

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

BILLY JOE BREWSTER, JR., LARRY E.
NORMAN, and THOMAS L. HILL, on behalf
of themselves and others similarly situated,

Plaintiffs,

v.

PHILLIP E. BERGER, in his official capacity
as President Pro Tempore of the North
Carolina Senate; TIMOTHY K. MOORE, in
his official capacity as Speaker of the North
Carolina House of Representatives, DAMON
CIRCOSTA. STELLA ANDERSON, JEFF
CARMON III, DAVID C. BLACK , KEN
RAYMOND AND KAREN BRINSON BELL,
in their official capacities as officers or
members of the North Carolina State Board of
Elections,

Defendants,

and

REBECCA HARPER; AMY CLARE
OSEROFF; DONALD RUMPH; JOHN
BALLA; RICHARD R. CREWS; LILY
NICOLE QUICK; GETTYS COHEN JR.;
SHAWN RUSH; JACKSON THOMAS
DUNN, JR.; MARK S. PETERS; JOSEPH
THOMAS GATES; KATHLEEN BARNES;
VIRGINIA WALTERS BRIEN; DAVID
DWIGHT BROWN,

Intervenors-Defendants.

**INTERVENORS' MOTION TO DISMISS
AMENDED COMPLAINT UNDER
FED. R. CIV. P. 12(B)(1)**

Civil Action No. 2:19-cv-37-FL

Pursuant to Federal Rule of Civil Procedure 12(b)(1), Intervenor Rebecca Harper, Amy Clare Oseroff, Donald Rumph, John Balla, Richard R. Crews, Lily Nicole Quick, Gettys Cohen Jr., Shawn Rush, Jackson Thomas Dunn, Jr., Mark S. Peters, Joseph Thomas Gates, Kathleen Barnes, Virginia Walters Brien, and David Dwight Brown (the “*Harper* Intervenor”) move to dismiss Plaintiffs’ Amended Complaint in its entirety and with prejudice for lack of subject matter jurisdiction. The reasons for dismissal are set out more fully in the supporting memorandum, filed contemporaneously herewith.

WHEREFORE, Intervenor respectfully request that this Court dismiss Plaintiffs’ Amended Complaint with prejudice and grant Intervenor such other and further relief as the Court deems just and proper.

Dated: November 22, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on this date, November 22, 2019, I caused the foregoing document to be filed and served on all counsel of record by operation of the CM/ECF system for the United States District Court for the Eastern District of North Carolina.

DATED: November 22, 2019

/s/ Uzoma Nkwonta

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Intervenors-Defendants.

**INTERVENORS' BRIEF IN
SUPPORT OF THEIR MOTION TO
DISMISS AND OPPOSITION
TO PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Civil Action No. 2:19-cv-37-FL

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INTRODUCTION

Plaintiffs ask this federal court to order state election officials to implement a redistricting plan that a state court has found likely violates the state constitution, and that the state legislature has now repealed. Plaintiffs' claims fail on every level.

On October 28, 2019, a three-judge panel in Wake County Superior Court enjoined North Carolina's 2016 congressional districting plan, finding that the map was likely the result of a partisan gerrymander in violation of the North Carolina Constitution. Since then, the General Assembly enacted a proposed remedial plan, and the state court has set the parties' competing motions for summary judgment for a hearing in ten days.

The present lawsuit attempts to short circuit North Carolina's ongoing judicial proceedings. Without waiting to see what remedial plan would be implemented, Plaintiffs rushed into federal court seeking an order, at the preliminary injunction stage no less, that would effectively overturn the state court ruling and reinstate the 2016 map for the upcoming 2020 elections. Worse yet, Plaintiffs demand extraordinary relief not because the 2016 map is lawful—in fact, Plaintiffs make no attempt to defend its legality under the North Carolina Constitution—but rather for the convenience of candidates who may otherwise be forced to interact with North Carolinians outside their districts, and unnamed voters whom Plaintiffs speculate may be confused by new district boundaries.

The relief Plaintiffs seek is unprecedented. Not only do Plaintiffs' allegations fail to identify any cognizable legal interests, they are contrary to fundamental principles of federalism and comity. Recognizing that states have primary responsibility for apportionment of congressional districts, the United States Supreme Court has made clear that “a federal court must neither affirmatively obstruct state reapportionment nor permit federal litigation to be used to

impede it.” *Grove v. Emison*, 507 U.S. 25, 34 (1993). Yet Plaintiffs’ lawsuit asks this Court to do just that, citing speculative injuries that, in any event, do not implicate any constitutional rights.

Plaintiffs now seek to enlist this Court to launch a collateral attack on an unfavorable state court ruling grounded in state law, all to preserve an unconstitutional congressional districting map that has since been repealed. Plaintiffs’ claims are procedurally improper, jurisdictionally barred, and entirely lacking in merit. Accordingly, this Court should dismiss this lawsuit, or, in the alternative, Plaintiffs’ motion for preliminary injunction should be denied.

BACKGROUND

I. Federal courts struck down the 2011 plan as an illegal racial gerrymander.

The upcoming 2020 elections present both the first and last opportunity in this decennial cycle for North Carolinians to elect candidates to the U.S. House of Representatives under a constitutional, lawfully-enacted congressional map. Adopted in 2011, the first congressional map following the 2010 census was struck down as a racial gerrymander by a three-judge federal district court, *Harris v. McCrory*, 159 F. Supp. 3d 600 (M.D.N.C. 2016), in a decision affirmed by the United States Supreme Court. *See Cooper v. Harris*, 137 S. Ct. 1455, 1473 (2017). In defense of the 2011 plan, the State contended that, rather than being a racial gerrymander, the 2011 plan was “‘strictly’ [a] political gerrymander.” *Id.* In affirming the panel’s ruling, the U.S. Supreme Court noted that the State’s “sorting of voters on the grounds of their race remains suspect even if race is meant to function as a proxy for other (including political) characteristics.” *Id.* at 1473 n.7.

North Carolina conducted two congressional elections—in 2012 and 2014—using the 2011 plan before it was struck down. The plan’s unconstitutional racial gerrymander resulted in the election of 9 Republicans and 4 Democrats in 2012, and 10 Republicans and 3 Democrats in 2014.

II. The Republican-led General Assembly enacted the 2016 plan with the explicit partisan goal of guaranteeing a 10-3 Republican advantage in congressional seats.

Following the decision in *Harris*, the General Assembly set out in 2016 to draw a new congressional plan. Republican lawmakers in charge of the mapmaking process engaged Dr. Thomas Hofeller (as they did for the 2011 plan) and instructed him specifically “to draw a plan that would elect 10 Republicans and 3 Democrats.” *Common Cause v. Rucho*, 279 F. Supp. 3d 587, 648 (M.D.N.C.), *vacated and remanded*, 138 S. Ct. 2679 (2018). The General Assembly’s Joint Select Committee on Redistricting subsequently adopted “Partisan Advantage” as an official criterion, explicitly directing that the new plan preserve Republicans’ existing 10-3 advantage in North Carolina’s congressional delegation. Feb. 16, 2016 Tr. of Proceedings, Joint Comm. on Redistricting (“Feb. 16 Joint Comm. Tr.”), at 67:2-69:23 (attached as Exhibit A). This criterion stated:

Partisan Advantage: The partisan makeup of the congressional delegation under the enacted plan is 10 Republicans and 3 Democrats. The Committee shall make reasonable efforts to construct districts in the 2016 Contingent Congressional Plan to maintain the current partisan makeup of North Carolina’s congressional delegation.

N.C. J. SELECT COMM. ON CONG. REDISTRICTING (2015), 2016 CONTINGENT CONG. PLAN COMM. ADOPTED CRITERIA at 1 (Feb. 16, 2016) available at <https://bit.ly/2D8ZXvS>.

Representative Lewis, at the helm of the redistricting process, described the “Partisan Advantage” criterion as requiring the mapmaker “to seek partisan advantage for the Republicans.” Feb. 19, 2016 Tr. of Proceedings, N.C. House of Representatives, Floor Session One (“Feb. 19 House Floor Tr.”), at 34:16-18 (attached as Exhibit B). He told the Committee that he would “draw the maps to give a partisan advantage to 10 Republicans and 3 Democrats because I do not believe it’s possible to draw a map with 11 Republicans and 2 Democrats.” Exhibit A, Feb. 16 Joint Comm.

Tr. at 50:6-10. Representative Lewis “acknowledge[d] freely that this would be a political gerrymander.” *Id.* at 48:4-5.

On February 19, 2016, the full House debated the 2016 plan. During the debate, Representative Lewis once again “freely acknowledge[d] that [he] sought partisan advantage.” Exhibit B, Feb. 19 House Floor Tr. at 31:14-17. He defended the Partisan Advantage criterion by stating: “I think electing Republicans is better than electing Democrats. So I drew this map in a way to help foster what I think is better for the country.” *Id.* at 34:21-23. That same day, the General Assembly enacted the 2016 plan. S.L. 2016-1, available at <https://bit.ly/2OeVs9v> .

The 2016 plan has achieved precisely its intended partisan effects—a guaranteed 10-3 Republican advantage in North Carolina’s congressional delegation. In the 2016 elections, Democratic congressional candidates in North Carolina won a combined 47% of the two-party statewide vote, yet won only 3 of 13 seats (23%). *See* SBOE, Nov. 8, 2016 Available Election-related Files, <https://bit.ly/2nM2NIS>. The results were even more striking in 2018. Despite winning a *majority* of the two-party statewide vote in the 2018 congressional elections, Democrats were unable to flip a single seat. *See* SBOE, Nov. 6, 2018 Available Election-related Files, <https://bit.ly/2mW8CNx>.

North Carolina’s state legislative redistricting plans, meanwhile, have also been litigated and redrawn as a result of parallel proceedings in federal and state court. Like the 2011 congressional plan, a federal court found that the State’s 2011 state legislative plans were racial gerrymanders. *North Carolina v. Covington*, 137 S. Ct. 2211 (2017). The challenged districts were subsequently re-drawn by the General Assembly, and subject to modification by the court-appointed special master in *Covington*. *Covington v. North Carolina*, 283 F. Supp. 3d 410 (M.D.N.C. 2018).

On November 13, 2018, Common Cause, the North Carolina Democratic Party, and a group of North Carolina voters filed suit challenging the state legislative plans as partisan gerrymanders in violation of the North Carolina Constitution. Complaint, *Common Cause v. Lewis*, No. 18-CVS-014001 (N.C. Super. Ct. Nov. 13, 2018), available at <https://bit.ly/2D9L78d>. On September 3, 2019, after a two-week trial, a three-judge panel of the Wake County Superior Court unanimously invalidated North Carolina’s 2017 state House and Senate plans as partisan gerrymanders under the North Carolina Constitution. See *Common Cause v Lewis*, No. 18 CVS 014001, 2019 WL 4569584 (N.C. Super. Sep. 03, 2019). The Court found that the 2017 state legislative plans “do not permit voters to freely choose their representative, but rather representatives are choosing voters based upon sophisticated partisan sorting.” *Id.*

The *Common Cause* Court further explained that North Carolina’s 2017 state legislative plans and the 2016 Congressional plan “arose in remarkably similar circumstances.” *Id.* at 298. “[B]oth the 2016 Congressional map and the 2017 legislative maps were required after a federal court declared existing maps unconstitutional; both were drawn under the direction of many of the same actors working on behalf of the Republican-controlled General Assembly; both were drawn by Dr. Thomas Hofeller; both were drawn in large part before the General Assembly’s redistricting committee met and approved redistricting criteria; and *both ... were drawn with the intent to maximize partisan advantage and, in fact, achieved their intended partisan effects.*” *Id.* (emphasis added).

III. Intervenorors have challenged the 2016 congressional map, and the state court’s and General Assembly’s congressional redistricting proceedings are ongoing.

On September 27, 2019, Intervenorors—consisting of fourteen North Carolina voters (“Intervenorors” or “*Harper* Plaintiffs”)—sued the same Defendants named here in Wake County Superior Court, and, relying on the extensive record developed over the preceding several years of

redistricting litigation, alleged that the severely gerrymandered 2016 congressional map violated the constitutional rights of North Carolina voters. Complaint, *Harper v. Lewis*, No. 19-CVS-012667 (N.C. Super. Sept. 27, 2019), available at <https://bit.ly/2KKWUyi>.¹

On September 20, 2019, the *Harper* Plaintiffs sought a preliminary injunction barring the defendants from using the 2016 plan in the 2020 primary and general elections. *See* Motion for Preliminary Injunction, *Harper v. Lewis*, No. 19-CVS-012667 (N.C. Super. Sept. 30, 2019), available at <https://bit.ly/2KK0WXC>. The *Harper* Plaintiffs provided the court with extensive evidence, including: extensive expert analysis, demonstrating that the 2016 congressional redistricting plan diluted the voting power of the *Harper* Plaintiffs and other North Carolina voters by packing them into three districts and cracking them among other districts, *id.* at 12-13; the testimony of Dr. Hofeller, Senator Rucho, and Representative Lewis revealing that the 2016 plan was “specifically and systematically designed for partisan purposes and desire to preserve power,” *id.* at 33; and transcripts of legislative hearings, which, as the excerpts above make clear, left no doubt that Republican legislators designed the 2016 congressional map to create partisan advantage “to the greatest extent possible,” *id.* at 34.

Two weeks later, on October 14, 2019, the Legislative Defendants removed the *Harper* action to federal court in this district. *See* Notice of Removal, *Harper v. Lewis*, No. 19-cv-452. ECF No. 5 (E.D.N.C. Oct. 14, 2019). The following day, the *Harper* Plaintiffs filed an emergency motion to remand the case to state court. *See* Motion to Remand, *Harper v. Lewis*, No. 19-cv-452. ECF No. 18 (E.D.N.C. Oct. 15, 2019). On October 22, this Court granted that motion. *See* Order Granting Motion to Remand, *Harper v. Lewis*, No. 19-cv-452. ECF No. 33 (E.D.N.C. Oct. 22,

¹ Intervenor sued Representative David R. Lewis, Senator Ralph E. Hise, Jr., Senator Warren Daniel, Senator Paul Newton, Speaker Timothy K. Moore, and President Pro Tempore Philip E. Berger (the “Legislative Defendants”) as well as the North Carolina Board of Elections, Chairman Damon Circosta, Secretary Stella Anderson, and members Kenneth Raymond, Jeff Carmon, and David Black (the “State Defendants”).

2019) (“*Harper* Remand”). In doing so, this Court underscored that the Supreme Court in *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019), had expressly invited state courts to apply state law to address the problem of partisan gerrymandering so that “complaints about districting [do not] echo into a void.” *Harper* Remand at 5-6 (quoting *Rucho*, 139 S. Ct. at 2507).

This Court further noted that the case law Legislative Defendants cited to support federal jurisdiction was “inapposite” and only “illustrate[d] the breadth of state court jurisdiction compared to the limited nature of federal court jurisdiction.” *Harper* Remand at 7. Moreover, this Court held that it was “uncertain and speculative whether the ultimate relief sought in [the *Harper* Plaintiffs’] complaint in the form of new plans comporting with the North Carolina Constitution would conflict with federal law.” *Id.* at 8 (quoting *Common Cause v. Lewis*, 358 F. Supp. 3d 505, 513 (E.D.N.C. 2019)).

Following remand, the state court granted a motion filed by three incumbent Republican members of Congress to intervene as defendants in the state case. These members intervened both in their official capacities and in their personal capacities as voters. In their answer and in their opposition to the motion for a preliminary injunction, these members of Congress raised the same federal constitutional arguments that Plaintiffs in the instant case now raise; namely, that implementing a new congressional plan purportedly would violate the federal Constitution due to their alleged reliance interests on the old plan and upcoming deadlines for the next election. *See* Intervenor’s Answer, No. 19-CVS-012667 (N.C. Super. Nov. 1, 2019), available at <https://bit.ly/2s3GeLG>; Intervenor Defendants’ Resp. in Opp’n to Mot. for Preliminary Injunction, No. 19-CVS-012667 (N.C. Super. Oct. 22, 2019), available at <https://bit.ly/2XAKcav>.

On October 28, 2019, after extensive briefing and oral argument, the Wake County Superior Court granted the *Harper* Plaintiffs’ motion for preliminary injunction. *See* Order on

Injunctive Relief, *Harper v. Lewis*, No. 19-CVS-012667 (N.C. Super. Oct. 28, 2019), ECF 1-1, available at <https://bit.ly/2D9I7c9> (“*Harper Order*”). Highlighting the “detailed record of both the partisan intent and the intended partisan effects of the 2016 congressional districts,” the court held that the *Harper* Plaintiffs were likely to succeed on the merits of their state constitutional claims. *Id.* at 12. Although the Legislative Defendants and three Republican members of Congress who intervened in *Harper* argued that the issuance of the injunction would cause disruption, confusion, and uncertainty in the electoral process, the state court held that the balance of the equities weighed in favor of the *Harper* Plaintiffs: absent an injunction, “[s]imply put, the people of our State will lose the opportunity to participate in congressional elections conducted freely and honestly to ascertain, fairly and truthfully, the will of the people.” *Id.* at 15. Based on those findings of fact and conclusions of law, the court enjoined the Legislative Defendants and the North Carolina Board of Elections from preparing for or administering the 2020 primary and general elections under the 2016 plan. *Id.* The state court further retained jurisdiction to move the primary date for the congressional elections, “should doing so become necessary to provide effective relief in th[e] case.” *Id.* at 18. The court held that any adverse consequences from moving the primaries “pale in comparison to voters of our State proceeding to the polls to vote, yet again, in congressional elections administered pursuant to maps drawn in violation of the North Carolina Constitution.” *Id.* at 17.

