with the result that District 15 and four would be more compact and District 15 would have a partisan index that would be slightly above the tossup range. We also believe that the communities linked in this district are more cohesive, for example, communities and the Delaware, Franklin, Union and Madison, where those counties meet and that portion of the district. I will also note again, we discuss multiple potential options within this change. Again, if commissioners are willing to discuss this further, we certainly have shown a willingness to be open to further discussions with that change. And then the final change that we have proposed amends, sorry, impacts districts in northeast Ohio touching Cuyahoga County. This amendment specifically would change the boundaries between District seven and 11. This modification swaps territory from one district to the other, with the result that District seven would have a partisan index that would place it in the Dem leaning tossup range. And the purpose of this and the other change is to have a total map that reflects the preferences of the Ohio, the voters of Ohio and does not unduly favor the Republican Party in excess of their support at the ballot box. So, Mr. Speaker, again, I would like to thank the members of the commission who had these discussions with us. We have gone into these discussions about these amendments to the General Assembly passed plan using your math that you have put forward today and yesterday as the basis for coming up with some sort of compromise that we believe again results in an overall map that is in line not only with the court's decision, but with the Constitution and does not unduly favor the Republican Party and unduly disfavor the Democratic Party. Thank you.

Co-chair Speaker Bob Cupp [00:26:40] Thank you, leader Russo. Let me ask, are these being offered as a single motion or did you want to do these series item?

House Minority Leader Allison Russo [00:26:55] At this point? Mr. Speaker, these are being offered as a single motion. Certainly, again, we have not heard directly back from commissioners about what individual changes they might be willing to entertain. But if we can continue discussions, we certainly can offer them a separate. But at this point, they are offered in whole.

Co-chair Speaker Bob Cupp [00:27:17] All right. And are these? The details of these, are they they uploaded or available? So if they were adopted, are we going to know what they are? Is my point, I guess.

House Minority Leader Allison Russo [00:27:33] Thank you, Mr Speaker. Yes, the details of these changes, not only have they been uploaded that they were provided to all of the commissioners and their staff last evening, I believe at approximately 9:30-9:45 to your staff, we discussed them in detail, and again, we certainly can harmonize based on the two minor modifications that have been presented this morning. Certainly can harmonize those, but they have been available not only to your staff and and commissioners, but also to the public.

Co-chair Speaker Bob Cupp [00:28:09] Yes, I do. We do. We have a name by which they were uploaded. So we can.

[00:28:13] Yes, I believe they are named as the Democratic Amendments to Remedy Invalidated General Assembly plan.

Co-chair Speaker Bob Cupp [00:28:33] And the date of the upload is March 2nd?

House Minority Leader Allison Russo [00:28:38] March 2nd. Yes.

Co-chair Speaker Bob Cupp [00:28:43] But are there, are you? Did you make a motion to move?

House Minority Leader Allison Russo [00:28:51] So it makes you move. All right. Thanks very much. Thank you. She's easy to get lost in the discussion here. Making a motion to adopt these amendments to the general, invalidated General Assembly plan, but adopt these changes to the plan that Mr. Huffman has put forward.

Co-chair Speaker Bob Cupp [00:29:13] All right. It's been moved to the second. It's moved into second discussion. Chair recognizes Senator Huffman.

Senate President Matt Huffman [00:29:20] Thank you, Mr. Chairman. I oppose the motion and I guess a couple of comments. One. And I appreciate Leader Russo's description as these are changes to essentially the map that I moved today, but was presented yesterday with slight changes. This, of course, is a wholly different map than what leader or Senator Sykes presented just a few minutes ago. So this is these are two different maps, I guess. I want everyone to commission members and public who are listening to understand that. So these are these are two, I think it's fair to say completely different plans presented here this morning. I I think it's important again, and I went on a little bit of a history lesson yesterday to understand Article 19 and its effects and how it how it was that or how it came to be and how why this unduly language does not in fact, imply to the commission. First, you could say simply because the Constitution doesn't say anything about that as it relates to the commission. But why is that? Why, why? Why is that the way the design of this? And keep in mind that we get the census as we all know it's at the end of every 10 years. Typically, we get the census data on April 1st, and it takes about three months to put it in the political. And then there's an opportunity over a couple of months, perhaps to come up with an agreement. And you know, we we've we've talked a lot about how there were problems with that this year. But in the first stage of this, when there's there's a substantial amount of minority party buy-in that has to happen. So this is

in September of any year and there is no undue requirement in there. If in fact the parties can agree, it may be that some feel maybe a court or others feel that it unduly favors or disfavors a party. But there's no requirement regarding that in that September timeframe. Now there is a requirement for substantial minority party buy-in, but the language doesn't appear anywhere in that stage. If that doesn't happen in October, the redistricting commission can adopt a map, but they can only adopt a 10 year map and it must have, and to do that, you must have minority party buy-in. However, there's no undue language in there, either. And some might recall when we passed this map some time ago, I asked some advocates, Well, what if? What if there was an agreement among minority and majority party members, but it wasn't a map that advocates wanted. And the response was no sweetheart deals. I don't know if anybody remembers that response. And what that anticipates is that there can be agreement on these maps for a whole variety of reasons. But this means in the first stage in September, that undue doesn't apply in the second stage undue doesn't apply because the language isn't in there. OK. So in stage three November goes back to the General Assembly, and if the General Assembly passes a congressional map pursuant to C 1 of the Constitution, and again, this is section one C one if the General Assembly does it and has this enhanced minority vote. The undue doesn't apply, there's no requirement that the General Assembly do that under Section C, two of the Constitution, but again, you have an enhanced minority requirement. Minority party requirement. And it's not as big as it is in September, it actually lowers. But that again undue doesn't apply there, either. Finally, if the General Assembly passes a map in November, which we did without the requisite minority in the undue part does apply in the court, in their opinion, said, Well, we think it unduly favors one party over another and ruled the map invalid. Well, what happens? And before we get to stage four, I would point out that in the mid decennial redistricting under Section F one, we have that that same undue language appears again. So there are parts of the Constitution that have the undue language and parts that do not. So you can take a look at F1 one. We all worry about that in four years or those of you who are still standing can worry about it in four years. So but what happens then if the court says, for whatever reason, we don't like the map and it could be for a whole variety of reasons? Well, in the end, section four, if the General Assembly passes a map, pursue it or or this is section three, excuse me, in silo four, the General Assembly can pass a map, but the undue language doesn't appear there either. Well, if the General Assembly passes a map, they have all the other requirements, but there's no undue requirement, but the General Assembly doesn't do that. And likely we could have passed some map, but we had restrictions on time and needed and later Russo, I think, made a good point, said, Well, we didn't take a vote. Well, we didn't. But you know what, is a bit of a fool's errand at that point. So now we go to the redistricting commission in silo five, which is where we are right now. Silo five doesn't have any language in it about undue. And the question is, well, why not? Well, remember, folks, this is a plan, this constitutional plan is designed to create a series of incentives on both sides to make an agreement. And the big incentive for the majority to make an agreement is if you don't do get enough support from the minority party, your map only lasts for four years. And that is a not good for the majority because everybody wants to be able to draw their map for 10 years and keep it where it is. Well, they can't do that. So as we're sitting here in Silo five, there's no undue requirement and we can we can talk about that and go back and forth and make whatever arguments we want to do about that. So I guess I want to point that out to commission members. And. Again, going back to where we are typically you're going to be at the end of November. With no map, the General Assembly may be able to, if it's challenged in the courts, sends it back, maybe in the month of December, perhaps we didn't in this case didn't get a court decision until January. But and if it comes back, the General Assembly needs to come back, pass a map or not, or then come to the redistricting commission, all in a very short period of time. And if in fact, what is required is

this substantial by end that the minority party is describing, it's going to make it very, very difficult to get this map. And obviously, we're we're on a very short period of time what what the courts want. And I think what we all want is to be able to have an election. And I would note that one of the there's a couple of things that I argued when I think provisions that I wanted to put into this back in 2018. One is rather than have a General Assembly bill that could be referended, we ought to do it by a resolution. That was shot down. So we're stuck with a longer process with the bill. And I also pointed out that if we stretch this out to the end of November, then a court hearing and then a General Assembly action and then commission action, it's going to be a problem when we get to elections. And as I noted to some of the media yesterday, you think the timing on this is a problem now? Wait until 2032, when the presidential primary is in March. And if we start going down this path that all of these additional requirements in other parts of the Constitution apply to this stage, well, we're never going to make a primary the first week in March and in Secretary LaRose probably won't be secretary then, but maybe thank God so that I just want to, I guess let me make sure that commission members are aware of that. Thanks very much, Mr. Chairman. And I again oppose the motion.

House Minority Leader Allison Russo [00:38:56] Mr. Chairman.

Co-chair Speaker Bob Cupp [00:38:56] Chair recognizes Rep. Russo.

House Minority Leader Allison Russo [00:39:01] Thank you, Mr. Chair. Those are certainly very interesting conclusions about the reading of not only the court's decision, but also the Constitution. So essentially, what we are hearing is that Commissioner Huffman is arguing that there is no need to follow any of the anti gerrymandering provisions of the Constitution, including what the court specifically stated in their decision that the plan that they overruled unduly favored the Republican Party over the Democratic Party. That is essentially like me robbing a bank and saying that is my money. That is frankly absurd. And if this is, I think, the direction that this whole commission is going to, or at least the majority members of this commission are going to buy into in this process, I can guarantee that we will be back here in a couple of weeks, not only probably redrawing state maps, but also again, congressional maps. The only reason that we are in this state is not because of the Constitution and the provisions that were overwhelmingly passed by Ohio voters. It's simply because we have commissioners who do not want to follow the Constitution and do not want to follow the rule of law and do not want to follow the court's decisions. What we find ourselves in now regarding the election completely avoidable and also easily remedied by moving the primary date and most importantly, by passing a constitutional map. And we have an opportunity to work together as a commission. This deadline that we have this morning at 10:00 is completely artificial. We can right now meet and discuss as long as it takes to get this done, to come to some agreement, get to a map that will pass constitutional muster that will get bipartisan support will be in effect for 10 years. And will allow us to conduct elections. And it's really that simple.

Senate President Matt Huffman [00:41:22] Mr. Chairman?

Co-chair Speaker Bob Cupp [00:41:23] Senator Huffman.

Senate President Matt Huffman [00:41:25] Thank you, Mr. Chairman. So in regards to following, I think the phrase was none of the anti gerrymandering provisions. I think that's inaccurate. Section two, for example, has a variety of things that were built into this, in fact, were demands of the various advocate groups. And I'll just go through some of those. We wanted to make sure that each district included at least one whole county. This is section

two. Section two B 8. So that was included. That's something that has to be followed. No to Congressional District shall share portions of the territory or more of more than one county, except for a county whose population exceeds 400,000. And that was done because if you for those of you who remember they complained about District four that split two or three counties getting up to a certain point. We eliminated that as a if you want to call it, gerrymandering or whatever you want to call it. If one of the 88 counties, 65 counties have to remain whole, our 18 counties may be split not more than once in five counties, maybe split, not more than twice. Well, in this case, there's only. We've eliminated counties that are split more than twice. So we've gone beyond the line drawing requirements that are in the Constitution. And I'll let everyone read Section two and look at all of those various things that were demands by various folks to prevent all of this. And of course, you have a much more compact map that's presented the map that I presented here to the to the commission today than what was presented in 2011. So I think that's inaccurate. And and the other part, the part of this, you know, the constitutional setup here is this is a different group of people making this decision than the General Assembly. The General Assembly can pass a map and each of the folks there may be affected by different things, you know, namely their own congressional people and who may affect how they vote. And of course, getting 50 votes and 17 votes sometimes is very difficult to do. But we have folks on this commission who have a different view, potentially because they don't represent the same kind of constituencies, caucuses, all of those that that the legislative members on this commission do. So I disagree with the comments respectfully, but and appreciate again, and I would ask that the motion to amend be denied.

Senate President Matt Huffman [00:44:15] There further discussion, Senator Sykes, co-chair, Sykes.

Co-chair Sen. Vernon Sykes [00:44:20] Thank you, co-chair. Just just briefly, you know, it's been indicated that the, you know, some major incentive to get a 10 year plan to in order to have bipartisan agreement. But when we look at the both of the constitutional amendments, the largest component, the most significant aspect was really a different concept than just anti-gerrymandering. It was. It was fairness. And there's fairness in both of the changes was equated to proportionality with the state districts and then would unduly favor not to unduly favor a political party with the congressional districts. And it's not just the line drawing requirements. The line drawing requirements are not the focal here. And to simply overlook or try to bypass or not to consider the main focus of the initiative. As again, I agree with Leader Russo, is absurd. Yeah.

Senate President Matt Huffman [00:45:36] Let me just, first of all, object to the assertion that Representative Russo made that the only reason we don't have maps that has so far withstood consideration by the court is because the commissioners don't want to. As I've pointed out on multiple occasions, this is a new provision of the Constitution. We're working our way through it, trying to find a pathway forward. There are legitimate differing interpretations of what it means or what it requires. There's conflict on the Supreme Court as to what it requires. This is not a clear path forward. And I do not agree that members of this commission have not tried to do this in good faith, erring in in some respects for what the court has looked at it and we have consistently tried to find our way forward. So in all of this, the rhetoric and disagreements and stuff, I think it's important that we don't attribute bad faith to either side of this. And so I just want to go on record as what my position is on on that. Further discussion. Chair recognizes Auditor Faber.

Auditor of State Keith Faber [00:46:58] Thank you. A question for the sponsors of the amendment. As I look at it, and it may be that I just can't tell, District three was reconvened

significantly from the proposed map. How does that or does that comply with Article two, Section B 4 A with regard to keeping Columbus largely in one district and I can't tell. I don't know whether it does or doesn't, but it looks based on the geography that a substantial portion of this district is outside the city of Columbus. And so therefore it looks to me like you're doing what you indicated the concern was in other areas for the opposite effect. So I just curious about that, if you could help me understand that.

House Minority Leader Allison Russo [00:47:48] Sure. Through the chair, Auditor Faber, yes, there were some changes made to District three. It actually still includes a substantial and I believe, almost exactly the same proportion of Columbus that the previous version did. It's just a different way to split it. And overall, it creates a plan that meets the does not unduly favor Republicans and disfavor a Democrat requirement of the court's decision. Now, as we discussed in our meeting last evening, that change in particular to 15, four and three. There are a couple of different options there that we certainly are willing to discuss and consider. One of which, frankly, you know, does not require necessarily a change to District three. Many different options. We are willing to continue those discussions about that particular district. This is certainly one option. Frankly, in my mind, there were probably about three to five different options.

Auditor of State Keith Faber [00:49:01] And thank you for that Leader Russo. But and I'm just and maybe this is a question to everybody in general. But as I try and read and understand Section B 2 4 A, is it in? Was it when you guys drafted this provision, the understanding that to the extent you can, we are required to. It is easy with Cincinnati because Cincinnati needs to be wholly within a district because of those ratios, but because the city of Columbus is larger than one congressional district. Is it your understanding of this provision that you're supposed to put the majority of the city of Columbus, even though it's larger than one district in one whole congressional district versus splitting Columbus in multiple different ways in essentially creating different options. My interpretation is that you're required to the extent you can to keep Columbus most of Columbus in one district. And if not, you're supposed to affiliated with distressed communities that are closely affiliated with that at a minimum. And I'm just curious if that's your read of this as well. And if that's the case, it frankly doesn't look to me like three is going to follow that.

House Minority Leader Allison Russo [00:50:17] Through the chair Auditor Faber. Yes, we believe that we have met the provision in the Constitution and have kept a majority of Columbus within that district. And again, there are multiple a Columbus is big enough, frankly, that there are multiple ways to do that.

Auditor of State Keith Faber [00:50:37] So again, and I don't want to belabor this because I can't see the detail and I'll take your word for it. But your interpretation is, my interpretation is correct. We're required to the extent we can keep Columbus largely together in one district is, is that the baseline understanding? I assume you did that because I can't tell. But, is your view. When I tried to draw my version, that's what I tried to do, and I just want to make sure we're in agreement on.