In the few short weeks since the *Harper Order* issued, redistricting efforts have proceeded on parallel tracks in both the state court and the General Assembly. On October 31, 2019, pursuant to the state court’s direction in its preliminary injunction order, the *Harper* Plaintiffs moved for summary judgment in the state court. The state court subsequently entered a scheduling order providing for summary judgment briefing to close on November 26, 2019, and for a summary

judgment hearing before the state court on December 2, 2019. Scheduling Order, *Harper v. Lewis*, No. 19-CVS-012667 (N.C. Super. Nov. 1, 2019), ECF 10-1, available at <https://bit.ly/37whX0X>.

Meanwhile, one week after the Wake County Superior Court enjoined the use of the 2016 plan, the Joint Select Committee on Congressional Redistricting met and began redrawing North Carolina's congressional districts. Over the following three days, that map passed through North Carolina's House and Senate redistricting committees. *See* H.B. 1029, available at <https://bit.ly/2QK5uAP>. And just three weeks after the *Harper* Order—on November 15—the General Assembly enacted legislation, as H.B. 1029, that repealed the 2016 plan and replaced it with a new congressional map. *See* 2019 N.C. Sess. Laws 249. The legislation provided that “[t]his act is effective when it becomes law,” meaning that the 2016 plan was repealed immediately upon passage of the new map. 2019 N.C. Sess. Laws 249. That same day, the Legislative Defendants filed a motion for summary judgment in the state court, arguing that the state court challenge was purportedly moot because “the enactment of H.B. 1029 . . . immediately replaced the 2016 Congressional Plan.” *See* Motion for Summary Judgment, *Harper v. Lewis*, No. 19-CVS-012667 (N.C. Super. Nov. 15, 2019), available at <https://bit.ly/337D4U1>. The Harper Plaintiffs filed a competing motion on November 15, asking the state court to set a schedule to review the new plan and arguing that the state court case is not moot. *See* Motion for Review of Remedial Plan, *Harper v. Lewis*, No. 19-CVS-012667 (N.C. Super. Nov. 15, 2019), available at <https://bit.ly/2QOggWK>.

Just two days ago, on November 20, the Wake County Superior Court enjoined the filing period for the 2020 congressional primary elections “[i]n light of the recent developments” in the litigation, and to provide the court “sufficient opportunity to fully consider the significant issues presented by the parties.” Order, *Harper v. Lewis*, No. 19-CVS-012667, at 2 (N.C. Super. Nov.

20, 2019) (attached as Exhibit C). The court directed the State Board to not accept candidate filing until further order of the state court. *Id.*

IV. Two Republican voters and a Republican candidate now challenge the State's redistricting efforts in federal court.

On October 31, 2019, three days after the Wake County Superior Court issued its preliminary injunction enjoining the use of the 2016 congressional map in the 2020 elections, Plaintiffs here—two Republican voters and a Republican candidate—filed this federal lawsuit. In order to protect the relief they obtained in the state court proceeding, the *Harper* Plaintiffs filed a motion to intervene in the federal action the next day, which this Court granted on November 18, 2019, over Plaintiffs' opposition. In the meantime, Plaintiffs filed this Motion for Preliminary Injunction on November 8, 2019.

LEGAL STANDARD

Plaintiffs' claims should be dismissed for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1). The existence of subject matter jurisdiction is a threshold issue and, absent a proper basis for it, a case must be dismissed. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 96 (1998). Plaintiffs bear the burden of showing that federal jurisdiction is appropriate. *McNutt v. Gen. Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936); *Adams v. Bain*, 697 F.2d 1213, 1219 (4th Cir. 1982). Demonstrating a "sheer possibility" of jurisdiction is not enough. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Kerns v. United States*, 585 F.3d 187, 193 (4th Cir. 2009) ("[W]hen a defendant asserts that the complaint fails to allege sufficient facts to support subject matter jurisdiction, the trial court must apply a standard patterned on Rule 12(b)(6)."). Plaintiffs must allege facts that "accepted as true, . . . 'state a claim to relief that is plausible on its face.'" *ACA Fin. Guar. Corp. v. City of Buena Vista*, 917 F.3d 206, 212 (4th Cir. 2019) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

To survive a Rule 12(b)(1) motion to dismiss for lack of Article III standing, “a plaintiff must demonstrate that: (1) it has suffered an injury in fact; (2) the asserted injury in fact is fairly traceable to, or caused by, the challenged action of the defendant; and (3) it is likely rather than just conjectural that the asserted injury in fact will be redressed by a decision in the plaintiff’s favor.” *Taubman Realty Grp. Ltd. P’ship v. Mineta*, 320 F.3d 475, 480 (4th Cir. 2003) (citing *Friends of the Earth, Inc. v. Laidlaw Env’tl. Servs., Inc.*, 528 U.S. 167, 180-81 (2000)). “The injury-in-fact element requires that the plaintiff suffer an invasion of a legally protected interest which is concrete and particularized, as well as actual or imminent.” *Id.* (internal citation omitted). And even if a plaintiff can satisfy these elements, the Court is authorized to dismiss, on jurisdictional grounds, federal claims that are constitutionally insubstantial and entirely lacking in merit. *See Goosby v. Osser*, 409 U.S. 512, 858-59 (1973).

Additionally, pursuant to 28 U.S.C. § 2284(c), this Court acting as a single Judge cannot grant Plaintiffs’ requested preliminary injunction because Plaintiffs’ lawsuit is a federal constitutional challenge to the new congressional redistricting plan that the General Assembly has enacted, or to any other plan that the state court adopts in its stead; thus a three-judge panel would have to be convened before any preliminary injunction could issue. 28 U.S.C. § 2284. This Court does have authority, however, to dismiss this action for lack of jurisdiction, or stay the action under *Grove*, and may do so without convening a three-judge panel under 28 U.S.C. § 2284. *Id. Citizens for A Representative Gen. Assembly v. Governor of Md.*, 429 F.2d 606, 611 (4th Cir. 1970) Furthermore, “[i]f it appears to the single district judge . . . therefore, that the complaint does not state a substantial claim for injunctive relief, he need not request the convening of a three-judge court. Insubstantiality in the claim may appear because of absence of federal jurisdiction, lack of substantive merit in the constitutional claim, or because injunctive relief is otherwise unavailable.

Such insubstantiality may be evident from the frivolous nature of the claim. . . . When it thus appears that there is no substantial question for a three-judge court to answer, dismissal of the claim for injunctive relief by the single district judge is consistent with the purpose of the three-judge statutes, and it avoids the waste and delay inherent in a cumbersome procedure.” *Id.*

Finally, Plaintiffs are not entitled to a preliminary injunction unless they can demonstrate: (1) that they are “likely to succeed on the merits” of their case, (2) that they will “suffer irreparable harm” absent “preliminary relief,” and (3) that the “balance[ing] of [the] equities” weighs in their favor. *Cantley v. W. Va. Reg’l Jail and Corr. Facility Auth.*, 771 F.3d 201, 207 (4th Cir. 2014). Courts do not “impose a [preliminary] injunction lightly, as it is ‘an extraordinary remedy involving the exercise of a very far-reaching power, which is to be applied only in the limited circumstances which clearly demand it.’” *Id.* (quoting *Centro Tepeyac v. Montgomery Cty.*, 722 F.3d 184, 188 (4th Cir. 2013) (en banc)).

ARGUMENT

While a preliminary injunction is by itself an extraordinary remedy, the relief Plaintiffs seek in this lawsuit—to abrogate a state court injunction, issued over a year before the next general election, and to have this federal court reinstitute a (now-repealed) redistricting plan that violates the state constitution—is unprecedented on multiple levels. Plaintiffs’ requested injunction would require this Court to disregard long-recognized principles of federalism and comity and to elevate Plaintiffs’ desire to keep their districts the same above the constitutional rights of millions of North Carolina voters who have been forced to endure four consecutive congressional elections under unlawful districting plans. And Plaintiffs rest these demands on novel and wholly meritless federal constitutional claims—no court has ever held that it violates the U.S. Constitution to enjoin the use of a redistricting plan months before an election—and ask this Court to grant injunctive relief

notwithstanding the Supreme Court's clear instruction that federal courts must not "obstruct state reapportionment nor permit federal litigation to be used to impede it." *Grove*, 507 U.S. at 34.

This Court need not address Plaintiffs' extraordinary demands, however, because they cannot satisfy the minimum threshold requirements of Article III standing, alleging only generalized harm and undifferentiated grievances that do not invoke any legally protected interests, and they do not state a substantial claim for relief. The legal defects in Plaintiffs' lawsuit alone require its dismissal under Federal Rule of Civil Procedure 12(b)(1). To the extent the Court considers Plaintiffs' Motion for Preliminary Injunction, Plaintiffs' legal theories, which contradict well-settled law, should be rejected and their motion denied.

I. The court need not consider Plaintiffs' Motion for Preliminary Injunction because Plaintiffs' Complaint fails to establish Article III standing.

This Court should dismiss this action for lack of Article III standing without considering Plaintiffs' request for injunctive relief. Plaintiffs have not shown that they can meet any of the required standing elements, as their Complaint relies largely on generalized injuries and personal grievances that are untethered to any cognizable right.

In seeking to reinstate North Carolina's unconstitutional and now-repealed 2016 congressional map, Plaintiff Larry E. Norman surmises that a revised plan may result in his congressman's potential electoral defeat. But Norman's alleged injury is entirely speculative because he describes his district under the 2016 plan as a "swing district" and acknowledges that his congressman's re-election is "not assured." Am. Compl. ¶ 65. From these allegations it is anyone's guess whether a new congressional plan would make his district more or less winnable for his preferred representative, and even less clear that a ruling from this Court would alleviate his alleged harm. *See Sierra Club v. U. S. Dep't of the Interior*, 899 F.3d 260, 284 (4th Cir. 2018) (holding plaintiffs "must show that 'it is likely, as opposed to merely speculative, that the injury

will be redressed by a favorable decision”) (quoting *Laidlaw Envtl. Servs.*, 528 U.S. at 181); see also *United States v. Hays*, 515 U.S. 737, 743 (1995). More importantly, even if a new congressional plan hurts Norman’s congressman’s prospects in 2020, the potential defeat of a voter’s preferred candidate is insufficient to demonstrate an Article III injury in fact unless it “is attributable to gerrymandering or some other constitutionally suspect activity.” *Benisek v. Lamone*, 266 F. Supp. 3d 799, 812 (D. Md. 2017). He simply suggests that voters added to his district under a new plan may prefer a different candidate. “[T]hat is not an injury. It is democracy.” *Id.*

Plaintiff Thomas Hill fares no better because he does not even attempt to allege an individualized injury. Hill claims that as a county chairman in his political party, he is recruiting candidates to run against an incumbent congressman and “[s]uch candidates will need to know the names [sic] addresses and voting history of the voters in order to conduct an effective campaign and fundraise.” Am. Compl. ¶¶ 66-67. Putting aside the fact that this allegation neither articulates what harm is caused by the creation of a new congressional map nor explains why a candidate would not be able to obtain such information, the Fourth Circuit has already confirmed that there is no constitutional right to receive voter lists or other non-public voter records. See *Fusaro v. Cogan*, 930 F.3d 241, 255 (4th Cir. 2019) (noting that the state could have decided not to release its voter registration list). And even if such a right did exist, the injury that Hill alleges belongs to the candidates whom, according to Hill, need voter information to conduct their campaigns, Am. Compl. ¶ 67. To establish standing, Hill “must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties.” See *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc.*, 454 U.S. 464, 474 (1982). Plaintiff Hill has suffered no injury and thus lacks standing to pursue his claim.

The third plaintiff, Billy Joe Brewster, Jr., a candidate in North Carolina's 12th congressional district, suggests that a new congressional map would burden his campaign, but not in any way that implicates a legal interest. Elected officials and candidates have "no legally cognizable interest in the composition of the district" they hope to represent, *Corman v. Torres*, 287 F. Supp. 3d 558, 569 (M.D. Pa. 2018), and a legislator "suffers no cognizable injury, in a due process sense or otherwise, when the boundaries of his district are adjusted by reapportionment," *City of Phila. v. Klutznick*, 503 F. Supp. 663, 672 (E.D. Pa. 1980). Indeed, it is a "core principle of republican government" that voters "choose their representatives, not the other way around." *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2677 (2015); see also *League of United Latin Am. Citizens, Council No. 4434 v. Clements*, 884 F.2d 185, 188 (5th Cir. 1989) ("As government officials, [elected judges] have no legally protectible interest in redistricting."). This same principle necessarily extends to Brewster, who also has "no . . . interest in representing any particular constituency." *Klutznick*, 503 F. Supp. at 672.

Brewster's suggestion that a change in his district's boundaries will disadvantage his campaign in various ways is also entirely speculative. To date, Brewster has not identified what, if any, changes will be made to his district, and by extension his "donor base." Am. Compl. ¶ 64. The General Assembly's recently-approved map for 2020 illustrates the conjectural nature of his claims; the map shows only minor modifications to the 12th congressional district's boundaries, and, if implemented, it is unclear whether Brewster's threatened injuries will even occur. See *Beck v. McDonald*, 848 F.3d 262, 277 (4th Cir. 2017) (noting that plaintiff seeking to enjoin future action "must demonstrate that he is immediately in danger of sustaining some direct injury"). Indeed, the *Harper* Plaintiffs alleged in the state court case that Congressional District 12 under

the 2016 plan was a packed Democratic district, meaning that the district should become *more favorable* to Republican candidates such as Brewster under a non-gerrymandered map.

Perhaps recognizing the absence of any cognizable injury, Plaintiffs' Amended Complaint attempts to supplement their specific individual allegations with a list of generalized grievances that they claim demonstrate standing on behalf of Plaintiffs and those "similarly situated." Am. Compl. ¶ 20. These allegations are not attributed to any particular plaintiff, however, and they allege only generalized injuries including, "[a]bridg[ment of] the right to vote by creating an election structure which does not ensure electoral integrity." *Id.* ¶ 20(A). The Supreme Court has repeatedly instructed plaintiffs not to rely on undifferentiated grievances or abstract policy statements, whether it be an interest in "influencing the legislature's overall composition and policymaking," *Gill v. Whitford*, 138 S. Ct. 1916, 1931 (2018), or, as Plaintiffs allege here, an interest in ensuring electoral integrity, identifying and communicating with candidates, or ensuring more time for voters to receive information, among others, Am. Compl. ¶ 20. None of these purported injuries are sufficient to invoke this Court's jurisdiction, and Plaintiffs' Amended Complaint should accordingly be dismissed in its entirety.

II. This court should adhere to the Supreme Court's instruction and defer to ongoing state redistricting proceedings.

Even if Plaintiffs had Article III standing, which they do not, a second threshold barrier to the relief they seek would stop this case in its tracks: the Supreme Court's ruling in *Grove v. Emison*, 507 U.S. 25 (1993). That decision mandates that federal courts must defer to parallel state court redistricting lawsuits such as the ongoing *Harper* action in state court.

In *Grove*, the district court granted the very relief that Plaintiffs seek here: it actively interfered with ongoing state court litigation and enjoined state officials from implementing the redistricting plans being developed pursuant to those state court proceedings. *See id.* at 30-31. The

Supreme Court unanimously reversed, holding that the district court erred in not deferring to the state court action. *Id.* at 37. The Court explained that, “[i]n the reapportionment context, the Court has required federal judges to defer consideration of disputes involving redistricting where the State, through its legislative or judicial branch, has begun to address that highly political task itself.” *Id.* at 33. Because “[t]he power of the judiciary of a State to require valid reapportionment or to formulate a valid redistricting plan . . . has been specifically encouraged” by the Supreme Court, “a federal court must neither affirmatively obstruct” state court redistricting proceedings “nor permit federal litigation to be used to impede it.” *Id.* at 33-34. Consequently, a federal court must “stay its hand” and defer to state court proceedings rather than adjudicating redistricting disputes involving the same plan. *See id.* at 33; *see also Stephenson v. Bartlett*, 180 F. Supp. 2d 779, 782 (E.D.N.C. 2001) (“Supreme Court pronouncements on the importance of state control over apportionment decisions are manifold”).

Here, the state court is actively presiding over litigation regarding North Carolina’s congressional districts. The state court has entered a preliminary injunction barring use of the 2016 plan, has entered an expedited schedule on summary judgment regarding the 2016 plan, and is hearing arguments on December 2 on whether to review the new congressional plan that the General Assembly has already adopted to replace the 2016 plan. Moreover, to ensure an orderly election process, the state court has enjoined the opening of candidate filing for congressional districts and has retained jurisdiction to move the primaries if necessary to provide effective relief in the case. The state court is engaged in “precisely the sort of state judicial supervision of redistricting [the Supreme Court has] encouraged,” and this Court “must neither affirmatively obstruct . . . nor permit federal litigation to be used to impede” the state court action. *Id.* at 34. “[E]lementary principles of federalism and comity” preclude this Court from granting Plaintiffs’

request to interfere with the parallel state court proceedings and *overrule* the state court’s actions. *Id.* at 35.