House Minority Leader Allison Russo [00:51:03] Through the chair, Mr. Auditor. Yes, certainly. Again, we believe that we have met the provision. There are multiple multiple ways to do that. I would also note that Columbus is an interesting city and that we have many non-contiguous parts of the city as well. And so, you know, again, there are multiple ways to do this.

Co-chair Speaker Bob Cupp [00:51:27] Is there further discussion? I would just say that I did appreciate the the conversation that we had yesterday, late afternoon, I guess, in terms of the proposed changes that were being suggested. And for this, as far as I'm concerned and the house side, we spent a considerable amount of time with our map drawer to take a look at these and see how they would impact the overall map. But like with any change, it does create some, you know. Some. Some opposite impacts as well. So, for example, a congressional district nine, which is in northwest Ohio. It then creates a district that runs from the Indiana line all the way to Lorain, I think which is even even less compact than it was before. And so in in in the constitutional sense, it believe it really makes any contribution to the constitutionality of it, although it might in terms of shifting the Republican-Democrat index, I look at District 15 and and that one stretches out across Ohio to the West because it was a remnant of other changes that were that were made. But to move, that makes that one more compact, House District four becomes less compact. And now you have a district that runs from I'm not sure what county that is, actually. Way below I-70 going all the way, almost all the way back up to Lorain, which was a constant example of a gerrymandered district in the public hearings that we had, so that those have some adverse impacts to it. The. And I believe that the map that was offered does meet the constitutional objections that were pointed out to the court, by the court, in terms of of the concerns they pointed out, particularly Hamilton County. And that was because it was split twice instead of once in the the Strigari map. It is now split it once. I'm not entirely sure, but I think the compact ratio in District seven that would be reconfigured is makes it at least somewhat less compact. And so, so, so so the amendments don't particularly solve any of the problems, and I realize this is as much of an art as a as a science. But there are some things that it doesn't make it a perfect map, either.

House Minority Leader Allison Russo [00:55:09] Mr. Chair.

Co-chair Speaker Bob Cupp [00:55:10] Yeah, Representative Russo.

Co-chair Speaker Bob Cupp [00:55:12] So thank you, Mr. Chair. And I would like to respond to a couple of your comments regarding certainly, you know, some of the changes to other districts and concerns about compactness. I would note that overall, the map with the changes that we have proposed actually make the map. They score higher on the overall compactness score. But certainly, if there are specific concerns about districts, for example, you noted districts five and four, I will note that certainly in our discussions with the Auditor Faber, he actually brought forward a couple of different recommendations that I believe he may have shared with some other commissioners that I think reasonably may also address some of those concerns and address some of our concerns as well. So I say all of this to say again, you know, let's take a day to have these discussions and come to some sort of resolution and compromise on this because I do believe that there is a path forward to do that. And again, not sure why we are under this artificial deadline to vote on this today, when there are clearly some alternatives here that possibly could get us to a bipartisan agreement, meet our objectives. If the objective is to get to a constitutional map that is bipartisan, that lasts 10 years, which that is my objective and to not have the court have to intervene in this again, if that is the objective, then we should take the time to do that. And I think that there are members on this commission from the majority party who have a willingness to do that. And I would strongly encourage that.

Co-chair Speaker Bob Cupp [00:57:03] Further discussion? The question then, is on the amendment. Shall the amendment proposed by Representative Russo be adopted? The staff will call the roll please.

Clerk [00:57:18] Co-chair Speaker Cupp.

Co-chair Speaker Bob Cupp [00:57:18] No.

Clerk [00:57:21] Co-Chair Senator Sykes.

Co-chair Sen. Vernon Sykes [00:57:22] Yes.

Clerk [00:57:22] Governor DeWine.

Gov. Mike DeWine [00:57:23] no.

Clerk [00:57:24] Auditor Faber.

Auditor of State Keith Faber [00:57:25] No.

Clerk [00:57:26] President Huffman.

Senate President Matt Huffman [00:57:26] No.

Clerk [00:57:28] Secretary LaRose.

Secretary of State Frank LaRose [00:57:30] no.

Clerk [00:57:30] Leader Russo.

House Minority Leader Allison Russo [00:57:30] Yes.

[00:57:30] Mr. Speaker, two of five.

Co-chair Speaker Bob Cupp [00:57:34] The vote is two to five. The amendment has not been agreed to. We're now back to the original motion from Senator Huffman to approve the March 2nd, 22 Strigari map by name that has been uploaded. Is there further discussion. If there's no further discussion, these staff will call the roll, please.

Clerk [00:57:57] Co-Chair Speaker Cupp.

Co-chair Speaker Bob Cupp [00:57:58] Yes.

Clerk [00:57:59] Co-Chair Senator Sykes.

Co-chair Sen. Vernon Sykes [00:58:00] no.

Clerk [00:58:01] Governor DeWine.

Gov. Mike DeWine [00:58:03] yes.

Clerk [00:58:03] Auditor Faber

Auditor of State Keith Faber [00:58:05] yes.

Clerk [00:58:05] President Huffman.

Senate President Matt Huffman [00:58:05] Yes.

Clerk [00:58:06] Secretary LaRose.

Secretary of State Frank LaRose [00:58:07] Yes

Clerk [00:58:08] Leader Russo.

House Minority Leader Allison Russo [00:58:09] No.

Clerk [00:58:10] Mr. Speaker, 5-2.

Co-chair Speaker Bob Cupp [00:58:12] Vote is five to two. The motion has been agreed to and the map has been adopted and would direct staff to upload this to the Secretary of State as soon as possible so that the March 4th filing deadline will be available to candidates and that we can proceed with the March, the May 3rd May... The May Primary Election. Any further business to come before the commission? Hearing none, the commission is adjourned.

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March 1, 2022

Honorable Robert Cupp
 Speaker of the Ohio House of Representatives
 Co-Chair, Ohio Redistricting Commission
 77 South High Street, 14th Floor
 Columbus, Ohio 43215

SYLLABUS: 2022-004

1. The commission, acting under Ohio Constitution Article XIX Section 3(B)(2), may enact a congressional map by a simple majority vote. *See* Article XI, Section 1(B)(1).
2. A map adopted pursuant to Ohio Constitution Article XIX Section 3(B)(2) is valid for the time period that the previous map was valid for before being found unconstitutional. This means that, for the current redistricting cycle, an adopted map would be valid for 4 years, as the map that was found unconstitutional was valid only for 4 years. *See Article XIX, Section 1(C)(3)(e); Article XIX, Section 3(B)(2); Adams v. DeWine, 2022-Ohio-89, ¶¶ 15-22.*



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March 1, 2022

OPINION NO. 2022-004

Honorable Robert Cupp
Speaker of the Ohio House of Representatives
Co-Chair, Ohio Redistricting Commission
77 South High Street, 14th Floor
Columbus, Ohio 43215

Dear Speaker Cupp:

You have requested an opinion regarding the Ohio Redistricting Commission's adoption of congressional district maps pursuant to Ohio Constitution, Article XIX Section 3(B)(2). Specifically, you ask:

1. What votes are required for the Commission to adopt a congressional map: Can maps be adopted by a simple majority of members of the Commission, or are at least 2 votes from members of each political party required?
2. Is the map adopted effective for 4 years or 10 years, and is that dependent on whether at least 2 members of each political party vote for the map?

I address the questions below.

Background of the Congressional Redistricting Process in Article XIX

Article XIX of the Ohio Constitution, which the People of Ohio ratified in 2018, governs the process by which Ohio draws congressional districts. The process consists of three steps.

The first step is set out in Section 1(A) of Article IXI. It states that the General Assembly shall pass a map by the end of September in a year ending with the numeral one. The map may be passed only with an affirmative vote of three-fifths of the members of each house in the general assembly. Further, at least one-half of the members of the two dominant political parties in each house must support the map. If the General Assembly successfully passes a map under this section, the map remains in effect for ten years.

The second step is set out in Section 1(B), which applies if and only if the General Assembly fails to enact a map under Section 1(A). Under Section 1(B), the Ohio Redistricting Commission has until the end of October to enact a congressional map. A map will be deemed enacted only if it has support from at least 4 members of the Ohio Redistricting Commission, including at least 2 members from each of the two dominant political parties. Any map enacted under Section 1(B) remains in effect for ten years. (The Commission, at this second step, does not have authority to enact a 4-year map by a simple majority vote. *Compare* Article XI, Section 1(B)(3) *with* Article XI, Section 8(C)(1)(a).)

Before moving to the third step, it is important to highlight one important aspect of the Ohio Redistricting Commission's powers. The Commission is created by Article XI of the constitution. And Article XI, Section 1(B)(1) states that, "unless otherwise specified in this article or in Article XIX of this constitution, a simple majority of the commission members shall be required for any action by the commission." Section 1(B) does "otherwise specif[y]." But as this opinion will explain later, other sections governing the redistricting process do not.

Step three applies if and only if the Ohio Redistricting Commission fails to act. At this step, the General Assembly must adopt a map before the end of November. If the chosen map receives affirmative support from three-fifths of the members in each house, and an affirmative vote from at least one-third of the members in each of the two dominant parties, then the map remains in effect for ten years. If the map is instead enacted by a simply majority vote that does not satisfy these criterion, it remains in effect for just four years. Article XIX, §1(C).

General Assembly Passes Maps by a Simple Majority without 1/3 affirmative votes from each party, so the map was good for 4 years; Article XIX, Section 1(C)(3)(e)

This redistricting session, the Congressional map was passed by the General Assembly pursuant to Article XIX, Section 1(C). The General Assembly passed the map by a simple majority of the General Assembly, with no Democrats in either the House or the Senate

voting for the map. *Adams v. DeWine*, 2022-Ohio-89, ¶ 21. As a result, the map, had it been upheld, would have remain in effect for just four years. Article XIX, Section 1(C)(3)(e); *Adams v. DeWine*, 2022-Ohio-89, ¶¶ 15-22.

Ohio Supreme Court Finding of Unconstitutionality and Adoption of a New Map Pursuant to Article XIX, Section 3(2)(B)

Article XIX, Section 3(A) gives the Ohio Supreme Court exclusive, original jurisdiction in all cases arising under Article XIX. Here, the Ohio Supreme Court found that the enacted map failed to satisfy the requirements in Article XIX, Section 1(C)(3)(a) and (b). *See Adams v. DeWine*, 2022-Ohio-89, ¶5.

When a map is rejected by the Ohio Supreme Court, the General Assembly has 30 days to remedy the defects. Article XIX, Section 3(B)(1). If the General Assembly fails to address the defects within the allotted time, Article XIX, Section 3(B)(2) applies. Section (B)(2) states in full:

If a new congressional district plan is not passed in accordance with division (B)(1) of this section and filed with the secretary of state in accordance with Section 16 of Article II of this constitution, the Ohio redistricting commission shall be reconstituted and reconvene and *shall adopt a congressional district plan* in accordance with the provisions of this constitution that are then valid, to be used

until the next time for redistricting under this article in accordance with the provisions of this constitution that are then valid. The commission shall adopt that plan not later than the thirtieth day after the deadline described in division(B)(1) of this section. *A congressional district plan adopted under this division shall remedy any legal defects in the previous plan identified by the court but shall include no other changes to the previous plan other than those made in order to remedy those defects.* (Emphasis added).

Article XIX, Section 3(B)(2) does not specify whether the adoption of a map requires the affirmative vote of at least 2 members of each of the two dominant political parties. It also does not state whether or not the adopted map is for a period of 10 years or 4 years (or if a map passed by a simple majority is good for 4 years, while a map passed by at least 2 members of each dominant political party is good for 10 years). The only specific instruction is that the General Assembly cannot amend or alter the map beyond what is necessary to remedy the defects found by the Ohio Supreme Court. *Id.* Here, that means that the General Assembly may only address the map in relation to the Article XIX, Section 1(C)(3) requirements that the Ohio Supreme Court found not satisfied. *See* Article XIX, Section 1(C)(3)(a) and (b); *see also See Adams v. DeWine*, 2022-Ohio-89, ¶5.

The Honorable Robert Cupp

- 6 -

You have asked several questions related to Article XIX, Section 3(B)(2)

What procedures govern the vote under Article XIX, Section 3(B)(2)? Is a bipartisan vote required?

You first ask what voting procedures govern the Commission's adoption of a map pursuant to Article XIX, Section 3(B)(2). Specifically, you ask whether a simple majority vote is sufficient, or if a bipartisan vote with two members of each party voting "yes" is required.

Article XIX, Section 3(B)(2) states that the Commission "shall adopt a congressional district plan in accordance with the provisions of this constitution that are then valid[.]" Article XI, Section 1(B)(1) states that "unless otherwise specified in this article or in Article XIX of this constitution, a simple majority of the commission members shall be required for any action by the commission."

These provisions indicate that, unless another procedure is specified in Article XIX, a simple majority vote is sufficient to adopt a map. Article XIX, Section 3(B)(2) does not explicitly contain any other voting procedure. Accordingly, the default procedure applies.

Before moving on, I will pause to explain why two provisions that might appear to require more than a simple majority vote do no such thing.

Begin with Article XI, which governs the adoption of state legislative maps. Under Article XI, if at least 2

members of each political party vote affirmative on a state legislative district map, that the map is valid for 10 years. Article XI, Section 1(B)(3). If only a simple majority of the Commission, without bipartisan support, votes for a map, the map is valid only for 4 years. Article XI, Section 8(C)(1)(a). Could that process be incorporated into Article XIX? I conclude that the answer is “no.” Nothing in Article XIX includes any such option. The procedures for adopting a state legislative map and a congressional map are significantly different and contained in different articles. Article XIX, Section 3(B)(2) should not be read as directing the Commission to follow a procedure in a different article of the Constitution when Article XIX explicitly adopted a different procedure.

Second, one might argue that Article XIX, Section 3(B)(2) incorporates and duplicates the procedure set forth in Article XIX, Section 1(B) that the Commission follows when originally adopting a map. Under Section 1(B), the Commission can approve a map only with 2 votes from members of each dominant political party, and the map is good for 10 years. But there is no basis for reading Section 1(B)’s requirements into Section 3(B): the provisions contain different language, and different language connotes different meaning. Moreover, this interpretation creates the distinct possibility that the Commission will be in perpetual deadlock and unable to pass a map. Ohio would be left without a congressional map. The language in Section 3(B)(2) states that the Commission “shall adopt” a map, and provides no back-up if the Commission does not adopt a map. This is in contrast to the redistricting procedure for the initial adoption of a map. Under the initial procedure

for adopting a map, if the Commission fails to adopt a map, the General Assembly has a second chance to adopt a map. After a map is found unconstitutional, however, there is no such option. I do not believe Article XIX, Section 3(B)(2) can plausibly be read as allowing the Commission to be stuck in limbo without adopting a map. (Ultimately, the federal default of 15 state-wide, at-large Congressional districts might take effect under this reading. *See* U.S. Constitution, Article I, Section 2). At least here, where the Constitution specifically provides for a different default procedure—a simple majority vote pursuant to Article XI, Section 1(B)(1)—I do not view Article XIX, Section 3(B)(2) as incorporating the procedure set forth in Article XIX, Section 1(B).

Because Article XIX, Section 3(B)(2) does not contain a specific voting procedure, and because it does not incorporate procedures from another provision, Article XI, Section 1(B)(1) applies. The Commission can adopt a map by a simple majority vote.

Time period that Maps Adopted Pursuant to Article XIX Section 3(B)(2) are Valid For

Having concluded how the Commission adopts a map pursuant to Article XIX, Section 3(B)(2), I now address whether the map is valid for 4 years or 10. I conclude that it is valid for 4 years.

Article XIX, Section 3(B)(2) states that a map adopted pursuant to it is valid “until the next time for redistricting under this article.” The phrase “until the next time for redistricting under this article” has several

potential readings. I conclude that the best reading is that the phrase sets different time periods for different maps.