The reasons for this Court to defer under *Grove* are particularly strong because the defendants in the state action have raised the exact federal constitutional arguments that Plaintiffs raise here. Citing *Purcell*, the Legislative Defendants and Intervenor-Members of Congress have asserted in *Harper*—both in their Answers and in their oppositions to the preliminary injunction—that implementing a new congressional plan purportedly would violate the federal Constitution due to their alleged reliance interests on the old plan and upcoming deadlines for the next election. The state court has already adjudicated those defenses in granting the preliminary injunction and will do so again in adjudicating summary judgment. North Carolina “can have only one set of legislative [and congressional] districts, and the primacy of the State in designing those districts compels a federal court to defer.” *Id.* The state court is more than competent to address these purported federal issues.²

III. Plaintiffs’ lawsuit is wholly insubstantial and should be dismissed, or, in the alternative, Plaintiffs’ Motion for Preliminary Injunction should be denied.

Putting aside the jurisdictional defects and *Grove* deference principles that foreclose any consideration of Plaintiffs’ preliminary injunction motion, Plaintiffs’ claims are wholly insubstantial and they cannot establish any of the four requirements that they must meet to obtain injunctive relief. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). They are not “likely to succeed on the merits,” nor will they suffer irreparable harm absent injunctive relief, because they have not identified any cognizable injuries; and “the balance of equities” does not tip in their favor because an injunction would subject North Carolina voters to yet another

² Indeed, once the state court enters final judgment, that judgment must receive full faith and credit in the federal courts under 28 U.S.C. § 1738, and collateral estoppel regarding the specific federal issues raised in this case will apply as well, *see Collins v. Pond Creek Mining Co.*, 468 F.3d 213, 221 (4th Cir. 2006).

congressional election under a constitutionally-suspect districting plan and would violate long-held principles of federalism and comity by interfering in an ongoing reapportionment process. *Id.* at 20-23.

A. Plaintiffs are unlikely to succeed on the merits.

1. Plaintiffs fail to state a claim under *Purcell* because altering congressional districts nearly a year before a general election and several months before a primary election does not implicate any federal constitutional rights.

Plaintiffs' first claim for relief is not grounded in any cognizable legal right, but rather on the Supreme Court's five-page decision in *Purcell v. Gonzales*, 549 U.S. 1 (2006) (per curiam), which Plaintiffs mistakenly cite to suggest that an "election law change[]" issued nearly a year before the general election somehow violates their federal constitutional rights. Pls.' Mem. at 6. Their argument fails at the outset because it attempts to convert *Purcell*, a ruling that merely identifies equitable factors relevant to a request for injunctive relief, into an independent cause of action.

Nothing in *Purcell* provides for a freestanding federal constitutional cause of action, nor does it prevent a state court from ensuring the constitutionality of the state's redistricting plan one year before the general election. In *Purcell*, the district court denied a motion for preliminary injunction in a lawsuit challenging Arizona's voter identification requirements, but did not at the time issue findings of fact or conclusions of law. *Purcell*, 549 U.S. at 3. Without the benefit of the district court's findings of fact, the Ninth Circuit issued a four-sentence order granting the plaintiffs' request for an injunction pending appeal and enjoining Arizona from enforcing its voter identification law. *Id.* at 2. The Supreme Court vacated the injunction, holding that a federal court of appeals cannot enjoin a state's election procedures, within weeks of an election, without either giving "deference to the discretion of the District Court" or providing "factual findings or . . . reasoning of its own." *Id.* at 5. The Court further identified several equitable factors for courts to

consider in deciding whether to enjoin an election law shortly before an election. *See id.* at 4-5. The Supreme Court's decision makes no mention of the U.S. Constitution, however, and Plaintiffs have not identified a single court that interpreted *Purcell* to provide voters or congressional candidates a freestanding constitutional cause of action. For this reason alone, Plaintiffs' claim is not just likely, but certain, to fail.³

Even if the Court were to convert the *Purcell* factors into a constitutional claim, those factors do not warrant an injunction here. The state court entered its preliminary injunction on October 28, 2019, more than four months before the primaries currently scheduled for March 2020. "[T]his is not a voting case decided on the eve of an election where the balance of the equities favors maintaining the status quo." *Covington v. North Carolina*, No. 1:15CV399, 2018 WL 604732, at *7 (M.D.N.C. Jan. 26, 2018). Indeed, courts routinely enjoin redistricting plans in similar timeframes before the next election. The timing of prior redistricting decisions in North Carolina is particularly instructive here.

In *Harris v. McCrory*, the district court enjoined North Carolina's congressional plan on February 5, 2016, just over *one month* before the scheduled primary date of March 15, 2016. *See* 159 F. Supp. 3d 600 (M.D.N.C. 2016). The Legislative Defendants filed an emergency application with the Supreme Court to stay the decision, relying heavily on *Purcell*. *See* Emergency App. to Stay, *McCrory v. Harris*, No. 15A809 (Feb. 9, 2016).⁴ But the Supreme Court denied the stay request without any noted dissent. *See* 136 S. Ct. 1001 (2016). The primaries were ultimately delayed until June 7, 2016, as a result of the court's injunction.

³ In fact, though Plaintiffs list no fewer than 16 cases in support of their motion, not one of them even applies *Purcell*, let alone recognizes an independent cause of action under *Purcell*.

⁴ Available at <https://bit.ly/2KKmNOB>.

In *Stephenson v. Bartlett*, the North Carolina Supreme Court enjoined use of North Carolina's state House and state Senate plans on March 7, 2002—just two months before the primaries were set to occur. *See* 355 N.C. 354, 562 S.E.2d 377 (2002). Like in *Harris*, the *Stephenson* defendants filed a stay petition with the U.S. Supreme Court, but Chief Justice Rehnquist denied the request, 122 S. Ct. 1751 (2002), and the 2002 state legislative primaries were ultimately delayed to allow time to implement a lawful remedial plan.

In *Covington*, the Middle District of North Carolina refused to stay its final order adopting a new legislative apportionment plan in January 2018, which was just over three months before the May 2018 primaries. The district court explained that “Defendants identif[ied] no case in which a court relied on the risk of voter confusion to permit the use of an unconstitutional districting plan before the start of an election cycle and over nine months before any general election is set to take place.” *See* 2018 WL 604732, at *7. The Supreme Court also denied the defendants' emergency request to stay the district court's remedial plan, with the exception of districts in Wake and Mecklenburg Counties which plaintiffs had argued were not racially gerrymandered. *See North Carolina v. Covington*, 138 S. Ct. 974 (2018) (denying in part emergency application for stay); *Covington v. North Carolina*, 283 F. Supp. 3d 410 (M.D.N.C. 2018) (approving and adopting remedial plan).

Courts in other jurisdictions have similarly enjoined unconstitutional redistricting plans much closer to Election Day than here, rejecting requests to block changes to the map due to purported voter confusion and harm to candidates. In *League of Women Voters v. Commonwealth*, 178 A.3d 737 (Pa. 2018), the Pennsylvania Supreme Court enjoined Pennsylvania's congressional plan in February 2018, just over three months before Pennsylvania's May 2018 elections. The legislative defendants, as well as intervenor-Republican voters, filed two separate emergency

motions with the U.S. Supreme Court based largely on *Purcell*, and the U.S. Supreme Court denied both requests without a dissent either time. *See* 138 S. Ct. 1323 (2018). And, just like here, a group of Pennsylvania congressmen filed a collateral attack in federal court seeking to undo the state court's injunction and restore the prior plan. Relying on *Purcell*, the congressmen argued that implementing a new plan would create voter confusion. *Corman v. Torres*, No. 18-0443 (M.D. Pa., Feb. 2, 2018), ECF No. 17. A unanimous three-judge court refused to enjoin the new map. *Id.* "The Plaintiffs," the court explained, "seek an extraordinary remedy: they ask us to enjoin the Executive Defendants from conducting the 2018 election cycle in accordance with the Pennsylvania Supreme Court's congressional redistricting map and to order the Executive Defendants to conduct the cycle using the map deemed by the Pennsylvania Supreme Court to be violative of the Commonwealth's constitution. . . . These are things that, on the present record, we cannot do." *Id.*

The above cases are no anomalies. Numerous courts have enjoined or adopted new apportionment plans under similar or shorter timeframes before the next election. *See City of Greensboro v. Guilford Cty. Bd. of Elections*, 120 F. Supp. 3d 479 (M.D.N.C. July 23, 2015) (enjoining North Carolina's redistricting plan three months before the scheduled primaries and four months before the general election); *NAACP-Greensboro Branch v. Guilford Cty. Bd. of Elections*, 858 F. Supp. 2d 516 (M.D.N.C. March 14, 2012) (enjoining North Carolina's redistricting plan one week into the filing period); *Republican Party of N.V. v. Hunt*, 841 F. Supp. 722, 727 (E.D.N.C. Jan. 3, 1994) (requiring upcoming elections to be conducted under a modified format on the same day the candidate filing period for judicial primaries was set to begin); *Ga. State Conference of the NAACP v. Fayette Cty. Bd. of Comm'rs*, 118 F. Supp. 3d 1338, 1340-41 (N.D. Ga. Aug. 3, 2015) (enjoining Georgia's redistricting plan three weeks before early voting

and one month before Election Day); *Arbor Hill Concerned Citizens Neighborhood Assoc. v. Cty. of Albany*, 281 F. Supp. 2d 436 (N.D.N.Y. Aug. 22, 2003) (enjoining New York’s redistricting plan just three months before the general election); *Johnson v. Miller*, 929 F. Supp. 1529 (S.D. Ga. May 24, 1996) (enjoining Georgia’s redistricting plan six months before the general election).

To the extent Plaintiffs’ *Purcell* claim can be interpreted to suggest that last-minute changes to voter qualifications can “affect voters’ equal protection and substantive due process rights,” Pls.’ Mem. at 14, Plaintiffs have not identified, nor have Intervenor located, a single case that applies this principle to an apportionment plan adopted nearly a year before a general election. In fact, North Carolina’s 2011 congressional redistricting plan was not precleared by the U.S. Department of Justice until November 1, 2011, *Harris*, 159 F. Supp. 3d at 608, and thus was implemented at a similar point in the election cycle as the state remedial plan that Plaintiffs here characterize as a “last minute” election change. *See* Pls.’ Mem. at 6, 14, 16. And following Plaintiffs’ logic one step further, all states that conduct general elections in odd-numbered years in the next decennial cycle would be constitutionally barred from implementing new apportionment plans in 2021, the same year 2020 census data will be released.⁵

If anything, the reasoning in *Purcell* counsels against the parallel federal court proceeding and injunction that Plaintiffs seek here. In balancing the equities presented in the *Harper* preliminary injunction proceedings, the state court already considered the potential for “disruption, confusion, and uncertainty” that enjoining the use of the unconstitutional map may cause. *Harper* Order at 15. The state court recognized that the congressional maps at issue here were the subject

⁵ In Virginia, for instance, the state received 2010 census data in February 2011, passed its state legislative map in April 2011, obtained preclearance in June 2011, and conducted its general election in November 2011 under the newly-apportioned map. *See Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 796 (2017). Plaintiffs’ argument suggests that Virginia’s adoption of a new map in time for its November 2011 election was unconstitutional and that Virginia was constitutionally mandated to proceed under the previous-cycle’s malapportioned plan for the sake of continuity. Notably, Plaintiffs do not point to a single authority that has adopted this theory.

of years-long litigation in federal court that created “detailed records of both partisan intent and intended partisan effects of the 2016 congressional districts,” which demonstrated a substantial likelihood that the plan violated the North Carolina Constitution. *Id.* at 12. The court even considered whether the harm imposed by an injunction might be heightened given the proximity of its decision to the election. *Id.* at 15-17. With these factors in mind, the court concluded that “North Carolinians’ fundamental rights guaranteed by the North Carolina Constitution” outweighed any harm caused by granting injunctive relief, and to hold otherwise would leave the people of North Carolina with no “opportunity to participate in congressional elections conducted freely and honestly to ascertain, fairly and truthfully, the will of the people.” *Id.* at 15. To the extent *Purcell* is instructive here, it requires this Court to defer to the state court’s findings. 549 U.S. at 5 (precluding injunctive relief where “[t]here has been no explanation . . . showing the ruling and findings of the District Court to be incorrect”).

2. Plaintiffs have not identified any First Amendment interest implicated by a state court-approved remedial plan and thus fail to state a claim for relief.

Having failed to establish a cognizable right under the *Purcell* principle, Plaintiffs attempt to assert a First Amendment interest in maintaining the composition of their congressional districts, which requires them to demonstrate that the new districts “significantly inhibit” election-related speech and association and are “not warranted by the state interests . . . alleged to justify [the] restrictions.” *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 192 (1999). Yet beyond their complaints of delayed voter lists, Plaintiffs’ pleadings fail to articulate any burden on their speech that is imposed by the congressional district boundaries.

The Supreme Court’s decision in *Rucho* is instructive. There, in declining to recognize the plaintiffs’ First Amendment claims, the Court held that “there are no restrictions on speech, association, or any other First Amendment activities in the districting plans at issue.” 139 S. Ct. at

2504. “The plaintiffs are free to engage in those activities no matter what the effect of a plan may be on their district.” *Id.* The same is true here. “It may very well be that Plaintiffs’ ability to *successfully* elect their preferred candidate is burdened by the redistricting plan, but that has nothing to do with their First Amendment rights.” *Radogno v. Illinois State Bd. of Elections*, 2011 WL 5025251, at *7 (N.D. Ill. Oct. 21, 2011).

Plaintiffs nonetheless claim they have a purported First Amendment injury stemming from the fact that in the several-week window between the adoption of a new redistricting plan and the release of updated geocoded voter lists, Plaintiffs’ internal records of individual voters will be out of date. This purported injury is entirely foreign to the Constitution, as it is well-settled that the Constitution does not guarantee a right to “government information or sources of information within the government’s control.” *Houchins v. KQED, Inc.*, 438 U.S. 1, 16 (1978) (plurality opinion). Indeed, a state can “decide[] not to release its voter registration list” at all “without violating the First Amendment.” *Fusaro v. Cogan*, 930 F.3d 241, 255 (4th Cir. 2019); *see also Ravalli Cty. Republican Central Comm. v. McCulloch*, 154 F. Supp. 3d 1063, 1069-70 (D. Mont. 2015) (“The First Amendment imposes no duty on a state to fund or administer voter registration lists.”).⁶ Absent a constitutional right to geocoded voter lists to begin with, Plaintiffs do not suffer any legally-cognizable injury simply by having to wait to update their records—even if it takes a few weeks.

The Fourth Circuit has cautioned that the First Amendment “should not be stretched to cover all regulations that could conceivably affect speech at any distant point on a causal chain,”

⁶ The Fourth Circuit in *Fusaro* recognized that the denial of access to voter lists potentially implicates the First Amendment when the restriction is based on the identity of the speaker; but barring content- or speaker-based discrimination in providing access to records, the Court reaffirmed the general principle that the First Amendment does not confer a right to government information. *See Fusaro*, 930 F.3d at 255 (“[W]hen the government has decided to make certain information available, there are limits to its freedom to decide how that benefit will be distributed.”).

as “there are few restrictions on action which could not be clothed by ingenious argument in the garb of decreased data flow.” *Fusaro*, 930 F.3d at 251-52 (quoting *Zemel v. Rusk*, 381 U.S. 1, 16-17 (4th Cir. 2019)). Following Plaintiffs’ argument to its logical conclusion, every North Carolina redistricting plan would violate their constitutional rights: in each case, the lag between a plan’s adoption and the release of the updated, geocoded voter list would leave Plaintiffs momentarily without accurate contact information for the specific voters in their districts. The “right to speak and publish,” however, “does not carry with it the unrestrained right to gather information,” much less on Plaintiffs’ desired timeline. *Zemel*, 381 U.S. at 17. Thus Plaintiffs have failed to identify any legally cognizable right to relief under the First Amendment.

3. Plaintiffs vaguely reference, but have not articulated, any other constitutional rights.

Plaintiffs’ pleadings have alluded to other purported constitutional rights that the arguments in their brief do not address, and which, in any event, provide no basis for relief. First, their Amended Complaint alleges without further explanation that this lawsuit arises under the Elections Clause, Am. Comp. ¶ 13, but that provision merely reinforces the State’s authority to do what Plaintiffs seek to enjoin in this lawsuit: enact a new apportionment plan. It is well-settled that congressional redistricting plans must comply with all aspects of state law, and that federal law not only *authorizes* state courts to supervise congressional districting but *requires* federal courts to defer to state courts engaged in the redistricting process. *See, e.g., Ariz. Indep. Redistricting Comm’n*, 135 S. Ct. at 2673; *Grove*, 507 U.S. at 25; *Smiley v. Holm*, 285 U.S. 355 (1932).

Plaintiffs also fail to identify any law that protects their purported “reli[ance] upon the 2016 redistricting plan to organize campaigns and communicate with voters.” Pls.’ Mem. 4. To the contrary, neither an elected legislator nor a legislative body can establish a “legally cognizable interest in the composition of the district[s] [they] represent,” much less congressional candidates

who are unconstrained by elected office or residency requirements and are free to run in whatever district they choose. *Corman*, 287 F. Supp. 3d at 559, 569-70 (“[E]lected officials suffer no cognizable injury when their district boundaries are adjusted.”) (citing *Ariz. Indep. Redistricting Comm’n*, 135 S. Ct. at 2677).

Plaintiffs may prefer the gerrymandered congressional districts of prior years, but they advance no theory that converts their desire to keep things as they were into a cognizable legal interest. Both the federal constitution and the Supreme Court recognize that states have primary responsibility for the apportionment of congressional districts, *Grove*, 507 U.S. at 34, and Plaintiffs’ lawsuit provides no basis to interfere with this process.