One reading is that the “next time for redistricting” always means that the map is valid until the year ending in numeral one (e.g. 2031, 2041), which would align with the general decennial redistricting process. I do not believe this is the correct interpretation, however. Other than in Section 3, nowhere else in Article XIX is the phrase “the time for redistricting,” or any similar general phrase used. Instead, other provisions of Article XIX consistently use the phrase “shall remain effective until the next year ending in numeral one” when the map is to be effective until the beginning of the next decade. *See* Article XIX, Section 1(A), (B), (C)(2), (D), (E), (F)(2), and (F)(3)(e). When Article XIX intends that the map shall remain effective for a different time period than until the next year ending in numeral one, Article XIX uses different language. *See* Article XIX, Section 1(C)(3)(e) (a map is valid for two general elections). Article XIX, Section 3(B)(2)’s use of language other than “shall remain effective until the next year ending in numeral one” indicates that the map adopted pursuant to the section is not necessarily effective until the next year ending in numeral one.

This reading is further supported by looking at the ballot language and purpose of the new congressional redistricting amendment. The ballot language for the amendment states that the amendment would “[r]equire the General Assembly or the Ohio Redistricting Commission to adopt new congressional districts by a bipartisan vote for the [map] to be effective for the

full 10-year period.” *Certified Ballot Language to Proposed Issue 1*, 2018 (available here: <https://www.sos.state.oh.us/globalassets/ballot-board/2018/2018-02-20-ballotlanguage-issue1.pdf>).

Similarly, the official “argument for” the amendment states: “Voting Yes on Issue 1 will require significant bipartisan support to adopt new congressional districts for 10 years.” Argument For proposed Issue 1 (Prepared by Senators Matt Huffman and Vernon Sykes, and Representatives Kirk Schuring and Jack Cera) (available here: <https://www.sos.state.oh.us/globalassets/ballotboard/2018/2018-02-20-argumentfor-issue1.pdf>). Ballot language does not override the language of a constitutional provision. It is however, required to be “fair, honest, clear, and complete” and ‘no essential part of the proposed amendment’ may be omitted.”. *State ex rel. Cincinnati Action for Hous. Now v. Hamilton Cty Bd. of Elections*, 164 Ohio St. 3d 509, 2021-Ohio-1038, 173 N.E.3d 1181, ¶¶ 7-8, quoting *Markus v. Trumbull Cty. Bd. of Elections*, 22 Ohio St.2d 197, 259 N.E.2d 501 (1970), paragraph four of the syllabus. Allowing a 10-year map to be adopted without bipartisan support would explicitly contradict this language. Moreover, this reading would also allow the majority party to game the system by originally passing an intentionally unconstitutional map. Because a 10-year map cannot initially be adopted without bipartisan support, but could be adopted later without bipartisan support *after a Court finding of unconstitutionality*. Such a reading would incentivize a majority party to act unconstitutionally when first passing a map. Ambiguous constitutional provisions should not be interpreted in ways that incentivize government officials to act unconstitutionally.

Therefore, the phrase “next time for redistricting” as used in Article XIX, Section 3(B)(2) should not be read to always mean that a map is valid until the next year ending in numeral one.

Nor, however, does Article XIX, Section 3(B)(2) use the explicit language that the plan adopted shall be valid for two general elections after its adoptions. *Compare*. Article XIX, Section 1(C)(3)(e).

Because the phrase “next time for redistricting” does not refer to a specific time, a different interpretation should be used.

The time period the plan is valid for is best read as being the time period for which the invalidated map would have remained in effect had it not been held unconstitutional. In exercising its duties under Article XIX, Section 3(B)(2), the Commission is remedying “defects in the previous plan identified by the court” and “shall include no other changes to the previous plan other than those made in order to remedy those defects.” The Commission’s role at this point is not to adopt an entirely new map, but rather to remedy constitutional defects in the previous map. Because the previous map was adopted for a specified number of years, remedying the Constitutional defects should not change the number of years it was adopted for. This interpretation also eliminates the possibility of a map that was originally valid for only 4 years being adopted for 10 years without bipartisan support, which is a result in clear contradiction of the ballot language and purpose of the amendment.

The Honorable Robert Cupp

- 12 -

Because the Congressional map that was struck down by the Supreme Court was passed by the General Assembly pursuant to Article XIX, Section 1(C) with only a simple majority, the map was only valid for two general elections. Article XIX, Section 1(C)(3)(e); *Adams v. DeWine*, 2022-Ohio-89, ¶¶ 15-22. Therefore, for this redistricting session, a map passed by the Commission pursuant to Article XIX, Section 3(B)(2) is good only for two general elections.

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The Honorable Robert Cupp

- 13 -

Conclusions

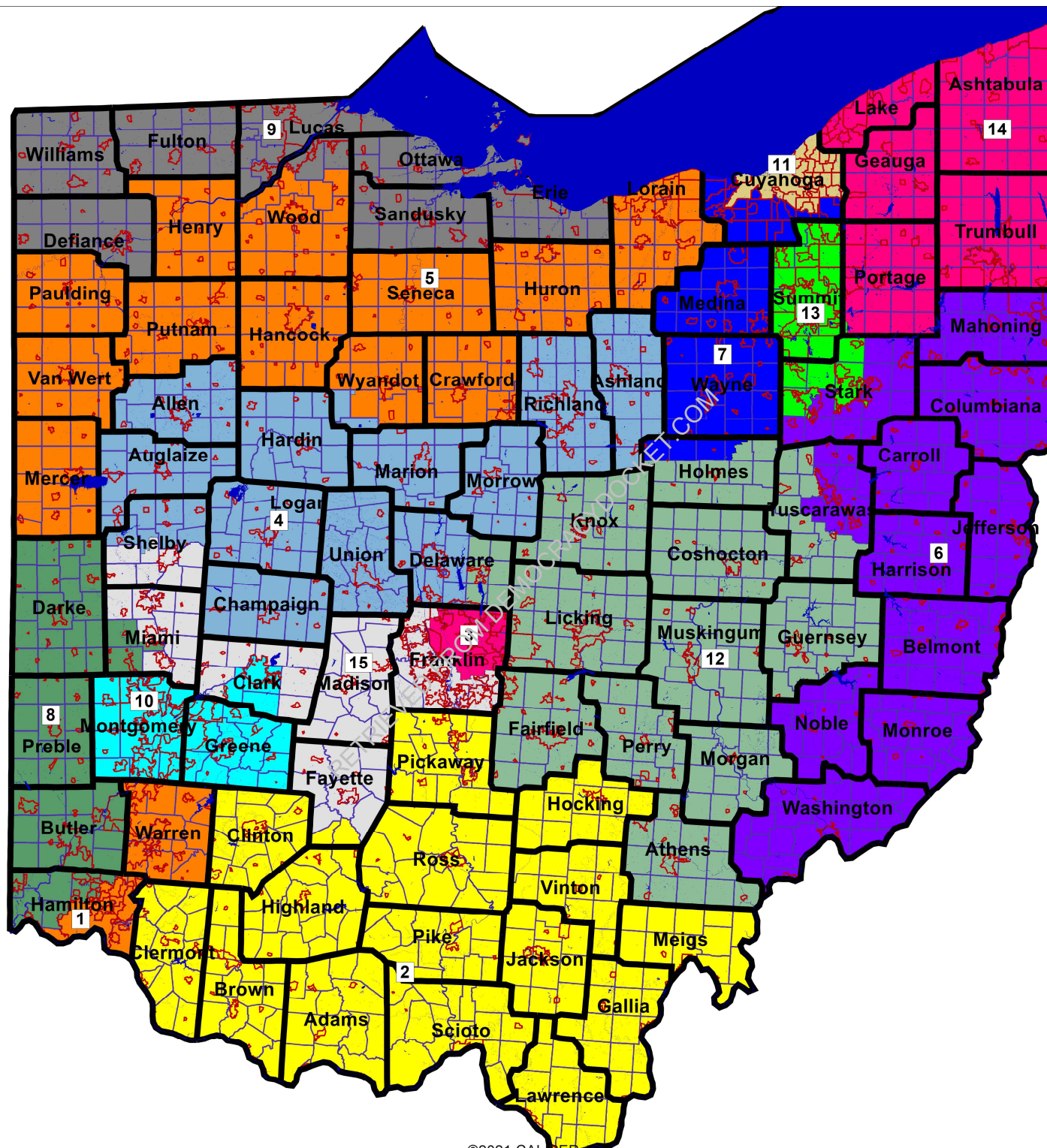
Therefore, I conclude that:

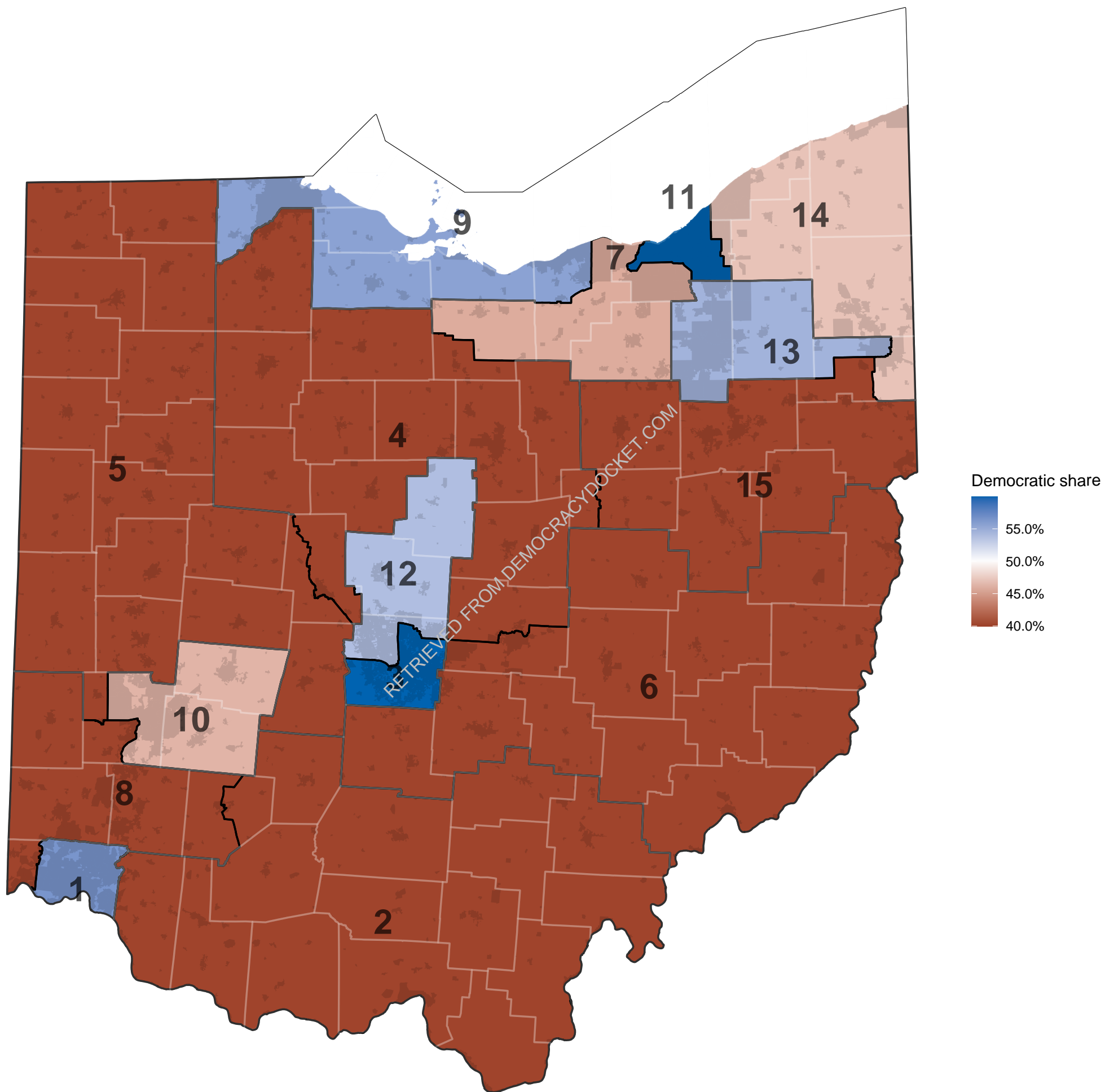
1. The commission, acting under Ohio Constitution Article XIX Section 3(B)(2), may enact a congressional map by a simple majority vote. *See* Article XI, Section 1(B)(1).
2. A map adopted pursuant to Ohio Constitution Article XIX Section 3(B)(2) is valid for the time period that the previous map was valid for before being found unconstitutional. This means that, for the current redistricting cycle, an adopted map would be valid for 4 years, as the map that was found unconstitutional was valid only for 4 years. *See Article XIX, Section 1(C)(3)(e); Article XIX, Section 3(B)(2); Adams v. DeWine*, 2022-Ohio-89, ¶¶ 15-22.

Respectfully,



DAVE YOST
Ohio Attorney General





From: "Michael.Hall@governor.ohio.gov" <Michael.Hall@governor.ohio.gov>

To: Mike Dewine <Mike@silverdollarbaseball.com>

Cc: Ann O'Donnell <Ann.Odonnell@gmail.com>, "Aaron.Crooks@governor.ohio.gov" <Aaron.Crooks@governor.ohio.gov>, "Matthew.Donahue@governor.ohio.gov" <Matthew.Donahue@governor.ohio.gov>

Subject: Re: Speaker

Date: Sat, 5 Feb 2022 16:45:33 +0000

Importance: Normal

Aaron is already talking to house and senate staff about viewing what they have in mind for the maps so we can meet with you next week and explain to you. Gives us something to react to and formulate our input as you've suggested below.

Sent from my iPhone

> On Feb 5, 2022, at 11:39 AM, Mike Dewine <Mike@silverdollarbaseball.com> wrote:

>

> Just talked to him. Date we suggested in March for state of state is fine with him. He will check with staff ...but all that sounds fine . We talked a little about congressional districts . He believes dems will not vote fir it. We will end up back at commission. He wants to do commission work in a week. Hopes that Republicans who are on commission will be familiar enough with map that is being proposed by senate and house that we I'll be able to vote for it . That means obviously that we need to have input as we go ! I would like fir DEWINE team to meet and look at map next week. I have at least one idea. Thanks ,

>

> Sent from my iPad

>

>

>

>

> CAUTION: This is an external email and may not be safe. If the email looks suspicious, please do not click links or open attachments and forward the email to csc@ohio.gov <mailto:csc@ohio.gov> or click the Phish Alert Button if available.

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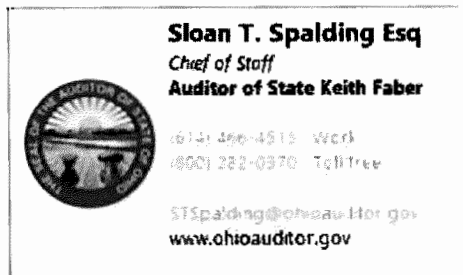
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>

Keith L. Faber

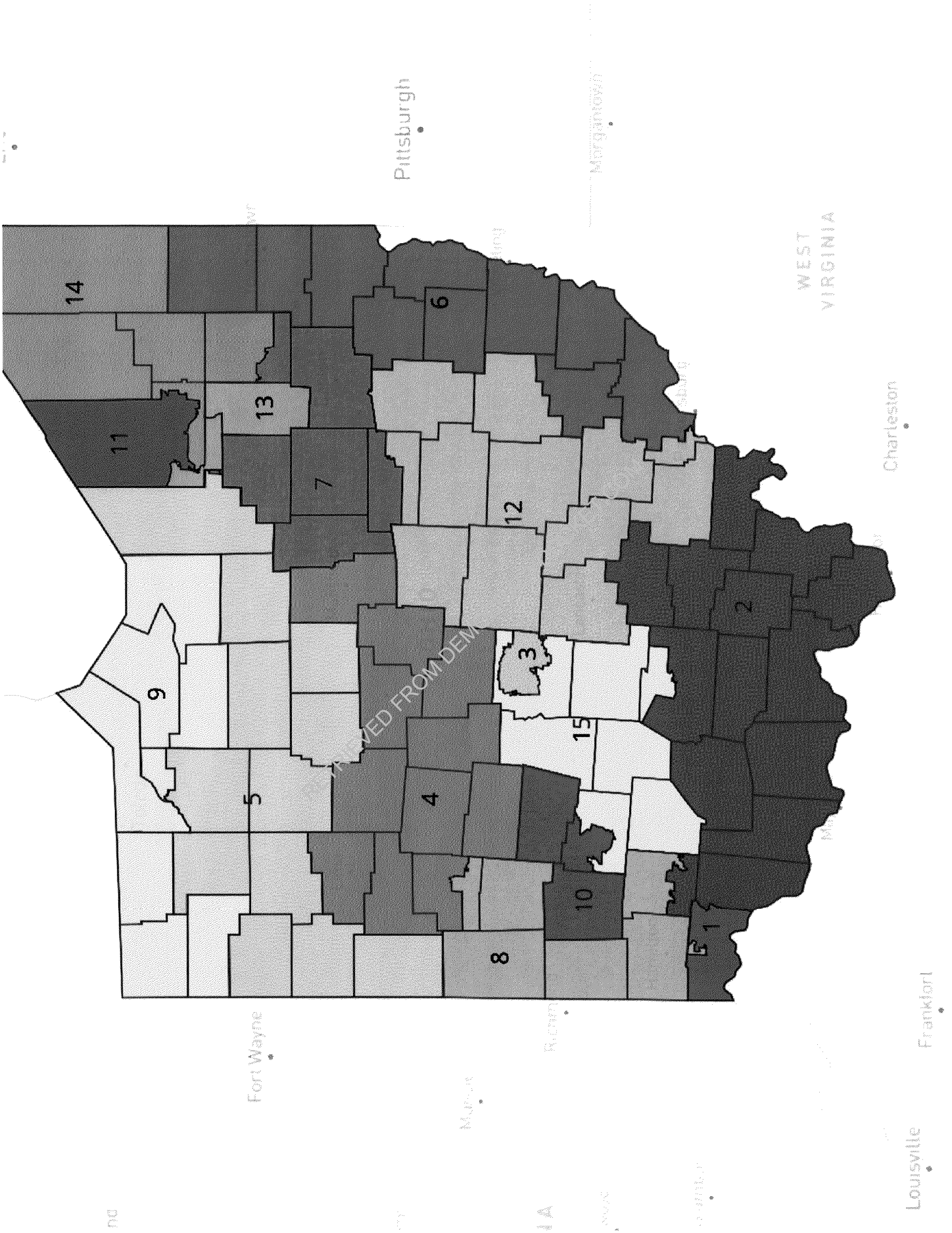
From: Sloan T. Spalding
Sent: Monday, February 21, 2022 4:56 PM
To: Keith L. Faber
Subject: Congressional maps
Attachments: R congressional plan - 21 FEB 2022.png; district-statistics (Rs Congressional).csv; Population.docx

Here is the proposed map, with the data.



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

















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ID	Total Pop	Devation	Dem	Rep	Oth	Total VAP	White	Minority	Hispanic	Black	Asian	Native	Pacific
Un	0	0	0	0	0	0	0	0	0	0	0	0	0
1	786630	0	0.5237	0.4537	0.0225	612636	0.6775	0.3225	0.0337	0.2346	0.0366	0.0165	0.0014
2	786630	0	0.3032	0.674	0.0229	604474	0.9083	0.0917	0.0146	0.0241	0.0255	0.0218	0.0009
3	786630	0	0.6857	0.2917	0.0225	612600	0.5782	0.4218	0.0592	0.284	0.0643	0.0182	0.0015
4	786630	0	0.3161	0.659	0.0249	598377	0.8649	0.1351	0.021	0.0581	0.0334	0.0176	0.0009
5	786630	0	0.3713	0.5994	0.0293	612187	0.8604	0.1396	0.0602	0.0471	0.0124	0.0182	0.0015
6	786629	0	0.4183	0.5581	0.0236	630924	0.8629	0.1371	0.024	0.0822	0.0081	0.0178	0.0008
7	786630	0	0.3739	0.5995	0.0267	611741	0.8925	0.1075	0.0201	0.0492	0.0121	0.0194	0.0009
8	786630	0	0.3198	0.657	0.0231	601488	0.8179	0.1821	0.0368	0.0894	0.0327	0.0201	0.0014
9	786630	0	0.4866	0.4851	0.0283	613653	0.777	0.223	0.0588	0.1263	0.0172	0.0196	0.0008
10	786630	0	0.4546	0.5205	0.0249	615743	0.7367	0.2633	0.0319	0.1788	0.0293	0.022	0.0016
11	786630	0	0.7841	0.1957	0.0202	622217	0.444	0.556	0.071	0.4429	0.0357	0.0151	0.0013
12	786629	0	0.3499	0.6245	0.0256	607820	0.8994	0.1006	0.0172	0.0415	0.0161	0.0216	0.0008
13	786630	0	0.5165	0.4607	0.0228	625958	0.8035	0.1965	0.0225	0.1099	0.0434	0.016	0.0008
14	786630	0	0.4479	0.5268	0.0252	632794	0.8651	0.1349	0.0322	0.0537	0.0273	0.0159	0.0008
15	786630	0	0.4452	0.5312	0.0236	604950	0.7772	0.2228	0.044	0.1093	0.0481	0.0199	0.0011
Summary	786629	0	0.4525	0.5231	0.0244	613837	0.784	0.216	0.0365	0.1291	0.0294	0.0186	0.0011

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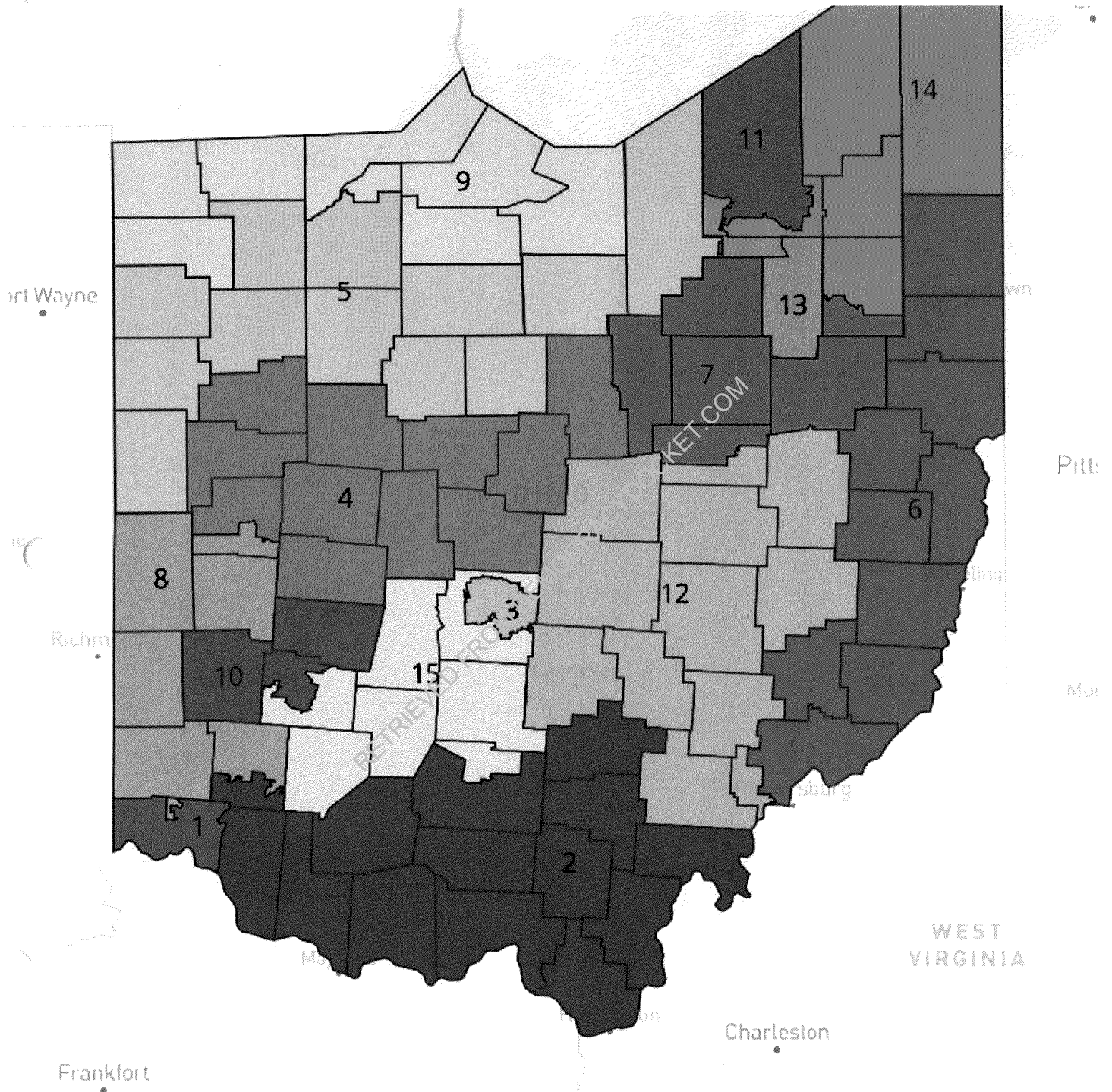
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Population			Shapes	Partisan Lean			Demographics (VAP)DOWI	
ID	Total	+/-		Dem	Rep	Oth	Total	White
11	786,630	0.00%		78.41%	19.57%	2.02%	622,217	44.40%
3	786,630	0.00%		68.57%	29.17%	2.25%	612,600	57.82%
1	786,630	0.00%		52.37%	45.37%	2.25%	612,636	67.75%
13	786,630	0.00%		51.65%	46.07%	2.28%	625,958	80.35%
9	786,630	0.00%		48.66%	48.51%	2.83%	613,653	77.70%
10	786,630	0.00%		45.46%	52.05%	2.49%	615,743	73.67%
14	786,630	0.00%		44.79%	52.68%	2.52%	632,794	86.51%
15	786,630	0.00%		44.52%	53.12%	2.36%	604,950	77.72%
6	786,629	0.00%		41.83%	55.81%	2.36%	630,924	86.29%
7	786,630	0.00%		37.39%	59.95%	2.67%	611,741	89.25%
5	786,630	0.00%		37.13%	59.94%	2.93%	612,187	86.04%
12	786,629	0.00%		34.99%	62.45%	2.56%	607,820	89.94%
8	786,630	0.00%		31.98%	65.70%	2.31%	601,488	81.79%
4	786,630	0.00%		31.61%	65.90%	2.49%	598,377	86.49%
2	786,630	0.00%		30.32%	67.40%	2.29%	604,474	90.83%
Un	0			0.00%	0.00%	0.00%	0	0.00%
	786,629	0.00%		45.25%	52.31%	2.44%	613,837	78.40%

Notes

Seven districts lean Republican, two lean Democratic, and six fall in the 45–55% competitive range.

There is one majority-minority district

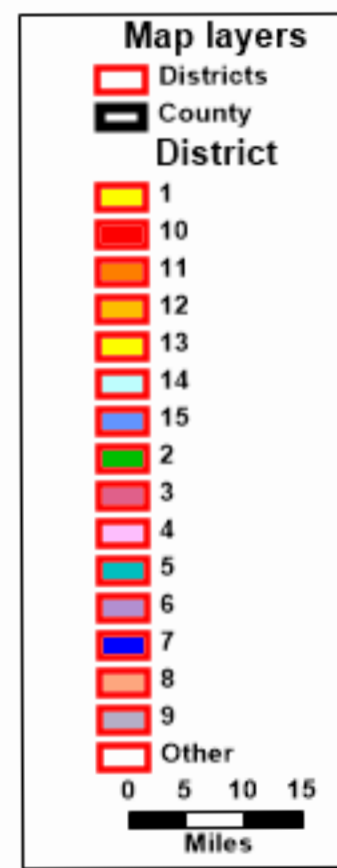
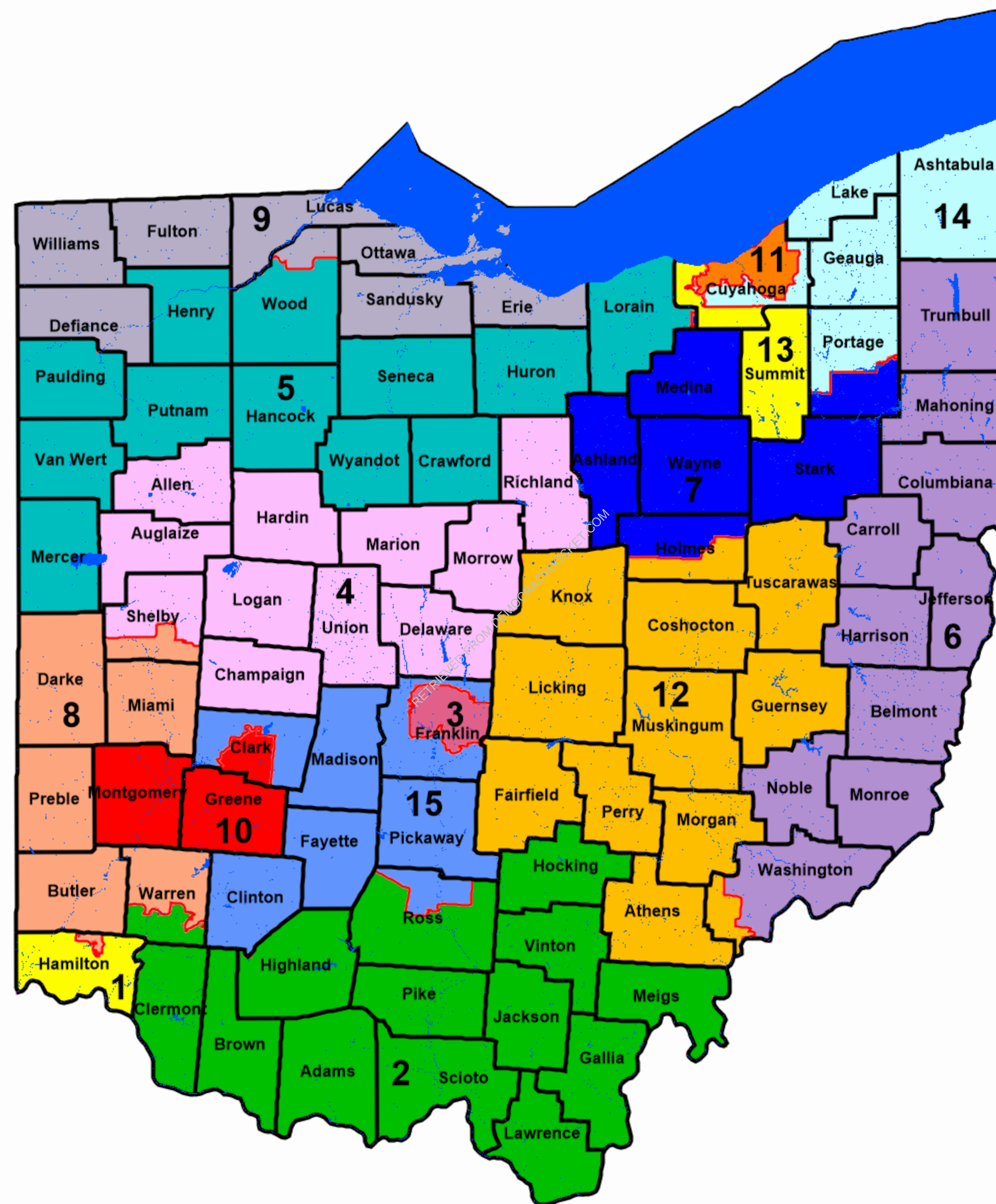