B. Even if plaintiffs have alleged cognizable injury, they do not establish irreparable harm.

While Plaintiffs’ failure to demonstrate any cognizable injury is fatal to their entire lawsuit, including their request for injunctive relief, even assuming Plaintiffs somehow clear these hurdles, the generalized injuries they assert on behalf of all voters and candidates are insufficient to establish irreparable harm. Preliminary injunctive relief is an extraordinary remedy that requires, at a minimum, a “clear showing” that the movant will suffer harm that is “neither remote nor speculative, but actual and imminent.” *Mountain Valley Pipeline, LLC v. 6.56 Acres of Land, Owned by Sandra Townes Powell*, 915 F.3d 197, 216 (4th Cir. 2019). “Additionally, the harm must be irreparable, meaning that it ‘cannot be fully rectified by the final judgment after trial.’” *Id.* (quoting *Stuller, Inc. v. Steak N Shake Enters.*, 695 F.3d 676, 680 (7th Cir. 2012)).

The injuries that Plaintiffs allege—including those “suffered in terms of time, money and energy expended in the absence of an injunction[—are] not enough to support a finding of irreparable harm.” *Di Biase v. SPX Corp.*, 872 F.3d 224, 235 (4th Cir. 2017) (citing *Sampson v. Murray*, 415 U.S. 61, 90 (1974)). Plaintiffs argue that a new congressional map will harm their

voter outreach efforts but stop short of alleging that the plan will prevent them from communicating with voters. Rather, Plaintiffs allege only that, for “several weeks,” they must conduct their voter outreach efforts without the assistance of the State’s geocoded voter list, which Plaintiffs have no constitutional right to demand in the first place. *See supra* § III(A)(2).

Plaintiffs also fail to provide any evidence to support their conclusory allegations of voter confusion. *See id.* (denying injunctive relief where the movants “failed to provide evidence that anyone has suffered any of the potential irreparable harms identified, or that any such harms were imminent”). Indeed, nearly a year in advance of the next general election and several months in advance of the primary, Plaintiffs provide no support for the position that voters will be more confused by the adoption of new, lawful congressional districts than they will by the competing and conflicting orders of the state and federal court that Plaintiffs seek here. *See Purcell*, 549 U.S. at 4-5 (“Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls.”).

Finally, Plaintiffs’ argument that injunctive relief preserves the status quo no longer has any basis in fact, as the General Assembly has since enacted a new congressional districting map. *See* H.B. 1029. While this latest apportionment plan is still subject to judicial review, there is no dispute that the 2016 plan has now been repealed. The shifting factual landscape only further demonstrates that Plaintiffs’ alleged harms are not actual or imminent, but speculative. “Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the courts’ recognition that] injunctive relief [i]s an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to relief.” *Winter*, 555 U.S. at 22 (citing *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (per curiam)). Plaintiffs have not demonstrated the irreparable harm necessary to obtain preliminary injunctive relief.

C. Equity and public interest weigh against an injunction.

Both the “balance of the equities” and the “public interest” strongly disfavor an injunction. If this Court were to reinstate the 2016 plan, Intervenor and millions of other North Carolina voters would suffer grave injury from being forced to vote in districts that a state court has held violate these voters’ fundamental rights under the state constitution. Not only has the Supreme Court recognized that “principles of federalism and comity” dictate against a federal court blocking a state’s own redistricting efforts, *Grove*, 507 U.S. at 32-34; *see also Republican Party of Pa. v. Cortes*, 218 F. Supp. 3d 396, 405 (E.D. Pa. 2016) (“Comity between the state and federal governments also counsels against last-minute meddling.”), North Carolina citizens have an interest in their state courts interpreting their rights under the state constitution. *See Minnesota v. Nat’l Tea Co.*, 309 U.S. 551, 557 (1940) (“It is fundamental that state courts be left free and unfettered by [federal courts] in interpreting their state constitutions.”); *Lea Co. v. N. C. Bd. of Transp.*, 304 S.E.2d 164, 170 (N.C. 1983) (“Only [the North Carolina Supreme] Court may authoritatively construe the Constitution and laws of North Carolina with finality.”). It would be unprecedented for a federal court to reinstate a redistricting plan that a state court has struck down on state constitutional grounds and force state election officials to enforce such plan.

A panel of state court judges has already balanced the equities and considered the public interest as they relate to this case. That court found that the consequences of enjoining the 2016 plan and adopting a new map for the 2020 elections “pale in comparison to voters of our State proceeding to the polls to vote, yet again, in congressional elections administered pursuant to maps drawn in violation of the North Carolina Constitution.” *Harper* Order at 17. Plaintiffs would have this Court rebalance those same interests in the opposite direction, contrary to the Supreme Court’s instruction that “a federal court must neither affirmatively obstruct state reapportionment nor permit federal litigation to be used to impede it.” *Grove*, 507 U.S. at 34.

Because “Plaintiffs have not demonstrated a likelihood of success on the merits or irreparable harm, the balance of equities and the public interest are better served by allowing the underlying [state redistricting efforts to] proceed.” *Di Biase*, 872 F.3d at 235-36.

CONCLUSION

For the foregoing reasons, the Court should grant Intervenors’ Motion to Dismiss Plaintiffs’ First Amended Complaint. In the alternative, Plaintiffs’ Motion for Preliminary Injunction should be denied.

Dated: November 22, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on this date, November 22, 2019, I caused the foregoing document to be filed and served on all counsel of record by operation of the CM/ECF system for the United States District Court for the Eastern District of North Carolina.

DATED: November 22, 2019

/s/ Uzoma Nkwonta

Uzoma Nkwonta

EXHIBIT A

NORTH CAROLINA GENERAL ASSEMBLY
JOINT COMMITTEE ON REDISTRICTING

TRANSCRIPT OF THE PROCEEDINGS

In Raleigh, North Carolina
Tuesday, February 16, 2016
Reported by Carol M. Smith

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

2	4
<p>1 SEN. RUCHO: Let's come to order for a 2 few moments. Would everybody please take their 3 seats? We're going to have about a 10- or 15- 4 minute break to get some papers printed up and 5 ready to go as a part of our agenda, but what we 6 will do first is identify the Sergeant-at-Arms that 7 are here today. We've got -- for the House side, 8 we've got Reggie Sills, Marvin Lee, David Layden 9 and Terry McCraw, and then we've got our Senate 10 Sergeant-at-Arms Jim Hamilton, Ed Kesler and Hal 11 Roach. These folks help us make this meeting 12 organized and run efficiently, and we wouldn't be 13 able to do a good job without them. 14 I appreciate everybody yesterday coming 15 out and helping us accomplish our public hearing. 16 We had a lot of good thoughts and advice, and I 17 hope that you've taken some time to read the public 18 comments that came over the Internet so that we can 19 be able to talk about the subject matter on an 20 intelligent level. 21 Representative Lewis and I want to again 22 remark about the fact that the staff has done a 23 remarkable job for us in putting together 24 yesterday's public hearing and this meeting, and 25 the IT folks were miracle workers in trying to</p>	<p>1 SEN. MCKISSICK: Here. 2 CLERK: Senator Smith? 3 SEN. SMITH: Here. 4 CLERK: Senator Smith-Ingram? 5 SEN. SMITH-INGRAM: Present. 6 CLERK: Senator Wells? 7 SEN. WELLS: Here. 8 CLERK: Senator Blue? 9 SEN. BLUE: Here. 10 CLERK: Senator Ford? 11 (No response.) 12 CLERK: Senator Ford? 13 (No response.) 14 CLERK: Senator Wade? 15 (No response.) 16 CLERK: Senator Barefoot? 17 SEN. BAREFOOT: Here. 18 CLERK: Senator Randleman? 19 SEN. RANDLEMAN: Here. 20 CLERK: Senator Jackson? 21 SEN. JACKSON: Here. 22 CLERK: Representative Lewis? 23 REP. LEWIS: Here. 24 CLERK: Representative Jones? 25 REP. JONES: Here.</p>
3	5
<p>1 coordinate six sites plus Raleigh to do a good job 2 and allow us to be able to reach out across the 3 state with this public hearing that is -- that was 4 yesterday, and it was successful, and we're 5 thrilled that they could do such a good job for us. 6 All right, the first point -- and I'm 7 going to have Mr. Verbiest, our clerk, do a roll 8 call, and would you just, as your name is 9 mentioned, please recognize it, or if we hear 10 quiet, we know you're not here. 11 CLERK: Senator Sanderson? 12 SEN. SANDERSON: Present. 13 CLERK: Senator Brown? 14 SEN. BROWN: Here. 15 CLERK: Senator Apodaca? 16 (No response.) 17 CLERK: Senator Clark? 18 SEN. CLARK: Present. 19 CLERK: Senator Harrington? 20 SEN. HARRINGTON: Here. 21 CLERK: Senator Hise? 22 SEN. HISE: Here. 23 CLERK: Senator Lee? 24 SEN. LEE: Here. 25 CLERK: Senator McKissick?</p>	<p>1 CLERK: Representative Hager? 2 REP. HAGER: Here. 3 CLERK: Representative Stevens? 4 REP. STEVENS: Here. 5 CLERK: Representative Hurley? 6 REP. HURLEY: (No response.) 7 CLERK: Representative Stam? 8 REP. STAM: Here. 9 CLERK: Representative Jordan? 10 REP. JORDAN: Here. 11 CLERK: Representative Johnson? 12 REP. JOHNSON: Here. 13 CLERK: Representative Brawley? 14 REP. BRAWLEY: Present. 15 CLERK: Representative Hardister? 16 REP. HARDISTER: Here. 17 CLERK: Representative Davis? 18 REP. DAVIS: Here. 19 CLERK: Representative McGrady? 20 REP. MCGRADY: Here. 21 CLERK: Representative Michaux? 22 REP. MICHAUX: Here. 23 CLERK: Representative Cotham? 24 REP. COTHAM: Here. 25 CLERK: Representative Hanes?</p>

<p style="text-align: right;">6</p> <p>1 REP. HANES: Here.</p> <p>2 CLERK: Representative Moore?</p> <p>3 REP. MOORE: Here.</p> <p>4 CLERK: Representative Farmer-</p> <p>5 Butterfield?</p> <p>6 REP. FARMER-BUTTERFIELD: Here.</p> <p>7 CLERK: Representative Dixon?</p> <p>8 (No response.)</p> <p>9 CLERK: Representative Hurley?</p> <p>10 REP. HURLEY: Right here.</p> <p>11 CLERK: Thank you.</p> <p>12 SEN. RUCHO: And I think my name was</p> <p>13 omitted, so I might just mention the fact that I'm</p> <p>14 here today --</p> <p>15 CLERK: Yes. Sorry.</p> <p>16 SEN. RUCHO: -- despite a long day</p> <p>17 yesterday. All right.</p> <p>18 We've got some work to do today. We've</p> <p>19 got just about 15 minutes, and may I ask you to</p> <p>20 just stay at ease for about 15 minutes, and then we</p> <p>21 will begin the meeting and have a full agenda</p> <p>22 before us.</p> <p>23 Representative Lewis, do you have any</p> <p>24 other thoughts or comments you'd like to share?</p> <p>25 REP. LEWIS: No.</p>	<p style="text-align: right;">8</p> <p>1 so under the circumstances, we are taking a</p> <p>2 precaution, and we anticipate some reaction from</p> <p>3 the Supreme Court on the motion for stay which will</p> <p>4 allow the election to continue forward, and then</p> <p>5 allow the court case to continue on its normal</p> <p>6 course, which would be, in my judgment, a better</p> <p>7 way to go, since the election has already been</p> <p>8 started, and we don't want to disenfranchise the</p> <p>9 voters in any manner.</p> <p>10 That being said, we are going to begin</p> <p>11 our agenda. Representative Lewis, would you have</p> <p>12 any comments at this time?</p> <p>13 REP. LEWIS: No, sir.</p> <p>14 SEN. RUCHO: No? Okay. Then we're going</p> <p>15 to go on to the second, which is discussion of the</p> <p>16 criteria of the 2016 Contingent Congressional Maps,</p> <p>17 and what these are, are criteria as to how these</p> <p>18 maps should be drawn to try to meet the</p> <p>19 requirements imposed by the Court and also remain</p> <p>20 within the legal limits of the law. Representative</p> <p>21 Lewis?</p> <p>22 REP. LEWIS: Mr. Chairman, ladies and</p> <p>23 gentlemen of the Joint Select Committee on</p> <p>24 Congressional Redistricting and members of the</p> <p>25 public, I too would like to offer a brief</p>
<p style="text-align: right;">7</p> <p>1 SEN. RUCHO: Okay. Then just at ease for</p> <p>2 about 10 to 15 minutes. Thank you.</p> <p>3 (DISCUSSION OFF RECORD)</p> <p>4 SEN. RUCHO: Spend a few minutes taking a</p> <p>5 look at that, and see from its beginning on through</p> <p>6 the latest maps what has transpired. I think it</p> <p>7 would be very educational. Thank you.</p> <p>8 (RECESS, 10:14 - 10:23 A.M.)</p> <p>9 SEN. RUCHO: All right, let's call this</p> <p>10 Joint Select Committee on Redistricting back into</p> <p>11 order. You have a copy of the agenda before you,</p> <p>12 and there's just one correction on the agenda. On</p> <p>13 the right quadrant, under Senate, it had Harry</p> <p>14 Warren. It should be Senator Harry Brown, so fix</p> <p>15 that. Okay.</p> <p>16 Well, yesterday we had a chance to have a</p> <p>17 public hearing, and I think each of you knows that</p> <p>18 the General Assembly, based on the Harris case,</p> <p>19 there was an opinion given by the three-judge</p> <p>20 panel, and we are responding to that. We still</p> <p>21 believe that the maps that are presently enacted</p> <p>22 are fair, legal, and constitutional, as has been</p> <p>23 validated by five different bodies, including the</p> <p>24 Justice Department, including a three-judge panel,</p> <p>25 including the Supreme Court on three occasions, and</p>	<p style="text-align: right;">9</p> <p>1 historical perspective on what brings us here</p> <p>2 today.</p> <p>3 In 2011, after the release of the Census,</p> <p>4 this General Assembly set out to create fair and</p> <p>5 legal Congressional districts. In doing so, the</p> <p>6 2011 process included an unprecedented number of</p> <p>7 public hearings, 36 scheduled before the release of</p> <p>8 the maps, 7 after the release of our original</p> <p>9 proposed districts, 10 dedicated to receiving</p> <p>10 public comment on the release of the entire plan,</p> <p>11 and an additional 10 after the release of our</p> <p>12 respective proposals for the legislative districts.</p> <p>13 Additionally, we provided easy public</p> <p>14 access for public comment via the North Carolina</p> <p>15 General Assembly Web site, and invited additional</p> <p>16 written comments through both e-mail and the US</p> <p>17 Postal Service. Senator Rucho and I thank the</p> <p>18 thousands of citizens who exercised their right to</p> <p>19 offer comments at that set of public hearings or</p> <p>20 submit written comments. All of those comments</p> <p>21 were reviewed by the chairs and preserved as a</p> <p>22 permanent record of citizen input on this important</p> <p>23 task.</p> <p>24 We also took back then the unprecedented</p> <p>25 step of providing the leadership of the minority</p>