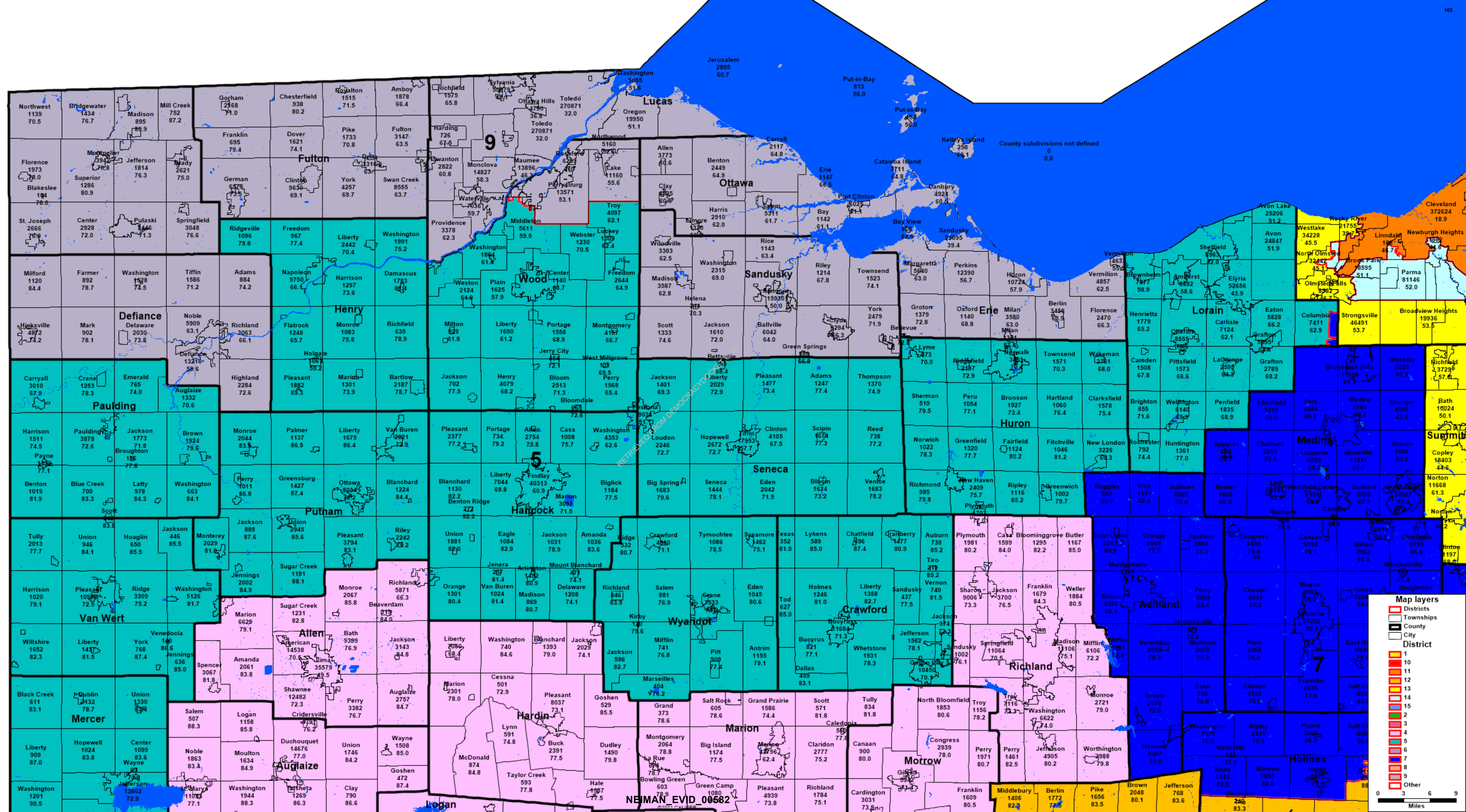
Huffman proposed map Feb 21, 2022

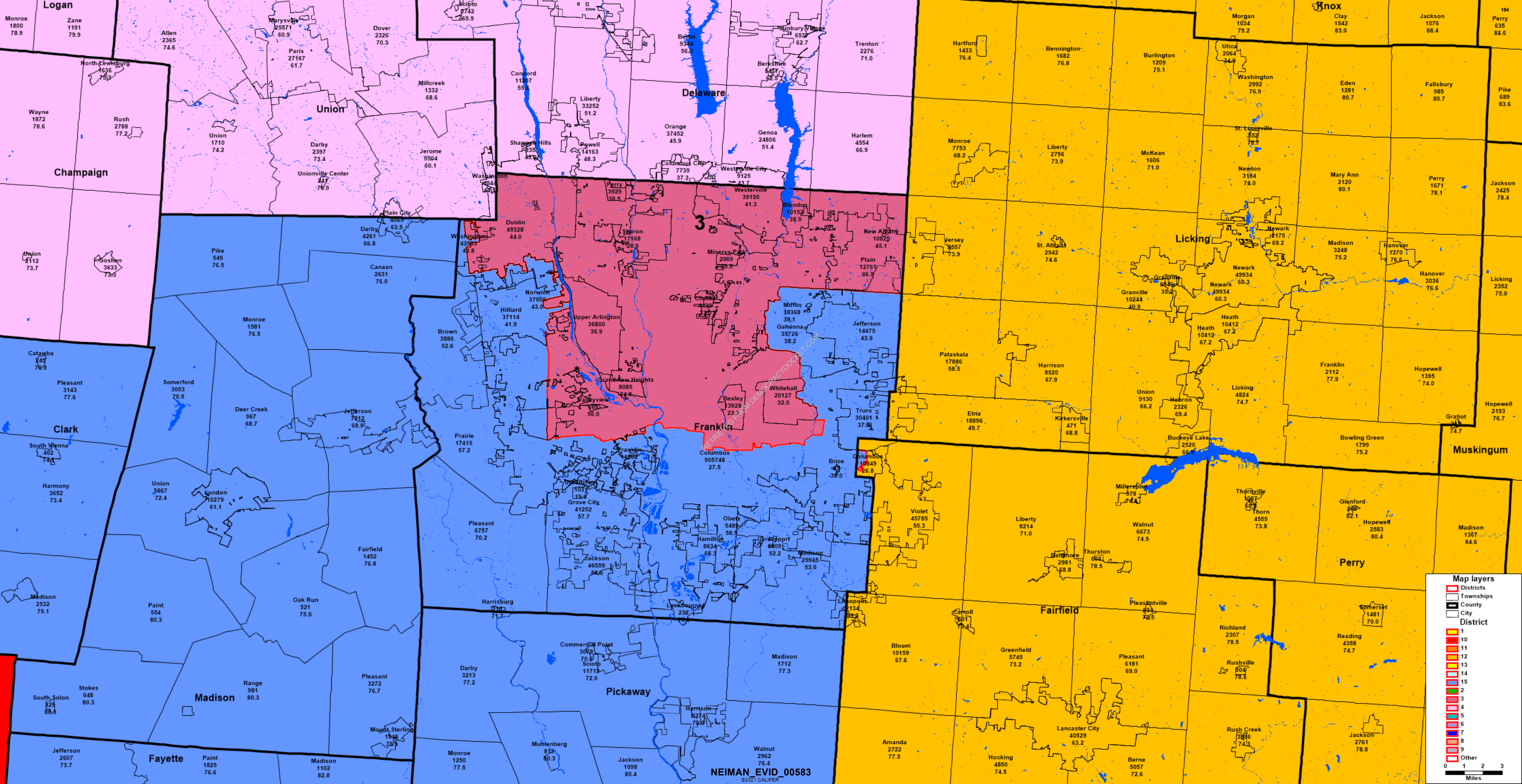
Archived: Monday, April 18, 2022 10:37:15 PM
From: Blake.Springhetti@ohiohouse.gov
Sent: Wednesday, February 2, 2022 3:21:43 PM
To: 'rcupp@bright.net'; 'djswear12@gmail.com'; Christine.Morrison@ohiohouse.gov
Subject: Proposed Plan Information
Sensitivity: Normal
Attachments:
[Proposed Plan Article XIX.zip](#) ;

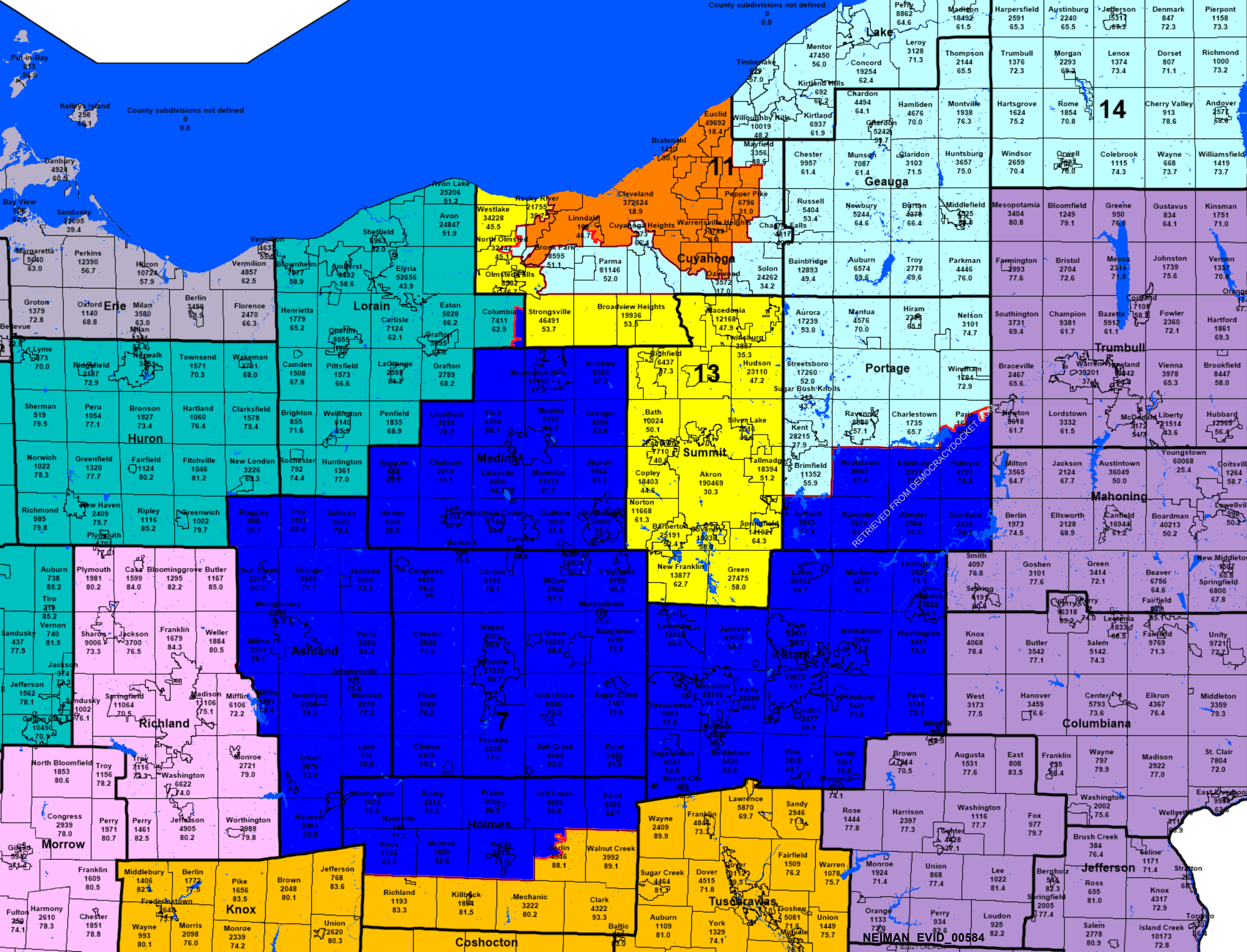
Hello all,
Please see the attached images.
Blake

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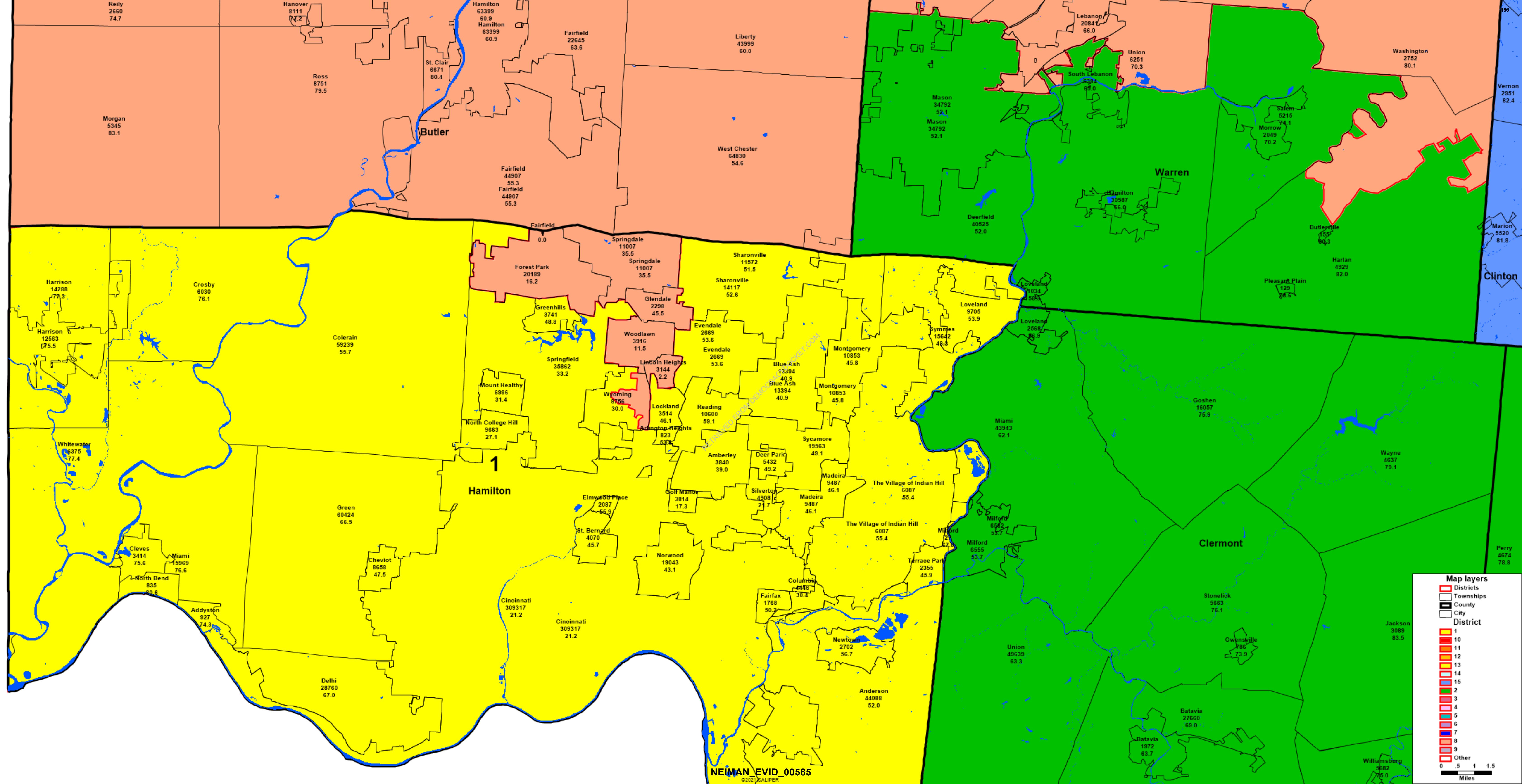
Map layers

- Districts
- Townships
- County
- City

District

- 1
- 10
- 11
- 12
- 13
- 14
- 15
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- Other

0 3 6 9
Miles



Map layers

- Districts
- Townships
- County
- City

District

- 1
- 10
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- 12
- 13
- 14
- 15
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- Other

0 .5 1 1.5
Miles

To: Routt, Randall[Randall.Routt@ohiosenate.gov];
 'chris@projectgovern.com'[chris@projectgovern.com];
 'Sarah.Cherry@ohiohouse.gov'[Sarah.Cherry@ohiohouse.gov]
Cc: Blake.Springhetti@ohiohouse.gov[Blake.Springhetti@ohiohouse.gov]; 'Emily
 Redman'[EERedman@ohioauditor.gov]; Oliveti, Chris[coliveti@OhioSOS.Gov]; Aaron Crooks
 (aaron.crooks@governor.ohio.gov)[aaron.crooks@governor.ohio.gov]
From: DiRossi, Ray
Sent: Tue 3/1/2022 12:11:21 PM
Subject: CD BAF
March 1 2022 CD BAF.xlsx

All

Attached is a CD BAF that will be presented to the Commission this afternoon
 Senator Sykes requested that any such proposal be given to the Democrat staff and Democrat Commission
 members prior to the hearing

Since this is being made available before being made public, please do not share until the Commission
 meeting.