<p style="text-align: right;">10</p> <p>1 parties in the House and the Senate and the</p> <p>2 Legislative Black Caucus specialized computer</p> <p>3 hardware and software in their respective offices,</p> <p>4 along with staff support which was available to all</p> <p>5 members. The 2011 General Assembly did ultimately</p> <p>6 adopt redistricting plans, as I recall, largely</p> <p>7 along party lines, as unfortunately, so many items</p> <p>8 here are decided.</p> <p>9 For purposes of my discussion today, I</p> <p>10 will refer to the 2011 plans as the enacted plans.</p> <p>11 The enacted congressional redistricting plan of</p> <p>12 2011 was first precleared by the United States</p> <p>13 Department of Justice, as was required by Section 5</p> <p>14 of the Voting Rights Act. The enacted</p> <p>15 Congressional redistricting plan was then</p> <p>16 challenged in state courts through what is known as</p> <p>17 the Dixon versus Rucho case. The plan was affirmed</p> <p>18 by a three-judge panel and by the North Carolina</p> <p>19 Supreme Court.</p> <p>20 The enacted Congressional redistricting</p> <p>21 plan has been used to elect members of the US House</p> <p>22 of Representatives in 2012 and 2014, and has also</p> <p>23 seen citizens file for election in each of the 13</p> <p>24 districts this year. Further, voting has begun,</p> <p>25 and we are informed by the State Board of Elections</p>	<p style="text-align: right;">12</p> <p>1 70 speakers participating. There were also more</p> <p>2 than 80 comments submitted online.</p> <p>3 The chairs thank all the citizens who</p> <p>4 participated yesterday. The chair reminds the</p> <p>5 members that the written comments have been placed</p> <p>6 on the General Assembly's Web site, and a link e-</p> <p>7 mailed to each of your e-mail accounts.</p> <p>8 Mr. Chairman, at your direction, I would</p> <p>9 like to submit to the committee a series of</p> <p>10 proposals to establish criteria for the drawing of</p> <p>11 the 2016 contingent Congressional map.</p> <p>12 SEN. RUCHO: Yes, sir, Chairman Lewis.</p> <p>13 You can begin and go through the rotation as -- as</p> <p>14 you planned.</p> <p>15 REP. LEWIS: Mr. Chairman, I'd like staff</p> <p>16 to distribute the 2016 Congressional -- pardon</p> <p>17 me -- the 2016 contingent Congressional plan</p> <p>18 proposed criteria, beginning with "Equal</p> <p>19 Population," to the members.</p> <p>20 SEN. RUCHO: Sergeant-at-Arms will be</p> <p>21 passing this out, and we're going to take our time,</p> <p>22 read it thoroughly, and then -- so Representative</p> <p>23 Lewis will explain it, and then we'll debate each</p> <p>24 of them as we move forward. (Pause.)</p> <p>25 Has everyone received a copy of the first</p>
<p style="text-align: right;">11</p> <p>1 that more than 16,000 citizens have already</p> <p>2 requested to vote by mail.</p> <p>3 Unfortunately, the enacted plan was</p> <p>4 challenged again in what is known as the Harris</p> <p>5 versus McCrory case. In that decision, in which we</p> <p>6 respectfully disagree with the three-judge panel,</p> <p>7 it was found that the 1st Congressional District</p> <p>8 and the 12th Congressional District are racial</p> <p>9 gerrymanders, and they ordered new maps be drawn by</p> <p>10 February 19th, and that the election for US House</p> <p>11 not be held under the current maps.</p> <p>12 While, as Chairman Rucho said, we are</p> <p>13 confident that a stay of this decision, which</p> <p>14 interrupts an election already in progress, will be</p> <p>15 granted, and that the enacted map will ultimately</p> <p>16 be upheld on appeal, we are required to begin the</p> <p>17 process of drawing a 2016 contingent Congressional</p> <p>18 map. I reiterate that while the 2011 plan was</p> <p>19 dictated by the Cromartie and Strickland decisions</p> <p>20 of the US Supreme Court, we will move forward to</p> <p>21 establish a plan based on the Harris opinion.</p> <p>22 The process -- this process began with</p> <p>23 the appointment of this joint select committee, and</p> <p>24 continued yesterday with the public hearings held</p> <p>25 in six locations across the state, with more than</p>	<p style="text-align: right;">13</p> <p>1 one? They're not in any order as far as priorities</p> <p>2 or anything. They're just going to be set forward.</p> <p>3 VARIOUS COMMITTEE MEMBERS: No, no.</p> <p>4 SEN. RUCHO: Okay. Hang on. This first</p> <p>5 one is called "Equal Population." (Pause.)</p> <p>6 All right, does everyone have a copy</p> <p>7 that -- now, let's be clear. Ladies and gentlemen</p> <p>8 in the audience, the members of the committee will</p> <p>9 be participating within this meeting. I know we</p> <p>10 have a number of members that have come here with</p> <p>11 interest, and we're delighted to have them, and</p> <p>12 recognize that every member that is here can submit</p> <p>13 a reimbursement form, but the people that are on</p> <p>14 the committee will be the ones participating in</p> <p>15 today's business activity of this committee</p> <p>16 meeting.</p> <p>17 All right, Representative Lewis, first</p> <p>18 one.</p> <p>19 REP. LEWIS: Mr. Chairman, as I explain</p> <p>20 this one, I would request that the Sergeant-at-Arms</p> <p>21 go ahead and distribute the second one, which is</p> <p>22 entitled "Contiguity."</p> <p>23 Mr. Chairman, the first criteria that I</p> <p>24 would urge the committee to adopt is that each</p> <p>25 district should be of equal population. This is</p>

<p style="text-align: right;">14</p> <p>1 pretty self-explanatory. This is in line with one 2 person, one vote. It simply says, as members can 3 read, that the number of persons in each 4 Congressional district shall be as near equal as 5 practicable, as determined under the most recent 6 Census, which of course would be the 2010 Census. 7 Mr. Chairman, I move adoption of this criteria. 8 REP. STEVENS: Are you waiting for a 9 second? 10 SEN. RUCHO: I've got a motion from 11 Representative Lewis to move forward with this 12 adoption of this first equal -- equal population. 13 Representative Stevens, thank you. We've got a 14 second. Discussion, ladies and gentlemen? 15 (No response.) 16 SEN. RUCHO: All right, I see none. All 17 in favor of the adoption of the equal population -- 18 yes. I'll go back. We're going to go ahead and 19 we're going to do roll-call vote on this. And so 20 I'm saying we're going to have a roll call from the 21 clerk on the equal population. Please identify -- 22 or just say "Aye" or "Nay," please. Mr. Verbiest? 23 CLERK: Senator Rucho? 24 SEN. RUCHO: Aye. 25 CLERK: Chairman Lewis?</p>	<p style="text-align: right;">16</p> <p>1 CLERK: Representative Jordan? 2 REP. JORDAN: Aye. 3 CLERK: Representative McGrady? 4 REP. MCGRADY: Aye. 5 CLERK: Representative Michaux? 6 REP. MICHAUX: No. 7 CLERK: Representative Moore? 8 REP. MOORE: Aye. 9 CLERK: Representative Stam? 10 REP. STAM: Aye. 11 CLERK: Representative Stevens? 12 REP. STEVENS: Aye. 13 CLERK: Representative Dixon? 14 (No response.) 15 SEN. RUCHO: You do have Senator Apodaca 16 is here now? 17 CLERK: Yes, I do. 18 SEN. RUCHO: Okay. 19 CLERK: Senator Apodaca? 20 SEN. APODACA: Aye. 21 CLERK: Senator Barefoot? 22 SEN. BAREFOOT: Aye. 23 CLERK: Senator Blue? 24 SEN. BLUE: Aye. 25 CLERK: Senator Brown?</p>
<p style="text-align: right;">15</p> <p>1 REP. LEWIS: Aye. 2 CLERK: Representative Jones? 3 REP. JONES: Aye. 4 CLERK: Representative Brawley? 5 REP. BRAWLEY: Aye. 6 CLERK: Representative Cotham? 7 REP. COTHAM: Aye. 8 CLERK: Representative Davis? 9 REP. DAVIS: Aye. 10 CLERK: Representative Farmer- 11 Butterfield? 12 REP. FARMER-BUTTERFIELD: Aye. 13 CLERK: Representative Hager? 14 REP. HAGER: Aye. 15 SEN. RUCHO: Please speak up, please. 16 CLERK: Representative Hanes? 17 REP. HANES: Aye. 18 CLERK: Representative Hardister? 19 REP. HARDISTER: Aye. 20 CLERK: Representative Hurley? 21 REP. HURLEY: Aye. 22 CLERK: Representative Jackson? 23 REP. JACKSON: Aye. 24 CLERK: Representative Johnson? 25 REP. JOHNSON: Aye.</p>	<p style="text-align: right;">17</p> <p>1 SEN. BROWN: Aye. 2 CLERK: Senator Clark? 3 SEN. CLARK: Aye. 4 CLERK: Senator Ford? 5 (No response.) 6 CLERK: Senator Harrington? 7 SEN. HARRINGTON: Aye. 8 CLERK: Senator Hise? 9 SEN. HISE: Aye. 10 CLERK: Senator Jackson? 11 SEN. JACKSON: Aye. 12 CLERK: Senator Lee? 13 SEN. LEE: Aye. 14 CLERK: Senator McKissick? 15 SEN. MCKISSICK: Aye. 16 CLERK: Senator Randleman? 17 SEN. RANDLEMAN: Aye. 18 CLERK: Senator Sanderson? 19 SEN. SANDERSON: Aye. 20 CLERK: Senator Smith? 21 SEN. SMITH: Aye. 22 CLERK: Senator Smith-Ingram? 23 SEN. SMITH-INGRAM: Aye. 24 CLERK: Senator Wade? 25 (No response.)</p>

<p style="text-align: right;">18</p> <p>1 CLERK: Senator Wells?</p> <p>2 SEN. WELLS: Aye.</p> <p>3 CLERK: Only one nay.</p> <p>4 SEN. RUCHO: Okay. Ladies and gentlemen,</p> <p>5 we had the roll vote, and there was just one</p> <p>6 negative, so the first criteria establishing equal</p> <p>7 population has passed. All right. Representative</p> <p>8 Lewis?</p> <p>9 REP. LEWIS: Thank you, Mr. Chairman.</p> <p>10 Mr. Chairman, the next criteria I propose the</p> <p>11 committee adopt -- adopt is "Contiguity." This</p> <p>12 simply says that --</p> <p>13 REP. STEVENS: Mr. Chairman, we don't</p> <p>14 have copies of it yet.</p> <p>15 SEN. RUCHO: I'm sorry? Please repeat</p> <p>16 that again. You don't have the second?</p> <p>17 REP. STEVENS: I do not have a copy, and</p> <p>18 perhaps I'm sitting a little out of the way.</p> <p>19 SEN. RUCHO: Okay. Sergeant-at-Arms,</p> <p>20 would someone please get the contiguity criteria?</p> <p>21 REP. LEWIS: Mr. Chairman, if it pleases</p> <p>22 the Chair, I would respectfully request that -- the</p> <p>23 next criteria I intend to offer is "Political</p> <p>24 Data." If that could be distributed to the</p> <p>25 committee, perhaps to save a little time?</p>	<p style="text-align: right;">20</p> <p>1 REP. LEWIS: Senator Blue, thank you for</p> <p>2 that question. Let me be clear that it does not,</p> <p>3 and I would be opposed to any form of single-point</p> <p>4 contiguity has been ruled as not a legal form of</p> <p>5 mapmaking in the past.</p> <p>6 SEN. RUCHO: Follow-up?</p> <p>7 SEN. BLUE: Does it contemplate any</p> <p>8 minimal distance on the water that is used to</p> <p>9 determine that geographically, areas are</p> <p>10 contiguous?</p> <p>11 REP. LEWIS: Senator Blue, I don't</p> <p>12 believe it contemplates the Atlantic Ocean, but, I</p> <p>13 mean, as you know, sir, we have beautiful sounds in</p> <p>14 our state that that is a community, and so the</p> <p>15 water -- I can't give you an exact -- an exact</p> <p>16 definition of how much water is too much water.</p> <p>17 SEN. BLUE: Last point.</p> <p>18 SEN. RUCHO: Follow-up?</p> <p>19 SEN. BLUE: Does it contemplate the point</p> <p>20 in the Cape Fear River in one of your counties</p> <p>21 that's currently used as a basis for connecting</p> <p>22 geographically parts of the 4th Congressional</p> <p>23 District?</p> <p>24 REP. LEWIS: Senator Blue, I appreciate</p> <p>25 that inquiry. I would -- I would point out that</p>
<p style="text-align: right;">19</p> <p>1 SEN. RUCHO: Okay, that's fine.</p> <p>2 Sergeant-at-Arms, would you please distribute the</p> <p>3 third criteria, which is "Political Data"?</p> <p>4 Representative Lewis, would you want staff to read</p> <p>5 this, the specifics as they're presented, or do you</p> <p>6 prefer to do it yourself?</p> <p>7 REP. LEWIS: Mr. Chairman, are you trying</p> <p>8 to imply I can't say "contiguity"?</p> <p>9 (Laughter.)</p> <p>10 SEN. RUCHO: That is a mouthful. I agree</p> <p>11 with you. All right. We have before us -- would</p> <p>12 you please read this first -- or the second,</p> <p>13 "Contiguity"?</p> <p>14 MS. CHURCHILL: "Contiguity:</p> <p>15 Congressional districts shall be comprised of</p> <p>16 contiguous territory. Contiguity by water is</p> <p>17 sufficient."</p> <p>18 SEN. RUCHO: Representative Lewis?</p> <p>19 REP. LEWIS: Members, this is a standard</p> <p>20 redistricting practice, and I would move the</p> <p>21 adoption of the criteria by the committee.</p> <p>22 SEN. RUCHO: All right. Senator Blue?</p> <p>23 SEN. BLUE: Question of Representative</p> <p>24 Lewis: Does this contemplate single-point</p> <p>25 contiguity in water?</p>	<p style="text-align: right;">21</p> <p>1 there is an island there, so there is actually land</p> <p>2 in the middle of the Cape Fear, that exact point</p> <p>3 that you're referring to, but I would have to say</p> <p>4 that I do not believe that that is the intent of</p> <p>5 this.</p> <p>6 SEN. RUCHO: Senator Smith, did you have</p> <p>7 a question?</p> <p>8 SEN. SMITH: No.</p> <p>9 SEN. RUCHO: Oh, okay. Any additional</p> <p>10 questions or comments on the contiguity criteria?</p> <p>11 (No response.)</p> <p>12 SEN. RUCHO: Seeing none, all right, Mr.</p> <p>13 Verbiest, would you do roll call again?</p> <p>14 CLERK: Representative Lewis?</p> <p>15 REP. LEWIS: Aye.</p> <p>16 CLERK: Representative Jones?</p> <p>17 REP. JONES: Aye.</p> <p>18 CLERK: Representative Brawley?</p> <p>19 REP. BRAWLEY: Aye.</p> <p>20 CLERK: Representative Cotham?</p> <p>21 REP. COTHAM: Aye.</p> <p>22 CLERK: Representative Davis?</p> <p>23 REP. DAVIS: Aye.</p> <p>24 CLERK: Representative Farmer-</p> <p>25 Butterfield?</p>

<p style="text-align: right;">22</p> <p>1 REP. FARMER-BUTTERFIELD: Aye. 2 CLERK: Representative Hager? 3 REP. HAGER: Aye. 4 CLERK: Representative Hanes? 5 REP. HANES: Aye. 6 CLERK: Representative Hardister? 7 REP. HARDISTER: Aye. 8 CLERK: Representative Hurley? 9 REP. HURLEY: Aye. 10 CLERK: Representative Jackson? 11 REP. JACKSON: Aye. 12 CLERK: Representative Johnson? 13 REP. JOHNSON: Aye. 14 CLERK: Representative Jordan? 15 REP. JORDAN: Aye. 16 CLERK: Representative McGrady? 17 REP. MCGRADY: Aye. 18 CLERK: Representative Michaux? 19 REP. MICHAUX: Aye. 20 CLERK: Representative Moore? 21 REP. MOORE: Aye. 22 CLERK: Representative Stam? 23 REP. STAM: Aye. 24 CLERK: Representative Stevens? 25 REP. STEVENS: Aye.</p>	<p style="text-align: right;">24</p> <p>1 CLERK: Senator Sanderson? 2 SEN. SANDERSON: Aye. 3 CLERK: Senator Smith? 4 SEN. SMITH: Aye. 5 CLERK: Senator Smith-Ingram? 6 SEN. SMITH-INGRAM: Aye. 7 CLERK: Senator Waddell? 8 (No response.) 9 CLERK: Senator Wade? 10 (No response.) 11 CLERK: Senator Wells? 12 SEN. WELLS: Aye. 13 SEN. RUCHO: Any against? 14 CLERK: Unanimous. 15 SEN. RUCHO: All right, members of the 16 committee, the criterion on contiguity passed 17 unanimously and was adopted unanimously. All 18 right. 19 REP. LEWIS: Mr. Chairman, I'd like to -- 20 SEN. RUCHO: Mr. Lewis, you've got 21 "Political Data" before you, and you would like the 22 next criteria sent out to the members? 23 REP. LEWIS: Mr. Chairman, if we could, 24 let's do "Political Data," and then we'll move on 25 to the next one. Let's not distribute --</p>
<p style="text-align: right;">23</p> <p>1 CLERK: Senator Rucho? 2 SEN. RUCHO: Aye. 3 CLERK: Senator Apodaca? 4 SEN. APODACAC: Aye. 5 CLERK: Senator Barefoot? 6 SEN. BAREFOOT: Aye. 7 CLERK: Senator Blue? 8 SEN. BLUE: Aye. 9 CLERK: Senator Brown? 10 SEN. BROWN: Aye. 11 CLERK: Senator Clark? 12 SEN. CLARK: Aye. 13 CLERK: Senator Harrington? 14 SEN. HARRINGTON: Aye. 15 CLERK: Senator Hise? 16 SEN. HISE: Aye. 17 CLERK: Senator Jackson? 18 SEN. JACKSON: Aye. 19 CLERK: Senator Lee? 20 SEN. LEE: Aye. 21 CLERK: Senator McKissick? 22 SEN. MCKISSICK: Aye. 23 CLERK: Senator Sandleman? Senator 24 Randleman? I'm sorry. 25 SEN. RANDLEMAN: Aye.</p>	<p style="text-align: right;">25</p> <p>1 SEN. RUCHO: All right. So you want to 2 just take care of that. Would -- Ms. Churchill, 3 would you read the one on political data, please? 4 MS. CHURCHILL: "Political Data: The 5 only data other than population data to be used to 6 construct Congressional districts shall be election 7 results in statewide contests since 2008, not 8 including the last two Presidential contests. Data 9 identifying the race of individuals or voters shall 10 not be used in the construction or consideration of 11 districts in the 2016 contingent Congressional 12 plan. Voting districts, referred to as VTDS, 13 should be split only when necessary to comply with 14 the zero deviation population requirements set 15 forth above in order to ensure the integrity of 16 political data." 17 SEN. RUCHO: All right. Representative 18 Lewis, that is before the committee. 19 REP. LEWIS: Mr. Chairman, I -- 20 SEN. RUCHO: Let him explain it, please. 21 REP. LEWIS: I believe it explains 22 itself. I'll be happy to yield to -- 23 SEN. RUCHO: All right. Question, 24 Senator Blue? 25 SEN. BLUE: Yeah. This might be one for</p>

<p style="text-align: right;">26</p> <p>1 the staff, Mr. Chairman.</p> <p>2 SEN. RUCHO: All right. Staff?</p> <p>3 SEN. BLUE: The second -- the second full</p> <p>4 paragraph, can you restrict -- and I think I know</p> <p>5 where you're trying to go to, but can you restrict</p> <p>6 the use of race in drawing the two districts in</p> <p>7 question and be in conformity with the Voting</p> <p>8 Rights Act as the Court enunciated in its decision</p> <p>9 several weeks ago?</p> <p>10 SEN. RUCHO: Representative Lewis, do you</p> <p>11 want to respond to that?</p> <p>12 REP. LEWIS: Mr. Chairman, thank you.</p> <p>13 Senator Blue, I appreciate that inquiry. It is my</p> <p>14 understanding and reading of the opinion that race</p> <p>15 is not to be a factor in drawing the districts.</p> <p>16 Adoption of this criteria would mean that the ISD</p> <p>17 staff of the General Assembly would be instructed</p> <p>18 to establish computers, and I believe the software</p> <p>19 is called Maptitude, and the staff would be</p> <p>20 instructed not to include race as a field that</p> <p>21 could be used to draw districts.</p> <p>22 I'll go one step further and say</p> <p>23 respectfully that race was not considered when the</p> <p>24 General Assembly passed the 12th District of the</p> <p>25 enacted plan, but the Court still questioned its</p>	<p style="text-align: right;">28</p> <p>1 what you're trying to do here, but I think it's an</p> <p>2 insult to their intelligence to take this approach,</p> <p>3 and I think that they will show you the ultimate</p> <p>4 power of the federal judiciary that's existed since</p> <p>5 1802 in Marbury versus Madison if you do this.</p> <p>6 REP. LEWIS: Respectfully, sir, it would</p> <p>7 never be my intent to offend or to question the</p> <p>8 dignity of the office of a federal judge. If</p> <p>9 anything I said hitherunto has done that, I</p> <p>10 apologize; however, it is my understanding that</p> <p>11 when we drew the enacted plan, we applied the</p> <p>12 Cromartie and Strickland decisions as best we knew</p> <p>13 how to do in drawing the 1st. We did not use race</p> <p>14 when we drew the 12th.</p> <p>15 The Court has found those both to be</p> <p>16 racial gerrymanders. It would be my -- they also</p> <p>17 found, based on my reading of the opinion -- I'm</p> <p>18 certainly not spitting in their face; I'm trying to</p> <p>19 read what they said -- that there's not racially</p> <p>20 polarized voting. If that is indeed the case, then</p> <p>21 race should not be a factor.</p> <p>22 SEN. RUCHO: Smith-Ingram?</p> <p>23 Representative Smith-Ingram? I'm sorry. Before I</p> <p>24 do that, I -- Senator McKissick got me first.</p> <p>25 Please, Senator McKissick.</p>
<p style="text-align: right;">27</p> <p>1 use. This would contemplate that that data would</p> <p>2 not be available to mapmakers who make maps to</p> <p>3 comply with the Harris order.</p> <p>4 SEN. RUCHO: Follow-up?</p> <p>5 SEN. BLUE: You're saying that</p> <p>6 notwithstanding all of the jurisprudence in this</p> <p>7 area, at least that I've seen over the last 25, 30</p> <p>8 years, that you're going to draw minority districts</p> <p>9 without taking into account whether minorities are</p> <p>10 in the minority district?</p> <p>11 REP. LEWIS: Senator Blue, I believe the</p> <p>12 Harris opinion found that there was not racially</p> <p>13 polarized voting in the state, and therefore, the</p> <p>14 race of the voters should not be considered. My</p> <p>15 proposal would be that we use political data only,</p> <p>16 and do not use race to draw Congressional</p> <p>17 districts.</p> <p>18 SEN. BLUE: One last --</p> <p>19 SEN. RUCHO: Follow-up?</p> <p>20 SEN. BLUE: I long for the day, just like</p> <p>21 you do, Representative Lewis, when we can do that,</p> <p>22 and I hope it's sooner rather than later, but I</p> <p>23 don't think it's wise to spit in the eyes of three</p> <p>24 federal judges who control the fate of where we're</p> <p>25 going to go with redistricting, and I understand</p>	<p style="text-align: right;">29</p> <p>1 SEN. MCKISSICK: Sure. The thing that</p> <p>2 I'm deeply concerned about is that the Voting</p> <p>3 Rights Act and the courts have historically</p> <p>4 indicated that it's appropriate to use race in</p> <p>5 drawing Congressional districts, and I don't</p> <p>6 understand why we would abandon it as a criteria.</p> <p>7 From what I understand from reading the</p> <p>8 most recent decision, Harris versus McCrory, what</p> <p>9 they were concerned about was the fact that it was</p> <p>10 a predominant consideration, so there was an</p> <p>11 overconcentration of African-American voters</p> <p>12 because majority-minority districts were created,</p> <p>13 and I think that was what I understood to be the</p> <p>14 finding, the creation of these majority-minority</p> <p>15 districts, when historically the 1st and 12th</p> <p>16 districts could elect a candidate choice without</p> <p>17 being a majority-minority district. I think it</p> <p>18 would be a misreading of the case to say that race</p> <p>19 could not be used as a consideration.</p> <p>20 REP. LEWIS: Senator McKissick, as</p> <p>21 always, I appreciate your counsel. I would</p> <p>22 reiterate that in drawing of the 12th, race was not</p> <p>23 con- -- race was not a considered factor. In the</p> <p>24 drawing of the 1st, we attempted to comply with the</p> <p>25 Cromartie and Strickland cases, which we believed</p>

<p style="text-align: right;">30</p> <p>1 called for, and still believe called for the -- if</p> <p>2 a district is drawn under the Voting Rights Act to</p> <p>3 be a majority-minority district, that it contain a</p> <p>4 majority of minorities. The Court has found that</p> <p>5 racially polarized voting does not exist to the</p> <p>6 extent to do that.</p> <p>7 During the trial, which I know Senator</p> <p>8 Blue attended -- I don't remember who-all else was</p> <p>9 there -- there was various testimony offered from</p> <p>10 the stand of how much minority population is</p> <p>11 enough. The judges were well aware that that</p> <p>12 conversation had gone on from the stand. They</p> <p>13 offered no guidance into how much minority</p> <p>14 population should be used; therefore, I simply say</p> <p>15 we draw the maps without using minority -- without</p> <p>16 using any race considerations. That way, they</p> <p>17 cannot -- the federal court will be clear that in</p> <p>18 the construction of districts that we did not use</p> <p>19 racial consideration if it's not even a factor that</p> <p>20 can be selected on the computer.</p> <p>21 SEN. MCKISSICK: Follow-up, Mr. Chair?</p> <p>22 SEN. RUCHO: Follow-up.</p> <p>23 SEN. MCKISSICK: So how would you propose</p> <p>24 that you comply with the requirements, say, of the</p> <p>25 Voting Rights Act, which basically indicates that</p>	<p style="text-align: right;">32</p> <p>1 the trigger point to draw a VRA -- VRA district.</p> <p>2 Therefore, if that is not the case, then we believe</p> <p>3 the enacted maps should stand as they are. If</p> <p>4 we're going to redraw the maps with the Harris</p> <p>5 order, which says there's not racially polarized</p> <p>6 voting, then we believe that race should not be a</p> <p>7 consideration in drawing the maps.</p> <p>8 SEN. MCKISSICK: Follow-up, Mr. Chairman.</p> <p>9 SEN. RUCHO: Follow-up.</p> <p>10 SEN. MCKISSICK: Why would we not here</p> <p>11 want to consider the election results of the 2008</p> <p>12 and 2000 -- I guess '12 presidential elections? Is</p> <p>13 there a specific reason why we want to exclude</p> <p>14 those specific election results and include other</p> <p>15 potential election results within that same general</p> <p>16 time frame?</p> <p>17 REP. LEWIS: Yes, sir.</p> <p>18 SEN. MCKISSICK: Because, I mean, the</p> <p>19 thing that's obvious to anybody is we had an</p> <p>20 African-American running for President in those two</p> <p>21 election cycles.</p> <p>22 REP. LEWIS: Yes, sir, and I don't recall</p> <p>23 which pages it's on, but in the Harris opinion, one</p> <p>24 of the judges wrote that using the 2008</p> <p>25 Obama/McCain data was really a code for trying to</p>
<p style="text-align: right;">31</p> <p>1 you should create districts that allow minorities</p> <p>2 to elect a candidate of choice if race is not an</p> <p>3 appropriate consideration? I don't know how you</p> <p>4 accomplish that objective without having it,</p> <p>5 certainly not as the predominant consideration. I</p> <p>6 would agree that cannot be done, and should not be</p> <p>7 done, but I'm trying to understand how you do that</p> <p>8 otherwise if you completely eliminate race as a</p> <p>9 criteria that you look at in drafting the maps, and</p> <p>10 then secondly -- and this shifts gears a little</p> <p>11 bit -- why would we not want to consider the --</p> <p>12 SEN. RUCHO: Which question? Is this</p> <p>13 your --</p> <p>14 SEN. MCKISSICK: Okay, yeah.</p> <p>15 SEN. RUCHO: -- first question?</p> <p>16 SEN. MCKISSICK: Yeah, first question.</p> <p>17 SEN. RUCHO: Okay.</p> <p>18 SEN. MCKISSICK: Go ahead, Representative</p> <p>19 Lewis. Thank you, sir.</p> <p>20 REP. LEWIS: Senator, I believe that my</p> <p>21 earlier answer that -- and I have a great deal of</p> <p>22 respect for you. I understand that you are an</p> <p>23 attorney, and I am not an attorney. It's my</p> <p>24 reading of the case that the Court has found that</p> <p>25 there was not racially polarized voting, which is</p>	<p style="text-align: right;">33</p> <p>1 use black versus white, so we simply say we</p> <p>2 exclude -- we take that off the table. We can use</p> <p>3 all the other ones.</p> <p>4 SEN. MCKISSICK: And I would suggest that</p> <p>5 we should --</p> <p>6 SEN. RUCHO: Follow-up?</p> <p>7 SEN. MCKISSICK: Yes. Thank you, Mr.</p> <p>8 Chair. I would suggest that there's nothing</p> <p>9 improper in considering those particular races</p> <p>10 within a greater context of all races that we might</p> <p>11 have used as benchmarks for consideration for the</p> <p>12 performance of districts or how they might vote,</p> <p>13 but I think to eliminate those specifically would</p> <p>14 be an inappropriate criteria.</p> <p>15 I would have to go back to the decisions.</p> <p>16 I think things can be used as code in combination</p> <p>17 with other actions that are taken, like drawing</p> <p>18 minority -- majority-minority districts, but yet</p> <p>19 saying race is not a factor, and it was done for</p> <p>20 political reasons. I think within the greater</p> <p>21 context, perhaps the Court might have viewed it</p> <p>22 that way, but if you identify this discretely as</p> <p>23 being one parameter among many, I don't think that</p> <p>24 that would be inappropriate to consider.</p> <p>25 I find it fine -- you know, I don't think</p>

<p style="text-align: right;">34</p> <p>1 we need to go in there and split these precincts.</p> <p>2 I think splitting the precincts would probably be a</p> <p>3 code word for understanding that you could</p> <p>4 segregate voters out based upon race as well, so I</p> <p>5 mean, I have no problems not -- not going in there</p> <p>6 and splitting out these precincts, and I think</p> <p>7 keeping the voter tabulation districts as whole as</p> <p>8 possible is a good component, but I would be</p> <p>9 opposed to the elimination of consideration of the</p> <p>10 2008 and 2012 presidential data as well as other --</p> <p>11 any other racial data that would be provided in the</p> <p>12 normal data packages that for many, many years have</p> <p>13 always been used by this General Assembly in</p> <p>14 drawing these Congressional districts. Thank you,</p> <p>15 sir.</p> <p>16 REP. LEWIS: Mr. Chairman, respectfully,</p> <p>17 I --</p> <p>18 SEN. RUCHO: Yes, sir?</p> <p>19 REP. LEWIS: -- believe that was a</p> <p>20 statement, to which I'll just respond I</p> <p>21 respectfully disagree with the gentleman from</p> <p>22 Durham.</p> <p>23 SEN. RUCHO: All right. Thank you.</p> <p>24 Senator Smith-Ingram?</p> <p>25 SEN. SMITH-INGRAM: Thank you, Mr. Chair.</p>	<p style="text-align: right;">36</p> <p>1 SEN. SMITH-INGRAM: So I can assume from</p> <p>2 what you are saying that the only reason we had</p> <p>3 split counties and split precincts in the previous</p> <p>4 plan is because we were trying to meet the mandate</p> <p>5 of the zero deviation?</p> <p>6 REP. LEWIS: No, ma'am, that's not at all</p> <p>7 what I said. What this says is that -- what this</p> <p>8 says is in drawing the map, this contingent plan</p> <p>9 that we are -- that we are talking about is that</p> <p>10 the VTDs should be split only when necessary to</p> <p>11 comply with the zero deviation requirements. I was</p> <p>12 not at all speaking about the enacted map, in which</p> <p>13 I'm certain that some precincts and voting</p> <p>14 districts were split for political purposes.</p> <p>15 SEN. SMITH-INGRAM: Last follow-up, Mr.</p> <p>16 Chair.</p> <p>17 SEN. RUCHO: Last follow-up.</p> <p>18 SEN. SMITH-INGRAM: Just a statement. I</p> <p>19 understand that our voters across the state are</p> <p>20 very sophisticated; however, there was a lot of</p> <p>21 confusion created with the split counties and the</p> <p>22 split precincts, and so I just -- as we're moving</p> <p>23 forward, we need to be careful that they are not</p> <p>24 disenfranchised by that confusion. Thank you,</p> <p>25 Representative Lewis.</p>
<p style="text-align: right;">35</p> <p>1 In regards to the proposed criteria as it relates</p> <p>2 to the voting districts and the split, one of the</p> <p>3 concerns that resonated across the state, as shown</p> <p>4 in the hearings, and as we talked to constituents,</p> <p>5 particularly in the finger counties in</p> <p>6 Congressional District 1, there is some concern</p> <p>7 about precincts being split, and a lot of voter</p> <p>8 confusion because of split counties and split</p> <p>9 precincts. Do you think the language in the last</p> <p>10 sentence goes far enough to help us alleviate that</p> <p>11 problem, and not have that issue as we move toward</p> <p>12 drawing new maps?</p> <p>13 REP. LEWIS: Senator, I thank you for</p> <p>14 that question. I would say that, as I've</p> <p>15 maintained all along, I believe that voters are</p> <p>16 sophisticated enough that split political districts</p> <p>17 do not cause confusion, but to the extent that we</p> <p>18 can not split them, we shouldn't, so I do think</p> <p>19 this sentence goes far enough in saying the only</p> <p>20 reason you would want to split a VTD, or a voting</p> <p>21 district, is to help with the zero population</p> <p>22 requirement that this committee has already</p> <p>23 adopted.</p> <p>24 SEN. SMITH-INGRAM: Follow-up.</p> <p>25 SEN. RUCHO: Follow-up.</p>	<p style="text-align: right;">37</p> <p>1 SEN. RUCHO: Thank you. I've got</p> <p>2 Representative Stam.</p> <p>3 REP. STAM: Yes. I like this criteria.</p> <p>4 It's very principled, and it's principles that I've</p> <p>5 heard, for example, the Senate Minority Leader</p> <p>6 state publicly many times. Let's not -- let's not</p> <p>7 consider race anymore. We're past that.</p> <p>8 SEN. RUCHO: Okay. Representative</p> <p>9 Michaux?</p> <p>10 REP. MICHAUX: Mr. Chairman, I'm having a</p> <p>11 problem not identifying race, and if I recall, Mr.</p> <p>12 Lewis -- and I'm reading from the opinion. It says</p> <p>13 here that "This does not mean that race can never</p> <p>14 play a role in redistricting. Legislatures are</p> <p>15 almost always cognizant of race when drawing</p> <p>16 district lines, and simply being aware of race</p> <p>17 poses no Constitutional violation."</p> <p>18 What they're saying to you is that you</p> <p>19 still can use race in the matter, but you cannot</p> <p>20 make it the predominant factor. That's the way I</p> <p>21 read it, and I think that this --</p> <p>22 SEN. RUCHO: Representative Lewis?</p> <p>23 REP. LEWIS: Representative Michaux,</p> <p>24 thank you for that. My response to that would be</p> <p>25 that not being aware of race means that you</p>