Let me know if you have any issues accessing the BAF

Ray DiRossi
Director of Finance and Budget
Ohio Senate Majority Caucus
Statehouse, Suite 205
Columbus, Ohio 43215



(O) 614.466.4947

(C) 614.578.3848

ray.dirosi@ohiosenate.gov

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To: Routt, Randall[Randall.Routt@ohiosenate.gov];
 'chris@projectgovern.com'[chris@projectgovern.com]; DiRossi, Ray[Ray.DiRossi@ohiosenate.gov];
 Blake.Springhetti@ohiohouse.gov[Blake.Springhetti@ohiohouse.gov]; 'Emily
 Redman'[EERedman@ohioauditor.gov]; Oliveti, Chris[coliveti@OhioSOS.Gov];
 'Aaron.Crooks@governor.ohio.gov'[Aaron.Crooks@governor.ohio.gov]
From: Sarah.Cherry@ohiohouse.gov
Sent: Mon 2/28/2022 10:10:29 AM
Subject: Meetings on congressional map

All,

Good morning. Randall and Chris and I met with Ray and Blake yesterday to talk about a congressional map redraw. Perhaps some of you did as well. When we (Dem Caucus staff) tried to schedule a meeting of the staff of all 7 commissioners earlier in the week, only the Secretary and Auditor's staff were able to make it. Ray and Blake told us they had no map and don't know when a vote will take place or when a map will be produced or what any area of the state will look like in the next map they produce. We asked for the map to be made available 24 hours before any vote and for there to be 24 hours notice of a Commission vote as well. We remain available, as do Leader Sykes and Sen. Sykes, to meet about a congressional map. We continue to invite any feedback or discussion of the Democratic congressional map versions that have been available on the Commission site since Nov. 10 and Feb. 8.

Thank you.

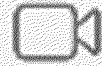
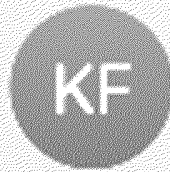
Sarah A. Cherry

Legal Counsel, Minority Caucus
she/her/hers
 Ohio House of Representatives
 77 South High Street, 14th Floor
 Columbus, OH 43215
 office: (614) 466-6040
sarah.cherry@ohiohouse.gov

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11:26



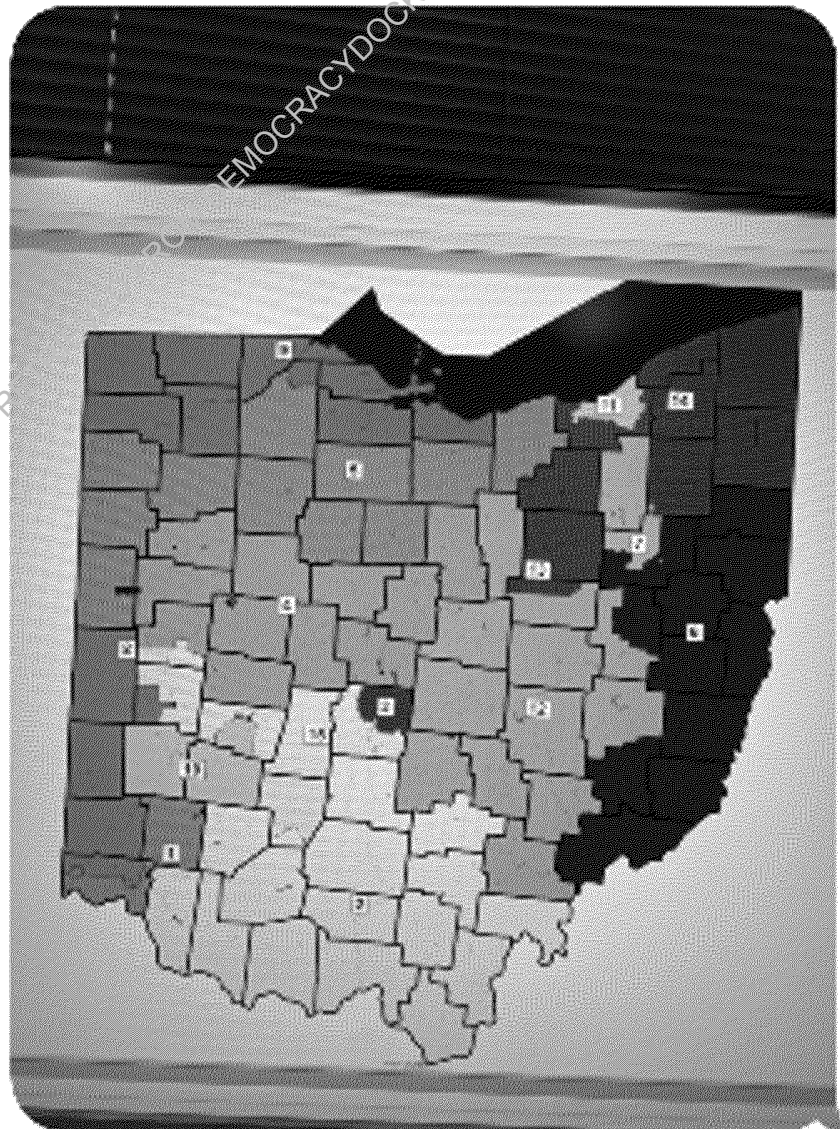
Keith L Faber >

Fri, Feb 25, 14:50

Can I call you later?

Please do

Sun, Feb 27, 18:34



NEIMAN_EVID_00611

SOS_000780

To: eredman12@icloud.com[eredman12@icloud.com]
From: Springhetti, Blake
Sent: Mon 2/21/2022 10:26:27 AM
Subject: Fwd: Congressional Plan Information
Proposed Congressional Plan Images and BAF.zip

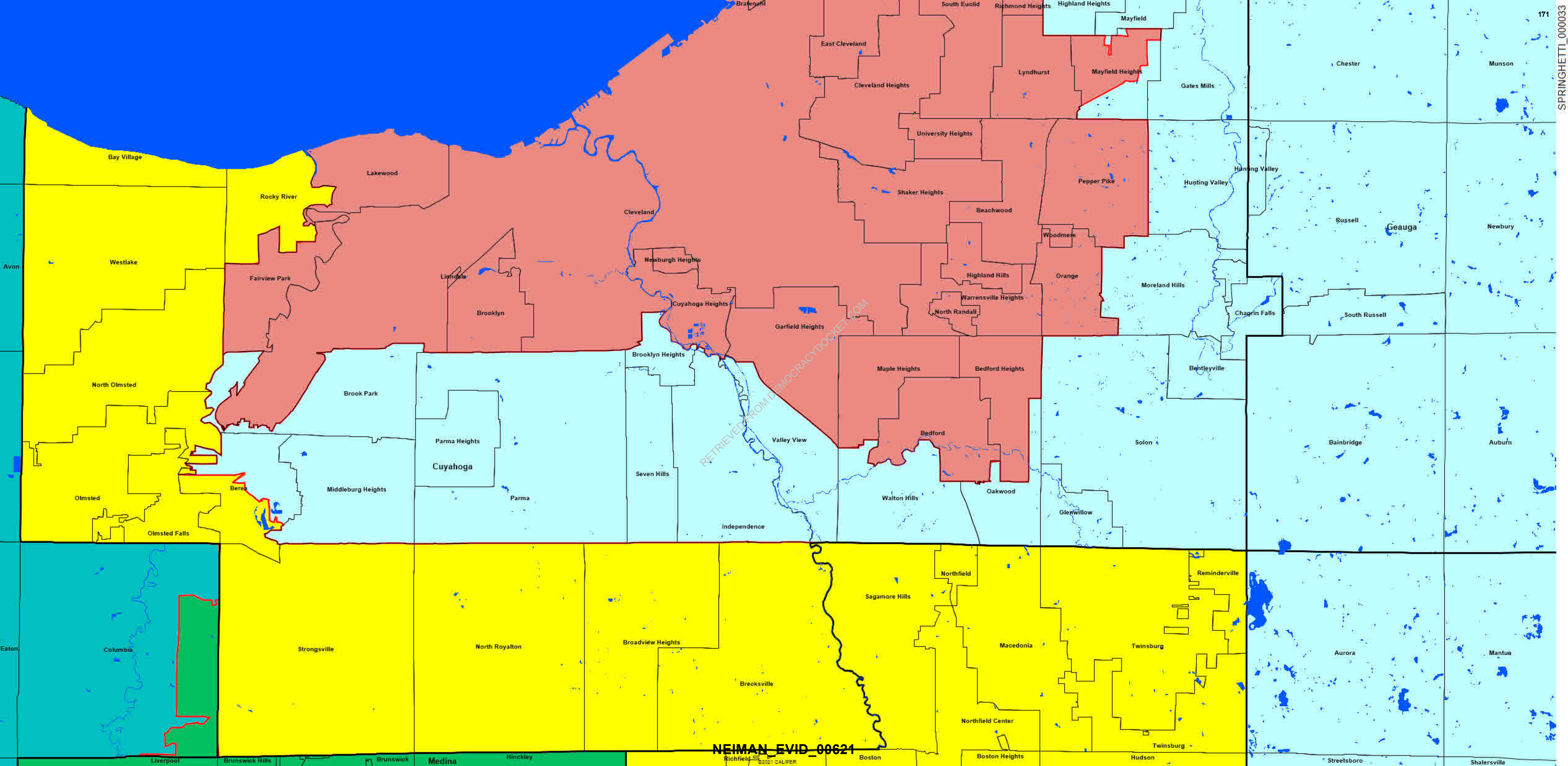
;
See attached and below.
Blake

Begin forwarded message:

From: "Springhetti, Blake" <Blake.Springhetti@ohiohouse.gov>
Date: February 21, 2022 at 10:09:12 AM EST
To: eeredman@ohioauditor.gov
Subject: Congressional Plan Information

Emily,
Christine asked me to share the attached BAF for a Congressional Plan discussed with Sloan a few weeks back.
I included images in case you are not sitting in front of Maptitude.
Kind regards,
Blake V. Springhetti
Majority Director of Finance
Ohio House of Representatives
77 S. High Street, 14th Floor | Columbus, OH 43215
Office: 614.728.5401 | Blake.Springhetti@ohiohouse.gov

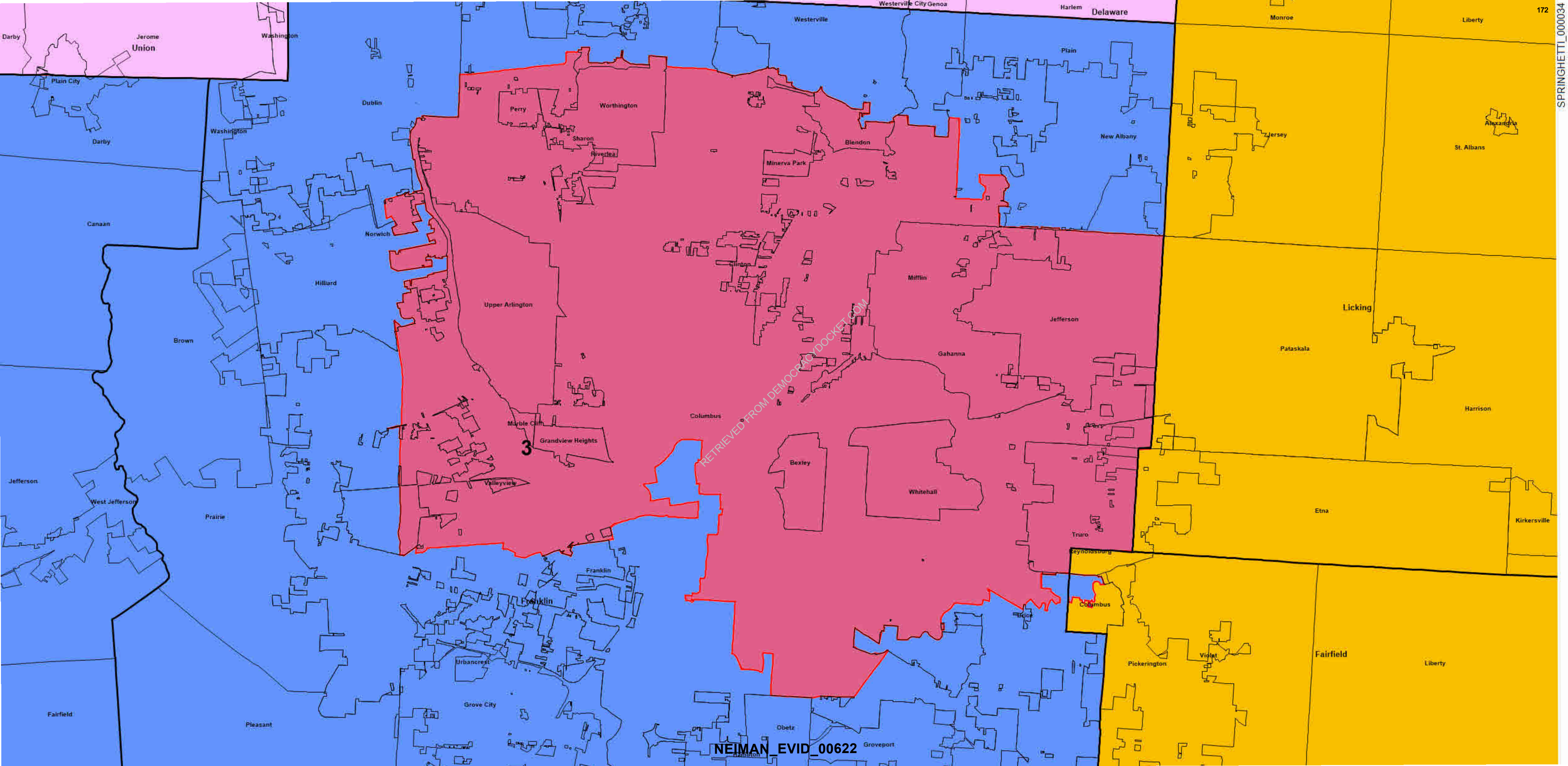
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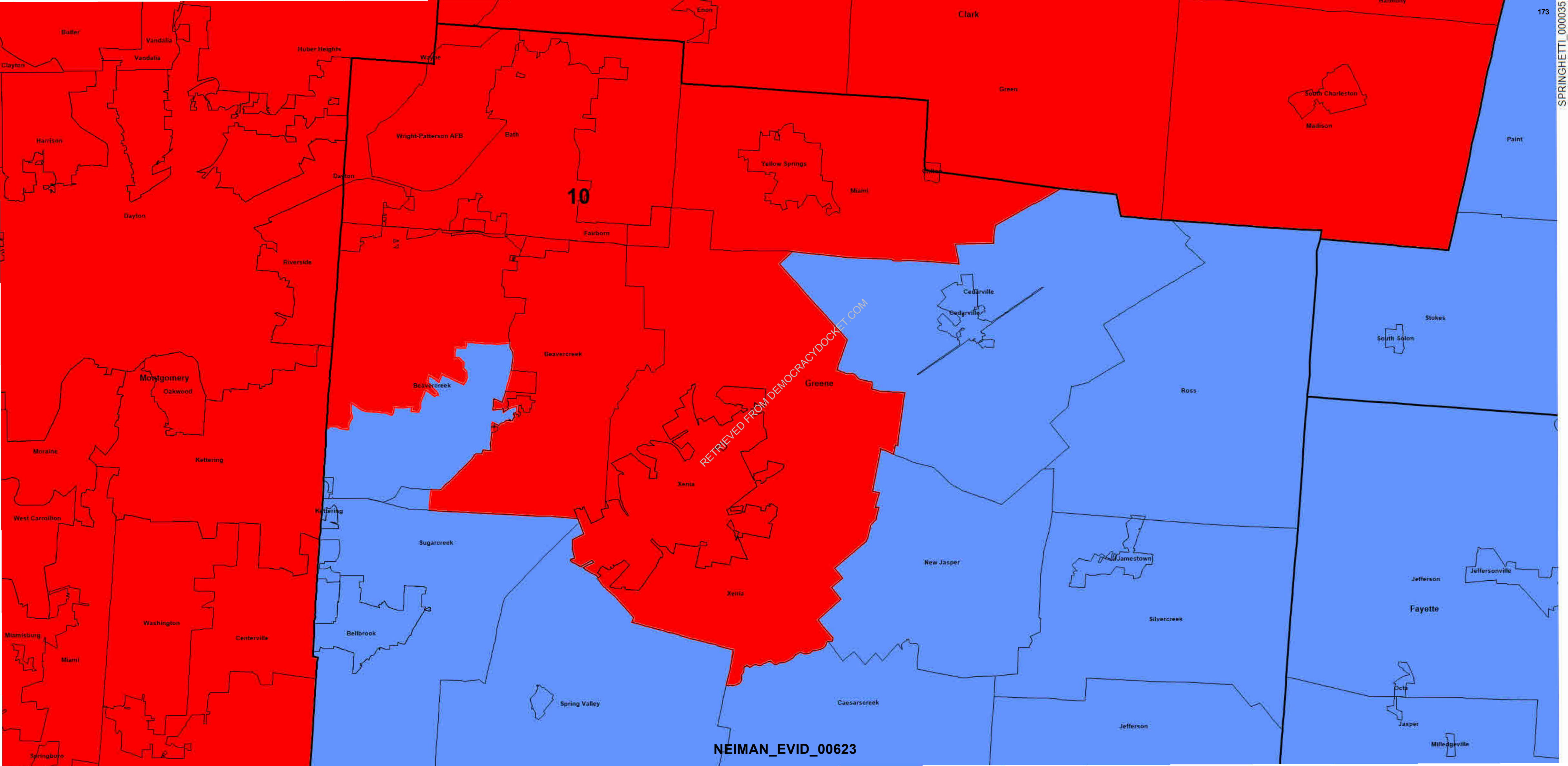
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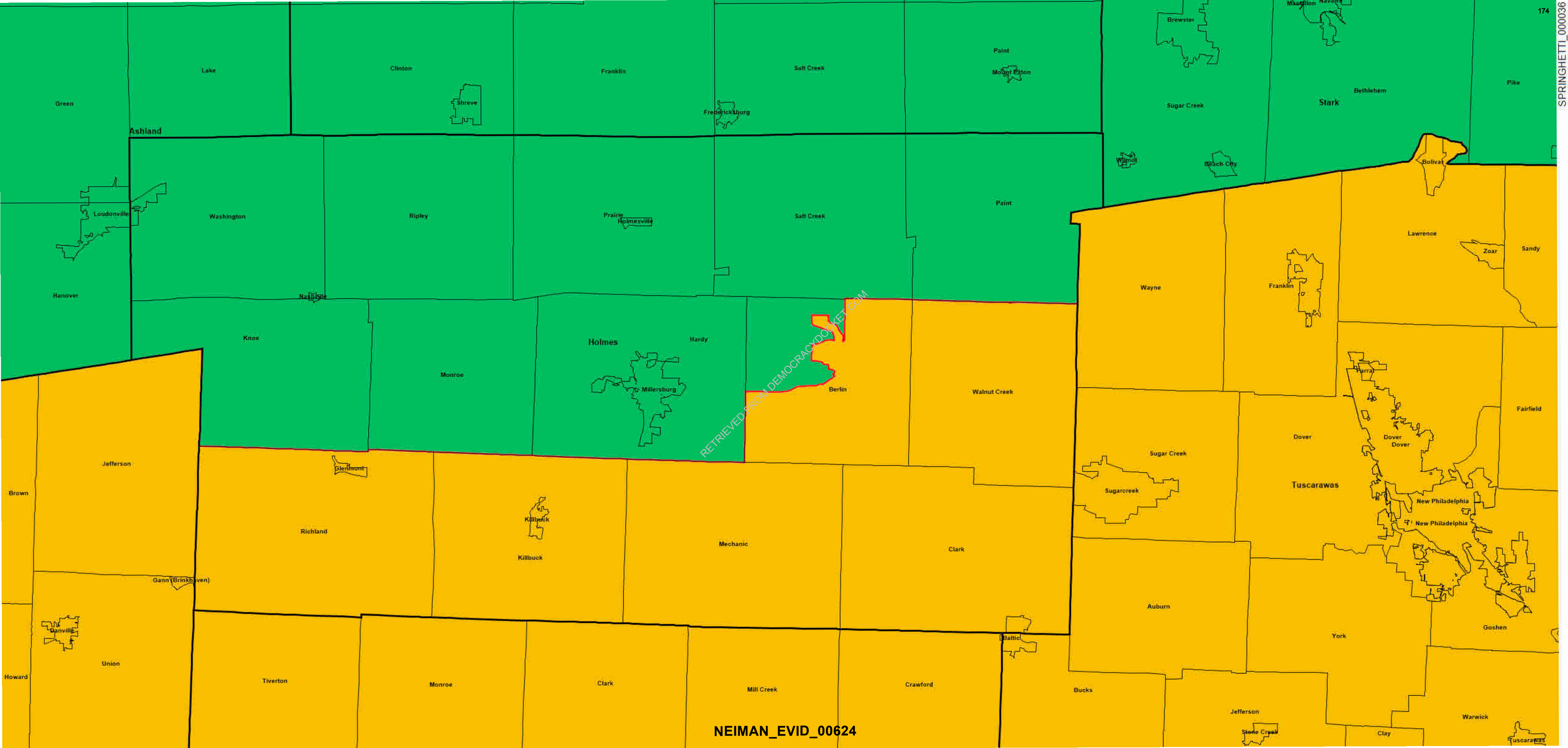
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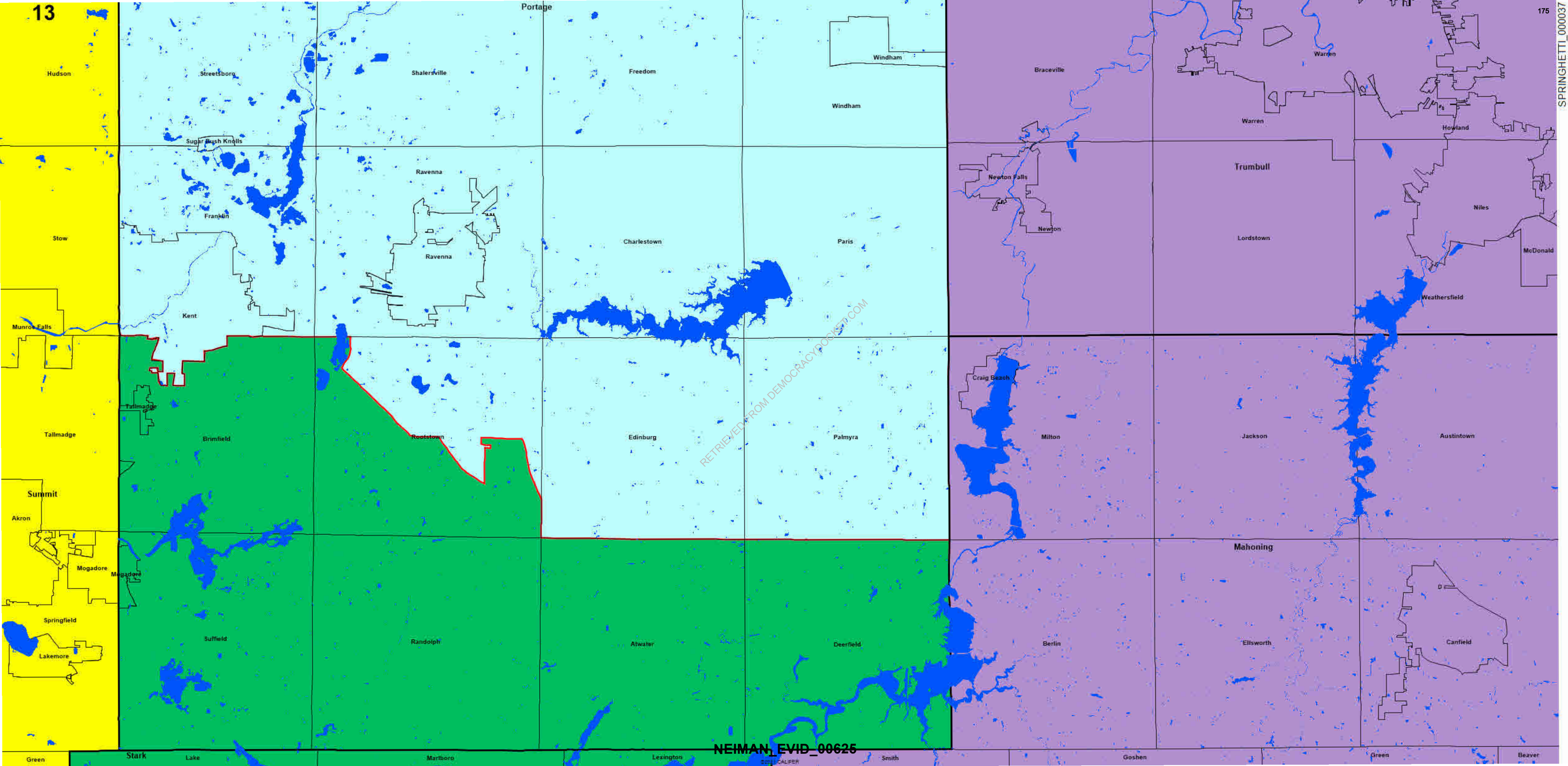
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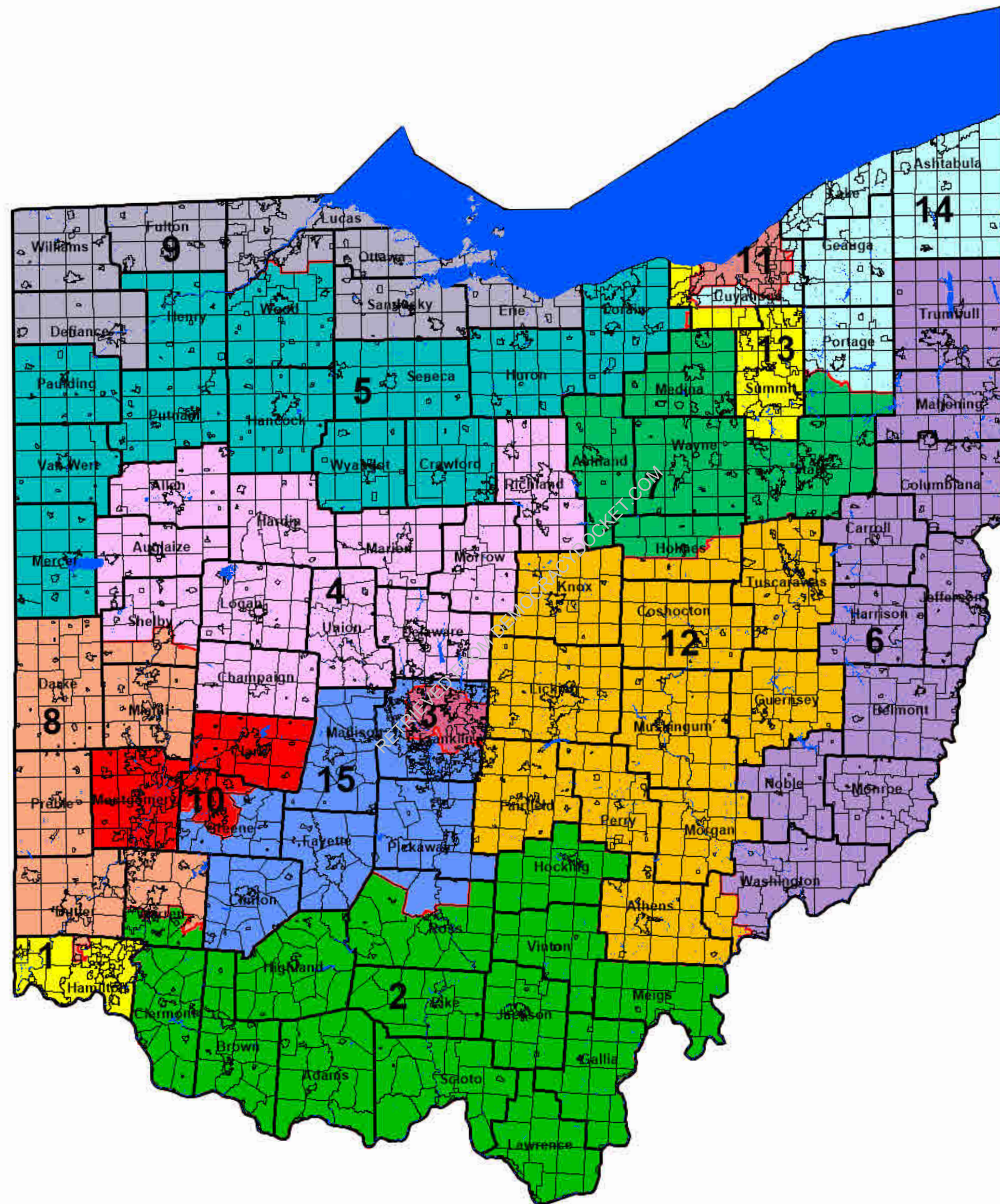