<p style="text-align: right;">38</p> <p>1 couldn't have been motivated by race.</p> <p>2 REP. MICHAUX: May I follow up?</p> <p>3 SEN. RUCHO: Follow-up, Representative</p> <p>4 Michaux?</p> <p>5 REP. MICHAUX: What did you say just now?</p> <p>6 REP. LEWIS: Sir, I believe you read from</p> <p>7 the opinion, which I don't have before me, that --</p> <p>8 in which the judges said being aware of race does</p> <p>9 not necessarily mean that race was a predominant</p> <p>10 factor, but it doesn't require it. And if that's</p> <p>11 not what you read, understand that you have the</p> <p>12 opinion in front of you, and I don't.</p> <p>13 REP. MICHAUX: What they're saying is it</p> <p>14 cannot be a predominant factor, Mr. Lewis, but you</p> <p>15 can use race.</p> <p>16 SEN. RUCHO: Representative Michaux, I</p> <p>17 think what Senator -- Representative Lewis is</p> <p>18 saying is you can use race, but it doesn't require</p> <p>19 you to use race.</p> <p>20 REP. MICHAUX: It says you can use race,</p> <p>21 but it must not be the predominant factor.</p> <p>22 REP. LEWIS: Mr. Chairman, I would say</p> <p>23 "can use" does not say "must use." Therefore, I</p> <p>24 would move the adoption of this criteria.</p> <p>25 SEN. RUCHO: Representative Hager,</p>	<p style="text-align: right;">40</p> <p>1 choice.</p> <p>2 We know that this three-judge panel has</p> <p>3 the power of its own to draw districts, and we can</p> <p>4 play these games with them. I thought that as a</p> <p>5 body from the standpoint of letting the</p> <p>6 Legislature, the reason that we ordered -- or at</p> <p>7 least required that the Court, if reversing these</p> <p>8 districts, sent it back to the Legislature to have</p> <p>9 an opportunity or a shot at fixing it is because it</p> <p>10 was felt that the Legislature could fix it, but I</p> <p>11 can assure you that if you go about doing this,</p> <p>12 then those three gentlemen are going to draw</p> <p>13 districts for you.</p> <p>14 Maybe that's what you want, and if that's</p> <p>15 what you want, I will vote with you on this</p> <p>16 amendment, but I think that you -- that it's</p> <p>17 transparent the game that you're trying to play.</p> <p>18 Some of us do strongly believe that we should move</p> <p>19 away from using race in making any decision in</p> <p>20 American life, but we also believe that you comply</p> <p>21 with the law until we get to that point, and I</p> <p>22 think that you're aware of the fact, just as I am,</p> <p>23 that if you take this blind approach, you're in</p> <p>24 direct violation of Section 2 of the Voting Rights</p> <p>25 Act. And so I'm just -- I just say that to you.</p>
<p style="text-align: right;">39</p> <p>1 please?</p> <p>2 REP. HAGER: Thank you, Mr. Chairman.</p> <p>3 Representative Lewis, I want to commend you on</p> <p>4 the -- when you said only when necessary when you</p> <p>5 split districts and precincts. I come from a</p> <p>6 district and precinct prior to these maps. My</p> <p>7 precinct was split, and we worked it out, like I</p> <p>8 said, and I appreciate what you said about the</p> <p>9 sophistication of the voters. It was there, but</p> <p>10 this criteria does help that situation, and prior</p> <p>11 to these maps, we see -- we saw that with the</p> <p>12 previous maps in Rutherford County, so thank you</p> <p>13 very much.</p> <p>14 SEN. RUCHO: I'm sorry. I've got Senator</p> <p>15 Blue. Excuse me.</p> <p>16 SEN. BLUE: Just a comment, since the</p> <p>17 motion to adopt it has been made. Mr. Chairman, I</p> <p>18 agree totally with Representative Stam. As I told</p> <p>19 Representative Lewis, there are places in this</p> <p>20 state where considering race in redrawing districts</p> <p>21 is inappropriate under the Voting Rights Act, under</p> <p>22 the 14th Amendment. There are places in this state</p> <p>23 where the Voting Rights Act requires that race be</p> <p>24 considered to some degree to ensure that, based on</p> <p>25 history, that minorities can elect people of their</p>	<p style="text-align: right;">41</p> <p>1 I'm going to vote against this proposal.</p> <p>2 You'll probably withdraw it, given the debate, but</p> <p>3 I'm going to vote against it because I think that</p> <p>4 it's showing disrespect for the law as it exists</p> <p>5 and disrespect for this three-judge federal</p> <p>6 district court.</p> <p>7 REP. LEWIS: Well, Senator --</p> <p>8 SEN. RUCHO: Representative Lewis?</p> <p>9 REP. LEWIS: Thank you, Mr. Chairman.</p> <p>10 I'm going to reiterate my earlier comments to you,</p> <p>11 sir, that in no way has anything that I have said</p> <p>12 had the intent, and I hope not the effect, of</p> <p>13 causing any offense to any member of the federal</p> <p>14 judiciary. I would reiterate the only way to make</p> <p>15 sure that race is not the predominant factor is to</p> <p>16 make sure it's not a factor when the maps are being</p> <p>17 considered.</p> <p>18 This Court -- I'll go one step further.</p> <p>19 With the utmost respect to the Court, this Court</p> <p>20 was shown that race was not a factor that was</p> <p>21 considered in drawing of the 12th, but they still</p> <p>22 found that it was a factor. This is -- this way we</p> <p>23 make sure that in fact, it is not.</p> <p>24 SEN. RUCHO: Members of the committee?</p> <p>25 Senator McKissick?</p>

<p style="text-align: right;">42</p> <p>1 SEN. MCKISSICK: Representative Lewis, 2 are you aware of any racially polarized voting 3 studies which have been conducted since the 2010 4 Census occurred? 5 REP. LEWIS: Senator McKissick, 6 respectfully, I would direct you to the 7 redistricting tab of the General Assembly Web site. 8 I believe there are some studies that are listed 9 there. Certainly there are numerous studies that 10 are referenced in the various lawsuits. I know the 11 General Assembly did commission a study on racially 12 polarized voting. I do not believe the Harris 13 court admitted or considered it. 14 SEN. MCKISSICK: Follow-up, Mr. Chair. 15 SEN. RUCHO: Follow-up. 16 SEN. MCKISSICK: Is it not possible to go 17 back and find that data, which is reasonably 18 current, since it was done since 2010, to examine 19 the racially polarized voting patterns throughout 20 the state, because different parts of the state are 21 different? Our urban areas have different 22 characteristics, and there's more coalition 23 politics. Other parts of our state, racially 24 polarized voting patterns are present, and continue 25 to exist.</p>	<p style="text-align: right;">44</p> <p>1 REP. MCGRADY: Second. 2 SEN. RUCHO: Second, Representative 3 McGrady. Any additional discussion? 4 (No response.) 5 SEN. RUCHO: All right. Seeing none, we 6 can -- Mr. Clerk, would you begin the roll call? 7 CLERK: Lewis? 8 REP. LEWIS: Aye. 9 CLERK: Jones? 10 REP. JONES: Aye. 11 CLERK: Brawley? 12 REP. BRAWLEY: Aye. 13 CLERK: Cotham? 14 REP. COTHAM: No. 15 CLERK: Davis? 16 REP. DAVIS: Aye. 17 CLERK: Farmer-Butterfield? 18 REP. FARMER-BUTTERFIELD: No. 19 CLERK: Hager? 20 REP. HAGER: Aye. 21 CLERK: Hanes? 22 REP. HANES: No. 23 CLERK: Hardister? 24 REP. HARDISTER: Aye. 25 CLERK: Hurley?</p>
<p style="text-align: right;">43</p> <p>1 I would suggest that we go back and look 2 at those studies, analyze them, and use those 3 studies as part of the database that would be used 4 to move forward in drawing these districts. Any 5 reason why we cannot do that? 6 REP. LEWIS: Respectfully, sir, I may -- 7 I may agree with you, but the Court does not. 8 SEN. MCKISSICK: And I'd have to 9 respectfully disagree on that. 10 REP. LEWIS: Noted. 11 SEN. RUCHO: Senator Clark? 12 SEN. CLARK: Thank you, Mr. Chairman. 13 With regard to the language on the voting districts 14 in here, would it not be more appropriate to 15 separate that and have it stand alone as its own 16 criteria? I don't understand the rationale for 17 including it in the criteria about political data. 18 REP. LEWIS: Senator, I appreciate that 19 question. Frankly, we could have had an additional 20 criteria. I prefer just to let it stay as it is. 21 SEN. RUCHO: Excuse me. Representative 22 Lewis, do you make the motion to adopt the 23 political data criteria? 24 REP. LEWIS: I do, Mr. Chairman. 25 SEN. RUCHO: All right.</p>	<p style="text-align: right;">45</p> <p>1 REP. HURLEY: Aye. 2 CLERK: Jackson? 3 REP. JACKSON: No. 4 CLERK: Johnson? 5 REP. JOHNSON: Aye. 6 CLERK: Jordan? 7 REP. JORDAN: Aye. 8 CLERK: McGrady? 9 REP. MCGRADY: Aye. 10 CLERK: Michaux? 11 REP. MICHAUX: No. 12 CLERK: Moore? 13 REP. MOORE: No. 14 CLERK: Stam? 15 REP. STAM: Aye. 16 CLERK: Stevens? 17 REP. STEVENS: Aye. 18 CLERK: Rucho? 19 SEN. RUCHO: Aye. 20 CLERK: Apodaca? 21 SEN. APODACA: Aye. 22 CLERK: Barefoot? 23 SEN. BAREFOOT: Aye. 24 CLERK: Blue? 25 SEN. BLUE: No.</p>

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<p>1 CLERK: Brown?</p> <p>2 SEN. BROWN: Aye.</p> <p>3 CLERK: Clark?</p> <p>4 SEN. CLARK: No.</p> <p>5 CLERK: Harrington?</p> <p>6 SEN. HARRINGTON: Aye.</p> <p>7 CLERK: Hise?</p> <p>8 SEN. HISE: Aye.</p> <p>9 CLERK: Jackson?</p> <p>10 SEN. JACKSON: Aye.</p> <p>11 CLERK: Lee?</p> <p>12 SEN. LEE: Aye.</p> <p>13 CLERK: McKissick?</p> <p>14 SEN. MCKISSICK: No.</p> <p>15 CLERK: Randleman?</p> <p>16 SEN. RANDLEMAN: Aye.</p> <p>17 CLERK: Sanderson?</p> <p>18 SEN. SANDERSON: Aye.</p> <p>19 CLERK: Smith?</p> <p>20 SEN. SMITH: No.</p> <p>21 CLERK: Smith-Ingram?</p> <p>22 SEN. SMITH-INGRAM: Nay.</p> <p>23 CLERK: Wells?</p> <p>24 SEN. WELLS: Aye.</p> <p>25 SEN. RUCHO: What have we got?</p>	<p>1 drawing of the maps, I would propose that to the</p> <p>2 extent possible, the map drawers create a map which</p> <p>3 is perhaps likely to elect 10 Republicans and 3</p> <p>4 Democrats. I acknowledge freely that this would be</p> <p>5 a political gerrymander, which is not against the</p> <p>6 law.</p> <p>7 SEN. RUCHO: All right. Members of the</p> <p>8 committee, any questions? Senator Blue?</p> <p>9 SEN. BLUE: Just one, Mr. Chairman, and</p> <p>10 this is a point of order since you've got my friend</p> <p>11 the rules committee chairman up there. What are</p> <p>12 the rules under which this committee is operating,</p> <p>13 House or Senate? If it's the Senate -- and if it's</p> <p>14 neither, where do they come from, but if it's the</p> <p>15 Senate, aren't ayes and nays prohibited in</p> <p>16 committee votes?</p> <p>17 SEN. APODACA: The chairs agreed we'd</p> <p>18 operate under the House rules, and I can tell you I</p> <p>19 wasn't here for that, but they did.</p> <p>20 (Laughter.)</p> <p>21 SEN. RUCHO: All right. Senator Blue?</p> <p>22 SEN. BLUE: One follow-up.</p> <p>23 SEN. RUCHO: Let me have your attention.</p> <p>24 SEN. BLUE: Since I'm not familiar with</p> <p>25 the House rules anymore, there is a permitted</p>
47	49
<p>1 CLERK: Nine nays. Nine nays. (Pause.)</p> <p>2 There's 11. 11 out of 34.</p> <p>3 SEN. RUCHO: 11 out of 34 nays. Okay.</p> <p>4 The result of that is 23 ayes, 11 nos, and two were</p> <p>5 not present. Okay. Representative Lewis?</p> <p>6 REP. LEWIS: Mr. Chairman, I would ask --</p> <p>7 with your permission, I've asked the Sergeants-at-</p> <p>8 Arms to distribute the criteria labeled "Partisan</p> <p>9 Advantage." If you could direct the staff to read</p> <p>10 that, I'd be happy to speak on it.</p> <p>11 SEN. RUCHO: Ms. Churchill, would you</p> <p>12 read the one on partisan advantage?</p> <p>13 MS. CHURCHILL: "Partisan Advantage: The</p> <p>14 partisan makeup of the Congressional delegation</p> <p>15 under the enacted plan is 10 Republicans and 3</p> <p>16 Democrats. The committee shall make reasonable</p> <p>17 efforts to construct districts in the 2016</p> <p>18 contingent Congressional plan to maintain the</p> <p>19 current partisan makeup of North Carolina's</p> <p>20 Congressional delegation."</p> <p>21 SEN. RUCHO: Representative Lewis,</p> <p>22 explain.</p> <p>23 REP. LEWIS: Mr. Chairman, the</p> <p>24 explanation of this is reasonably simple. As we</p> <p>25 are allowed to consider political data in the</p>	<p>1 abstention in the ayes and nos under the House</p> <p>2 rules; is there not?</p> <p>3 SEN. APODACA: Mr. Chairman?</p> <p>4 SEN. RUCHO: Representative Stam, if you</p> <p>5 can respond to that question?</p> <p>6 REP. STAM: I could. There is no such</p> <p>7 rule under House rules now or when Senator Blue was</p> <p>8 the Speaker of the House.</p> <p>9 SEN. RUCHO: Senator Blue, did you get</p> <p>10 your answer?</p> <p>11 SEN. BLUE: I got an answer.</p> <p>12 (Laughter.)</p> <p>13 SEN. RUCHO: Good. Thank you. Okay.</p> <p>14 Members of the committee, let's pay close attention</p> <p>15 to this. Senator McKissick?</p> <p>16 SEN. MCKISSICK: In looking at this</p> <p>17 particular criteria, I mean, certainly partisan</p> <p>18 advantage is a legitimate consideration, but I</p> <p>19 don't know why, based upon the number of Democratic</p> <p>20 registered voters, Republican registered voters and</p> <p>21 unaffiliated voters in this state we would want to</p> <p>22 ever sit and ingrain as a criteria for</p> <p>23 redistricting that we would only allow one party 3</p> <p>24 seats in Congress, and the other one, 10 in</p> <p>25 Congress, when not very long ago, before 2010, we</p>

<p style="text-align: right;">50</p> <p>1 had 7 Democrats and 5 Republicans, so I'm trying to</p> <p>2 understand why you feel this would be fair,</p> <p>3 reasonable, and balanced in terms of voter</p> <p>4 registrations in this state as it is currently</p> <p>5 divided.</p> <p>6 REP. LEWIS: Thank you for your question,</p> <p>7 Senator. I propose that we draw the maps to give a</p> <p>8 partisan advantage to 10 Republicans and 3</p> <p>9 Democrats because I do not believe it's possible to</p> <p>10 draw a map with 11 Republicans and 2 Democrats.</p> <p>11 (Laughter.)</p> <p>12 SEN. MCKISSICK: Follow-up, if I could.</p> <p>13 SEN. RUCHO: Follow-up.</p> <p>14 SEN. MCKISSICK: Were you aware of the</p> <p>15 fact that in the 2012 election cycle, if you total</p> <p>16 the total number of votes received by Democrats</p> <p>17 running for Congress versus the total number of</p> <p>18 votes cast for Republicans running for Congress,</p> <p>19 that Democratic candidates had a higher number of</p> <p>20 total votes, but ended up with fewer seats? Were</p> <p>21 you aware of that factor in drawing up this</p> <p>22 criteria?</p> <p>23 REP. LEWIS: I am aware, Senator -- first</p> <p>24 of all, thank you for your question. I am aware</p> <p>25 that there are numerous examples, especially</p>	<p style="text-align: right;">52</p> <p>1 Come up with something different. It</p> <p>2 could be 5 Democratic seats, and there's no reason</p> <p>3 why that couldn't be accomplished. It could be 6</p> <p>4 Democratic seats and still give the Republicans an</p> <p>5 edge, but to say you're going to marginalize with</p> <p>6 only 3 seats as a criteria, let the voters decide.</p> <p>7 REP. LEWIS: Well, sir, I definitely -- I</p> <p>8 thank you for that comment. Certainly we look</p> <p>9 forward to receiving -- what I'm asking this</p> <p>10 committee to adopt is the maps that this -- that</p> <p>11 the chairs will present to this committee absent a</p> <p>12 stay arriving from the Court. Certainly the</p> <p>13 members of this committee that don't feel this</p> <p>14 balance is appropriate can certainly offer their</p> <p>15 own maps for consideration.</p> <p>16 SEN. RUCHO: Representative Lewis, in the</p> <p>17 case Senator McKissick brought forth, if you see</p> <p>18 some districts that tend to have a larger voter</p> <p>19 turnout than others, that could easily explain what</p> <p>20 Senator McKissick described. Am I not correct?</p> <p>21 REP. LEWIS: Yes, sir. I think that's a</p> <p>22 constant variable in this. If you have an area</p> <p>23 that has a lot of contested races, those areas tend</p> <p>24 to produce more folks to the polls. If you have --</p> <p>25 you know, we don't want to get into the Electoral</p>
<p style="text-align: right;">51</p> <p>1 through the 2000s, when the majority of seats went</p> <p>2 to a party that had the fewer votes. We elect our</p> <p>3 representatives based on a system of drawing</p> <p>4 districts and the people in those districts being</p> <p>5 able to vote. We do not elect at large. I know</p> <p>6 you're very much aware of that, and we will -- this</p> <p>7 will maintain that system.</p> <p>8 SEN. MCKISSICK: Last follow-up, Mr.</p> <p>9 Chairman.</p> <p>10 SEN. RUCHO: Follow-up. Last follow-up.</p> <p>11 SEN. MCKISSICK: I would simply say this:</p> <p>12 If we were looking at a fair and reasonable</p> <p>13 division as a criteria moving forward, it wouldn't</p> <p>14 necessarily have to be an even division. It</p> <p>15 could -- obviously, since majority -- Republicans</p> <p>16 are a majority now, give Republicans a slight edge,</p> <p>17 but to come up with such an imbalance in a split I</p> <p>18 think is highly inappropriate. It's unfair. It</p> <p>19 does not recognize the way votes have been cast in</p> <p>20 this state as recently as 2012. It doesn't</p> <p>21 recognize the division of registered voters in this</p> <p>22 state between Democrats, Republicans, and</p> <p>23 Independents, and it's really a matter of political</p> <p>24 gerrymandering in the worst sense in which we can</p> <p>25 do so.</p>	<p style="text-align: right;">53</p> <p>1 College, but I can remember this debate's been</p> <p>2 going on since 2000 because of the use -- you know,</p> <p>3 there are times -- do you maximize or, for lack of</p> <p>4 a more polite term, do you pump up or boost up</p> <p>5 votes in certain areas to try and create the larger</p> <p>6 cumulative total, or do you file, run, and win in</p> <p>7 the districts in which you live? Our system has</p> <p>8 historically been the latter.</p> <p>9 SEN. RUCHO: I have a follow-up there.</p> <p>10 Senator McKissick, go ahead.</p> <p>11 SEN. MCKISSICK: Yeah. Simply this: I</p> <p>12 think what voters want are more competitive</p> <p>13 districts, more competitive districts where they</p> <p>14 have a clear choice between a Democrat, a</p> <p>15 Republican, and perhaps an unaffiliated candidate</p> <p>16 that's running, but not ones that are gerrymandered</p> <p>17 to give one party or the other just a clear</p> <p>18 partisan advantage. More competitive districts, I</p> <p>19 support completely, but that means drawing the maps</p> <p>20 in a way where you're not from the outset</p> <p>21 establishing criteria that gives one party an</p> <p>22 unfair advantage.</p> <p>23 SEN. RUCHO: Representative Lewis?</p> <p>24 REP. LEWIS: Mr. Chairman, the only thing</p> <p>25 that I could add is that we want to make clear that</p>