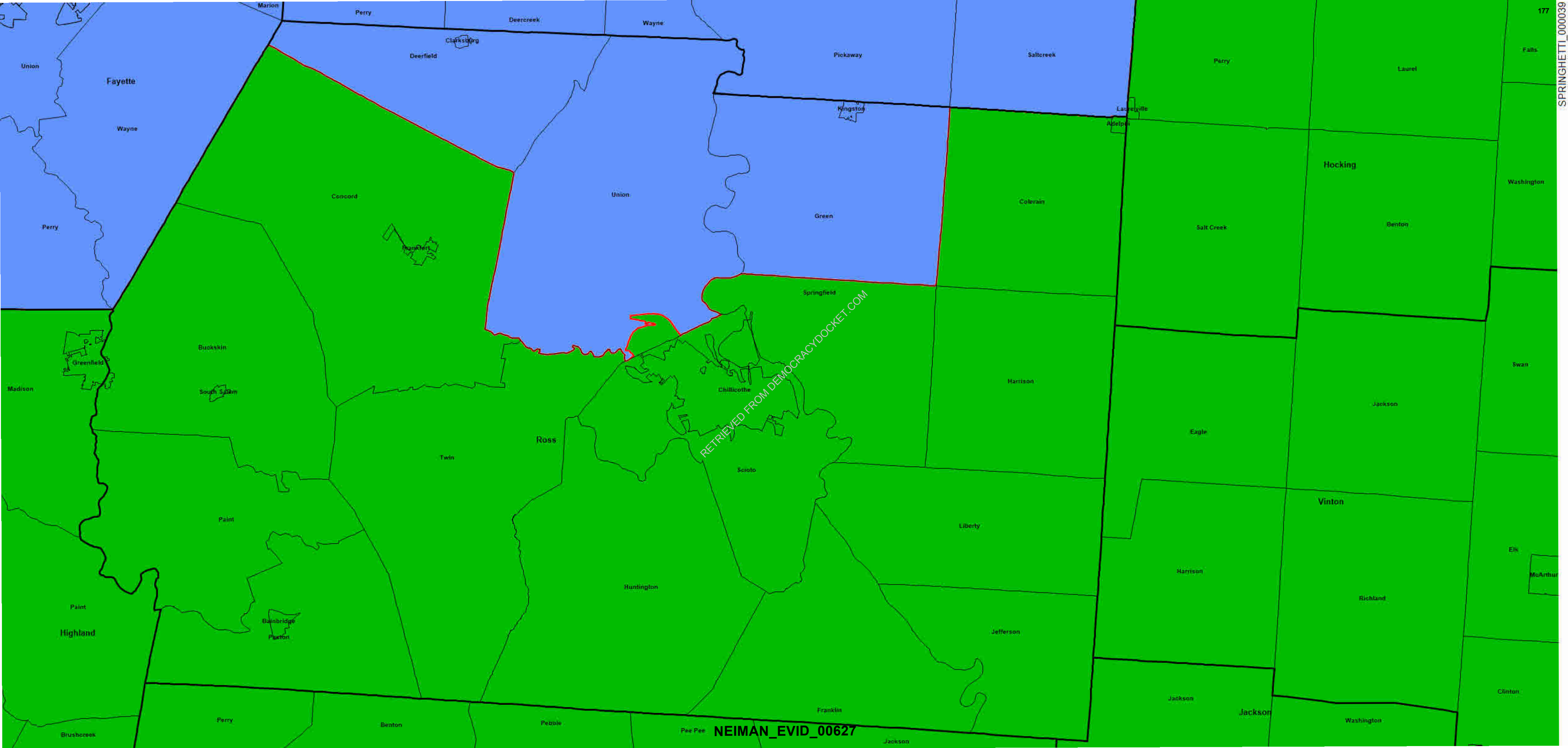
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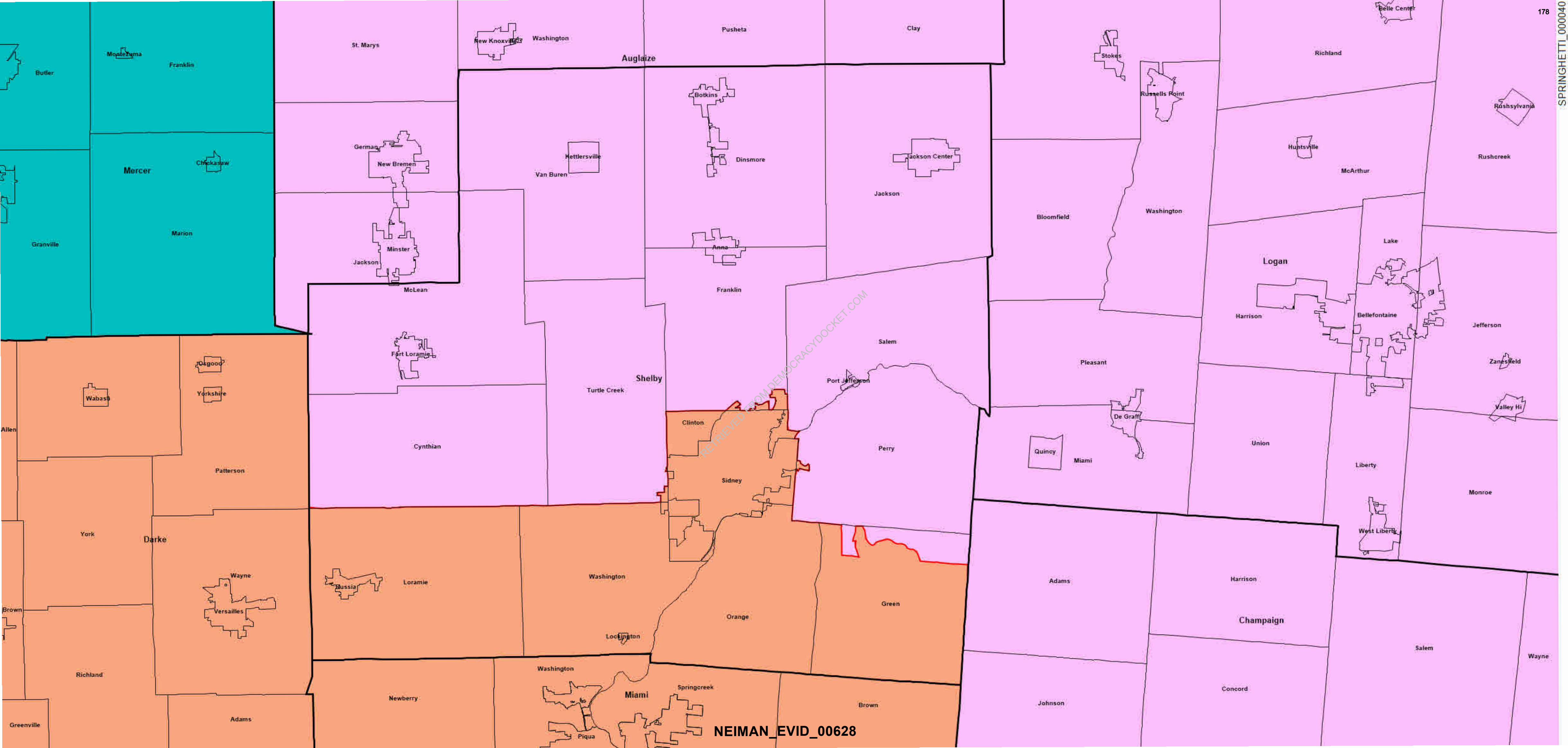


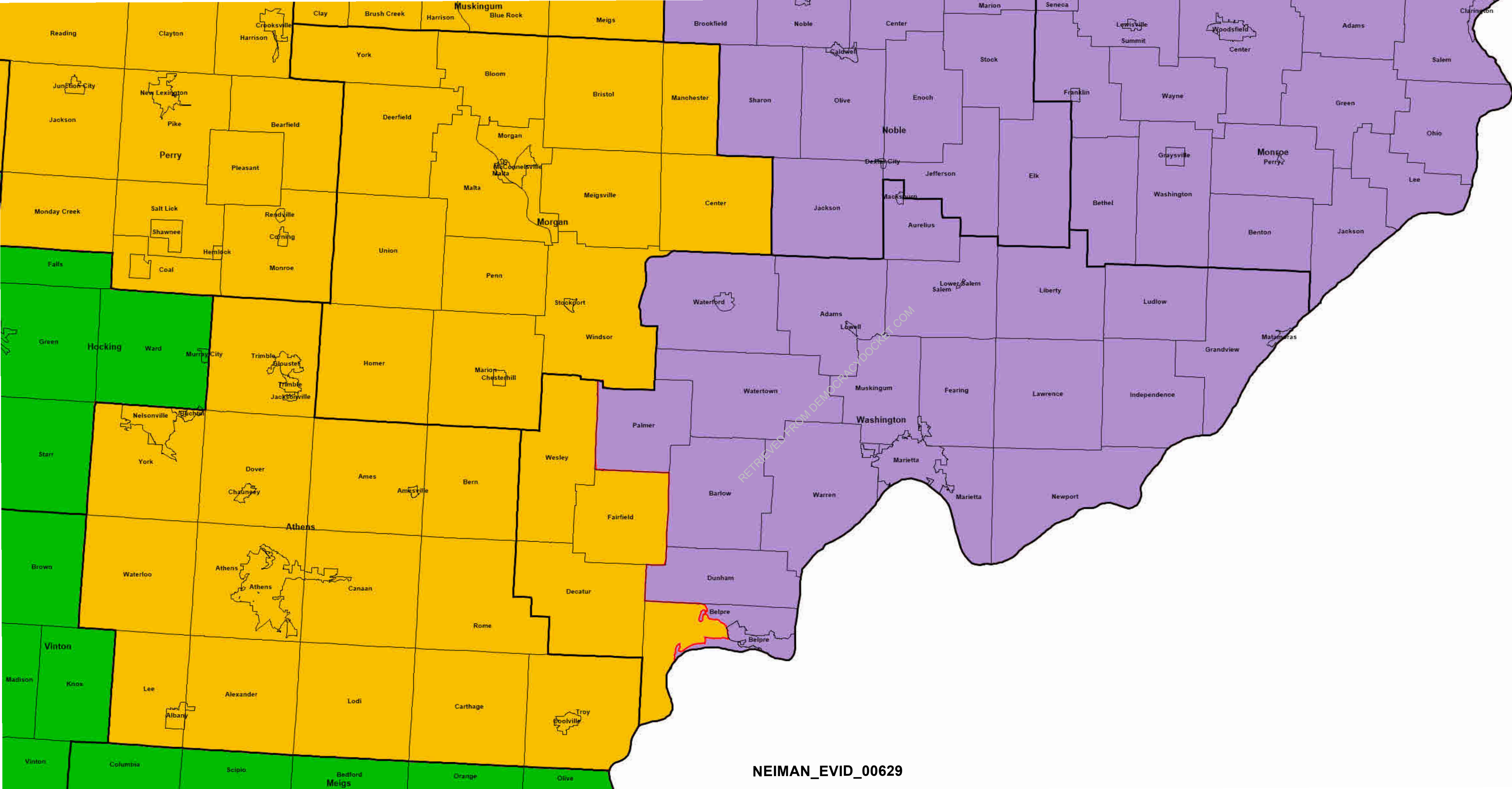


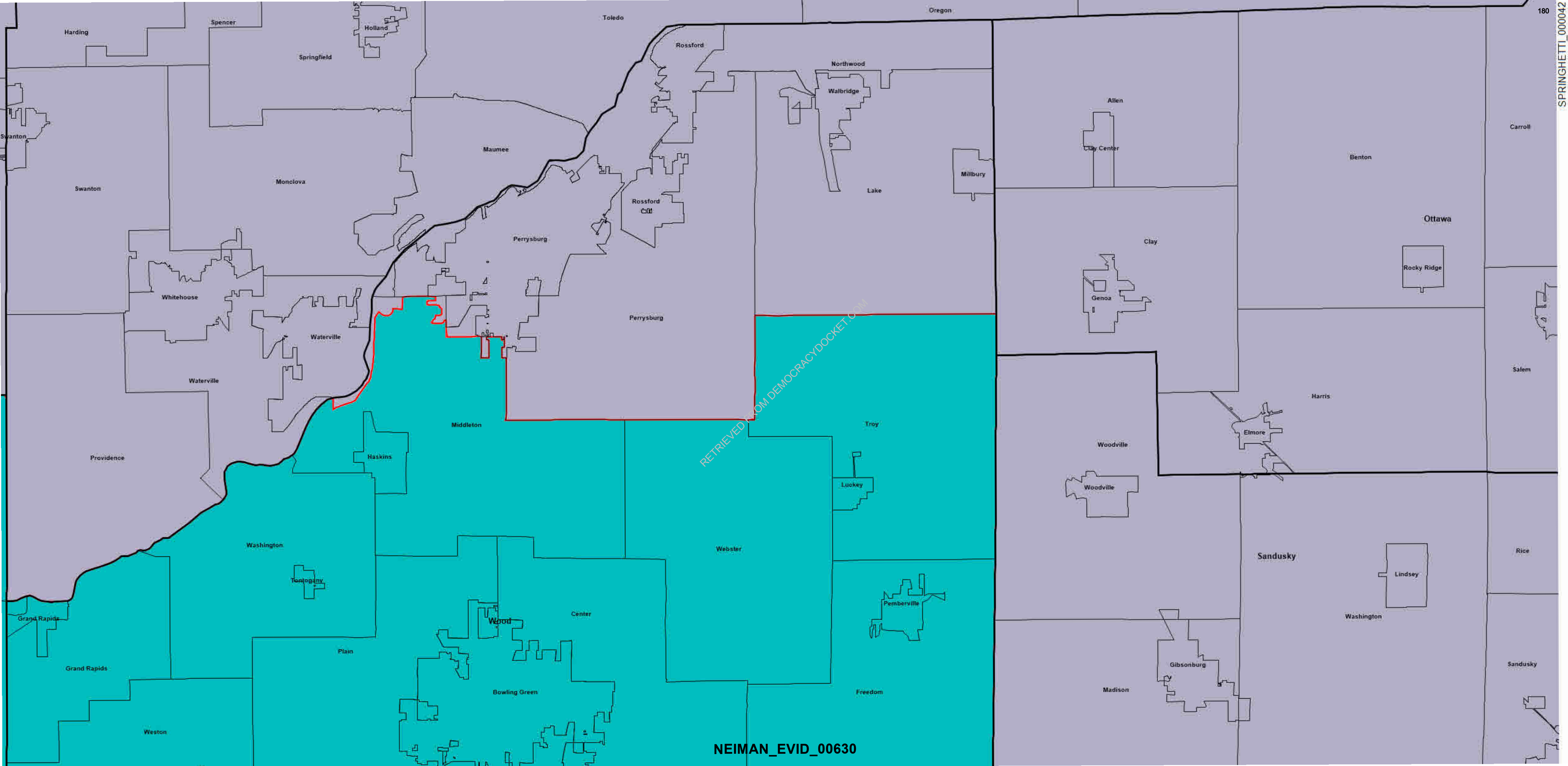




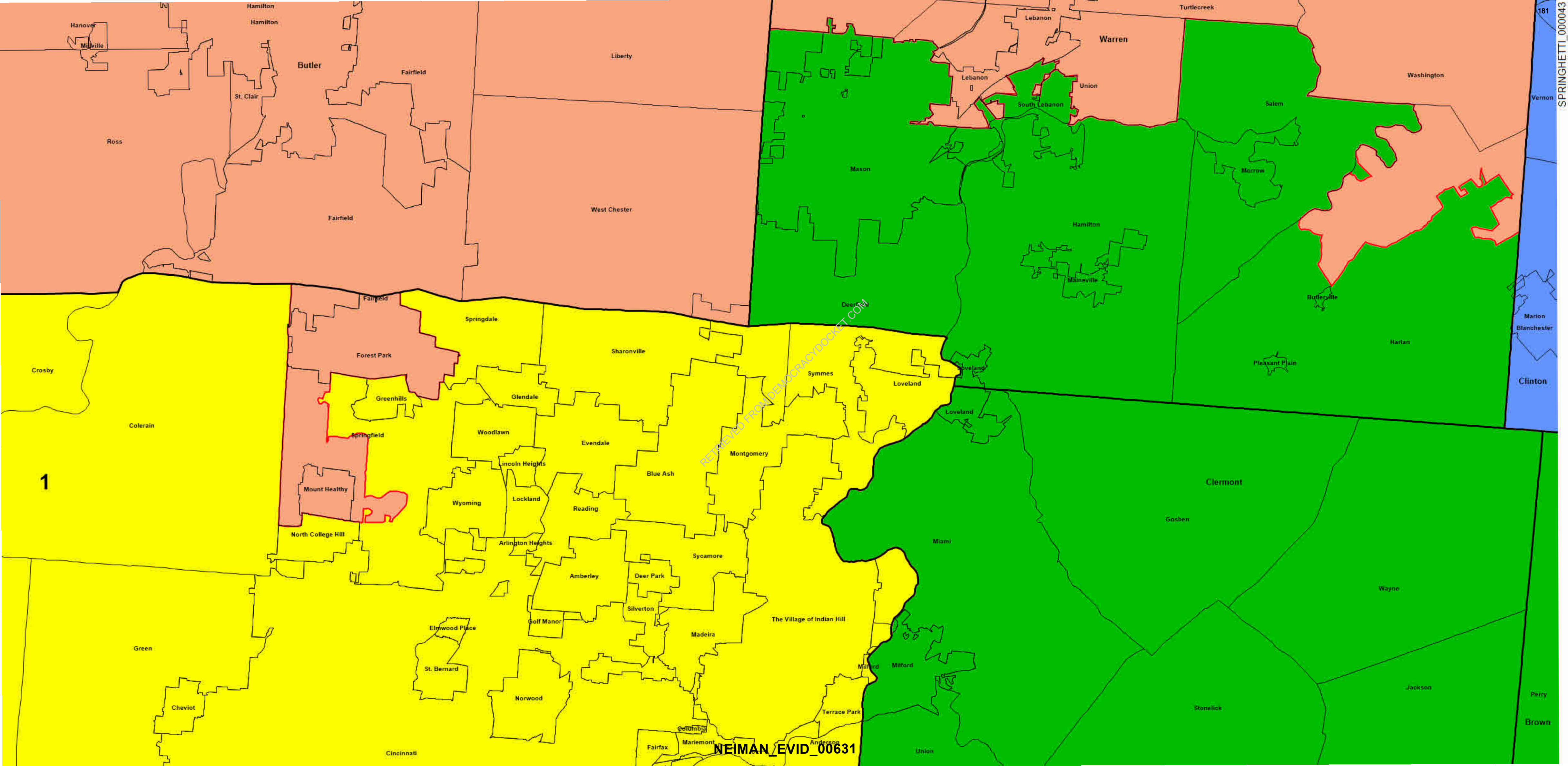
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CERTIFICATE OF SERVICE

I, Freda J. Levenson, hereby certify that on this 5th day of May 2022, I caused a true and correct copy of the following documents to be served by email upon the counsel below:

1. Supplement to LWVO Petitioners' Merits Brief

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