<p style="text-align: right;">54</p> <p>1 we to the extent are going to use political data in</p> <p>2 drawing this map, it is to gain partisan advantage</p> <p>3 on the map. I want that criteria to be clearly</p> <p>4 stated and understood. I have the utmost respect</p> <p>5 for those that do not agree with this particular</p> <p>6 balance.</p> <p>7 I will say -- and the gentleman from</p> <p>8 Durham did not say this, but I will say that during</p> <p>9 the public comment yesterday, more than one speaker</p> <p>10 referred to, "Can't we just draw them where there's</p> <p>11 5 this way or 6 that way?" That is partisan</p> <p>12 gerrymandering if you're drawing 5 and 7 or 6</p> <p>13 and -- whatever it is. I'm making clear that our</p> <p>14 intent is to use -- is to use the political data we</p> <p>15 have to our partisan advantage.</p> <p>16 SEN. RUCHO: Representative Michaux?</p> <p>17 REP. MICHAUX: Yeah. Mr. Chairman, you</p> <p>18 know if we were where you are today and we came up</p> <p>19 with this idea, you-all would be jumping all over</p> <p>20 the place, trying to dissuade us from that. First</p> <p>21 you want to -- you really want to dissuade race</p> <p>22 from being put in here. Now you want to make sure</p> <p>23 that you keep your 10 to 3 advantage, the same</p> <p>24 situation that got you in trouble before, and now</p> <p>25 you're going to -- what you're telling us is, "We</p>	<p style="text-align: right;">56</p> <p>1 For example, near a military base, they have much</p> <p>2 fewer voters than the population -- in other words,</p> <p>3 it's a bogus statistic, so I don't use it anymore.</p> <p>4 SEN. RUCHO: Thank you. I've got</p> <p>5 Representative Hager.</p> <p>6 REP. HAGER: Thank you, Mr. Chairman.</p> <p>7 You know I haven't been here long, but I guess in</p> <p>8 the House, I've become one of the more senior</p> <p>9 members with my colleagues that came in in 2011,</p> <p>10 but, you know, I got to thinking -- and I have the</p> <p>11 utmost respect for Senator McKissick and</p> <p>12 Representative Michaux, but, you know, if I beat my</p> <p>13 dog every day for 4 or 5 years and then I quit</p> <p>14 doing it and I told David to quit beating his dog,</p> <p>15 you'd consider me a little bit hypocritical,</p> <p>16 wouldn't you, David?</p> <p>17 If you look at that map on the wall and</p> <p>18 look at the 1992 map and look at District 10 and</p> <p>19 District 1, District 10 is my district now. Look</p> <p>20 at where we've come with District 10 since then. I</p> <p>21 mean, it's just -- it's amazing to me that we can</p> <p>22 argue that we shouldn't -- that the folks that have</p> <p>23 been here for a long time can argue that we</p> <p>24 shouldn't gerrymander these on political reasons,</p> <p>25 and they're some of the same people that developed</p>
<p style="text-align: right;">55</p> <p>1 want you to do this, and you vote for it, and this</p> <p>2 is the way it's going to be," period, end of</p> <p>3 report.</p> <p>4 SEN. RUCHO: Okay. There was no</p> <p>5 question, I don't think, so -- unless you want to</p> <p>6 respond to his comment.</p> <p>7 REP. LEWIS: No.</p> <p>8 SEN. RUCHO: Okay. I've got</p> <p>9 Representative Stam first.</p> <p>10 REP. STAM: Yes. I'd like to share a</p> <p>11 statistic that I haven't used in about 10 years,</p> <p>12 but I'll tell you why. During the last</p> <p>13 redistricting by the other party in 2004, I did</p> <p>14 jump up and down because I saw what was coming. In</p> <p>15 the election of 2004 for the House -- write these</p> <p>16 statistics down -- 52 percent of the voters chose</p> <p>17 the Republican candidate, 44 percent, the</p> <p>18 Democratic candidate, and 4 percent, Libertarian.</p> <p>19 Well, that should be a landslide for Republicans,</p> <p>20 but it ended up that we were in the minority, 57 to</p> <p>21 63.</p> <p>22 The reason I stopped using those type of</p> <p>23 statistics is I realized that it can be totally</p> <p>24 skewed by whoever happens to not have a candidate</p> <p>25 opposing that person. That shows a huge advantage.</p>	<p style="text-align: right;">57</p> <p>1 that map of District 1 and District 10 in 1992.</p> <p>2 SEN. RUCHO: Thank you. Any additional</p> <p>3 questions? Senator Smith-Ingram?</p> <p>4 SEN. SMITH-INGRAM: Thank you, Mr. Chair.</p> <p>5 Can you be specific as to what constitutes partisan</p> <p>6 advantage? Do we have to tie it to a number?</p> <p>7 REP. LEWIS: No, ma'am, but I will --</p> <p>8 first of all, thank you for the question. To</p> <p>9 perhaps expound on it a bit, this would -- this</p> <p>10 would contemplate looking at the political data,</p> <p>11 which was an earlier criteria adopted by this</p> <p>12 committee, and as you draw the lines, if you're</p> <p>13 trying to give a partisan advantage, you would want</p> <p>14 to draw the lines so that more of the whole VTDs</p> <p>15 voted for the Republican on the ballot than they</p> <p>16 did the Democrat, if that answers your question.</p> <p>17 SEN. SMITH-INGRAM: I think that --</p> <p>18 SEN. RUCHO: Follow-up?</p> <p>19 SEN. SMITH-INGRAM: Thank you. Follow-</p> <p>20 up. It answers about 50 percent of my question.</p> <p>21 If I could ask you another one, maybe a different</p> <p>22 way? You threw out some numbers. Would there not</p> <p>23 be partisan advantage with 8/5?</p> <p>24 REP. LEWIS: Thank you for that question,</p> <p>25 Senator. I would point out that indeed, you could</p>

<p style="text-align: right;">58</p> <p>1 use political numbers to draw a partisan -- to draw</p> <p>2 districts in which 8 Republicans would win or 5</p> <p>3 Democrats. I'm saying to the extent that you can,</p> <p>4 make it 10/3.</p> <p>5 SEN. SMITH-INGRAM: Last follow-up.</p> <p>6 SEN. RUCHO: Last follow-up.</p> <p>7 SEN. SMITH-INGRAM: Just a statement. I</p> <p>8 am concerned that we are trying to mimic the</p> <p>9 outcome of the previous election that never existed</p> <p>10 for a very long time in North Carolina until this</p> <p>11 district was redrawn in 2011. The challenge here</p> <p>12 is we are balancing where we are with where we have</p> <p>13 been historically, but at the end of the day, we</p> <p>14 are elected to come together, to work together, to</p> <p>15 serve the constituents and citizens of North</p> <p>16 Carolina. This is one of the concerns resonated</p> <p>17 yesterday, and many of us have it here. We are</p> <p>18 drawing these lines so that we get to pick our</p> <p>19 voters as opposed to them choosing us. It is</p> <p>20 unfair. It should not be perpetuated in this</p> <p>21 process, and I will not be supporting it.</p> <p>22 SEN. RUCHO: Thank you. Representative</p> <p>23 Jones?</p> <p>24 REP. JONES: Thank you, Mr. Chair. I</p> <p>25 appreciate it. I want to say how much I have</p>	<p style="text-align: right;">60</p> <p>1 hearing them come from today. We never heard those</p> <p>2 comments for decades and decades and decades in</p> <p>3 North Carolina, whether it was the media, whether</p> <p>4 it was the majority party, whomever, and so I guess</p> <p>5 the process is what it is.</p> <p>6 I'm glad that we have had some court</p> <p>7 decisions that have led to what I think is a lot</p> <p>8 less gerrymandering than what we had in prior</p> <p>9 decades, where we -- now we do have single-member</p> <p>10 districts. Now we do have where we don't just</p> <p>11 split counties in any possible way, and we have the</p> <p>12 pod system and things like that, so I really take</p> <p>13 offense when I hear those that say that somehow the</p> <p>14 political gerrymandering of today is greater than</p> <p>15 somehow it was in prior years, when anybody that</p> <p>16 goes back and studies the history knows that that's</p> <p>17 simply not the case.</p> <p>18 That's my comment, and I will ask I guess</p> <p>19 a question for you, Representative Lewis. Is it</p> <p>20 possible that people might choose to vote for a</p> <p>21 candidate that is of a different political party</p> <p>22 than what their political affiliation is?</p> <p>23 REP. LEWIS: Well, thank you for that</p> <p>24 question, Representative Jones. Of course it is.</p> <p>25 I mean, we all offer ourselves, and the voters in</p>
<p style="text-align: right;">59</p> <p>1 enjoyed this discussion about -- about</p> <p>2 gerrymandering. You know, that's a word that seems</p> <p>3 to me, as someone who has lived in North Carolina</p> <p>4 for all my life and has really kind of studied the</p> <p>5 political process particularly over the last few</p> <p>6 decades, a word that was never really used until</p> <p>7 somehow the Republicans came to a majority in 2010.</p> <p>8 Just as we're taking this little trip</p> <p>9 down memory lane for just a moment, I -- I remember</p> <p>10 things like multi-member districts in North</p> <p>11 Carolina when we were drawing the legislature. I</p> <p>12 thought what an extreme opportunity that was to</p> <p>13 gerrymander.</p> <p>14 I saw it happen in my own area where, you</p> <p>15 know, we couldn't do single-member districts. We</p> <p>16 couldn't even do double-member districts.</p> <p>17 Sometimes it had to be three- or four-member</p> <p>18 districts in order for the political party in</p> <p>19 charge at the time, which was the Democratic Party,</p> <p>20 to gain a political advantage, so Representative</p> <p>21 Lewis, I appreciate your honesty as you come</p> <p>22 forward today, and we -- and we explain that</p> <p>23 political gerrymandering I guess is what it is, but</p> <p>24 I just find it very interesting to hear some of the</p> <p>25 comments coming from some of the avenues that we're</p>	<p style="text-align: right;">61</p> <p>1 our districts decide that we best represent what we</p> <p>2 believe the direction of the government should be</p> <p>3 and that's how they cast their votes, so certainly</p> <p>4 a person is free to vote ever how they choose to</p> <p>5 vote.</p> <p>6 REP. JONES: Well, that's what I think,</p> <p>7 and I think regardless how you draw these</p> <p>8 districts -- you know, I come from an area where I</p> <p>9 can remember a time where voting for the Democratic</p> <p>10 party was extremely -- extremely high, and that</p> <p>11 time has changed, and those votes have changed. A</p> <p>12 lot of people that I can tell don't necessarily</p> <p>13 vote for the same party that they're registered,</p> <p>14 and so I -- you know, I think we ought to respect</p> <p>15 the voters as individuals, and whether they're</p> <p>16 registered Democrat, Republican, Libertarian,</p> <p>17 unaffiliated, whatever, recognize that they do have</p> <p>18 an opportunity to vote for any candidate that is on</p> <p>19 the ballot before them. I appreciate your answer,</p> <p>20 and I appreciate your honesty and integrity and</p> <p>21 going forward with the process.</p> <p>22 SEN. RUCHO: Thank you, Representative</p> <p>23 Jones. Senator Clark?</p> <p>24 SEN. CLARK: Thank you, Mr. Chairman.</p> <p>25 I'm having difficulty understanding why I should</p>

<p style="text-align: right;">62</p> <p>1 agree to vote for maps to bake in partisan 2 advantage that was achieved through the use of 3 unconstitutional maps. Could you explain that to 4 me?</p> <p>5 REP. LEWIS: Well, to be clear, sir, 6 we -- we are proposing that the maps that are drawn 7 now under this criteria which we have passed a 8 plank of, and continue to move forward, one of the 9 goals in drawing the map will be to preserve the 10 10/3. With all due respect, I've listened to this, 11 and we can of course continue to discuss this as 12 long as the committee wants to. It's always sort 13 of amazed me that if the map elects one side, the 14 other side considers -- considers it a gerrymander, 15 and something bad. If it elects their side, they 16 consider it a work of art, and good government, so 17 this is saying that one of the goals will be to 18 elect -- to speak directly to your point, the goal 19 is to elect 10 Republicans and 3 Democrats.</p> <p>20 SEN. RUCHO: Thank you. Representative 21 Lewis, there was a comment earlier about the 22 districts, the 13 districts that exist, 10 23 presently Republican, and 3 Democrat, and under the 24 circumstances, could you explain a little bit about 25 the makeup of the Republican districts and who</p>	<p style="text-align: right;">64</p> <p>1 competitive. I pointed out before that in the race 2 for attorney general that Attorney General Cooper 3 won nearly all of these. We can go back through 4 this 2011 debate if we'd like to, but I would again 5 maintain that you've got to put forward a good 6 candidate that appeals to the majority of folks, 7 and that the majority of folks in these districts 8 in the enacted plan are not registered Republicans. 9 In fact, to the best of my knowledge, in all but 10 perhaps one, we are the minority in all of the 11 districts.</p> <p>12 SEN. RUCHO: Thank you. Okay, 13 Representative Jackson?</p> <p>14 REP. JACKSON: Thank you, Mr. Chairman. 15 Senator Clark took one of my points that I was 16 going to make, but part of my uneasiness with this 17 is that it refers to the current Congressional 18 plan. I think you could make reference just saying 19 that you want to do it to a partisan advantage and 20 maximize Republican members, and I could agree with 21 that, I guess, but you have that opportunity.</p> <p>22 I would point out that your maps 23 originally had a 9/4 split, and that any reference 24 to 10/3 is not what your maps were; your maps were 25 a 9/4 split. What you've done is taken out the</p>
<p style="text-align: right;">63</p> <p>1 they're composed of, and what is necessary for that 2 Republican to win an election?</p> <p>3 REP. LEWIS: Thank you for the question, 4 Mr. Chairman. First of all, it would be necessary 5 to go back and review the stat packs and whatnot 6 from the 2011 districts, which are online if 7 anybody would like to do that, but to the best of 8 my knowledge, Republicans hold no majority as far 9 as voter registration in any of those districts.</p> <p>10 It's also -- well, and it is firmly my 11 belief that it's the responsibility of each of the 12 political parties to nominate quality candidates 13 who can appeal to the entire political spectrum. 14 It was pointed out yesterday during the public 15 hearing that the unaffiliated ranks in our state 16 continue to grow. If you don't get them -- if you 17 don't get a large percentage of the unaffiliated 18 vote in most of our districts, you're not going to 19 win, and so I would say that you are required to 20 have a good-quality candidate that appeals to the 21 political expectations of the majority of the folks 22 in that district.</p> <p>23 I can go back, and we can go through some 24 of the points. I do still -- I actually maintain 25 that the districts that we have now are largely</p>	<p style="text-align: right;">65</p> <p>1 2012 election, but that's not my question. 2 My question is, are we going to rank 3 these criteria in any order, because you've used 4 words in this criteria like "reasonable efforts." 5 Well, if -- are the -- how will the mapmakers know 6 what a reasonable effort is? In trying to come up 7 with 10 Republican districts, will they be able to 8 make a reasonable effort that means they can now 9 consider race? Will they be able to make a 10 reasonable effort that means that now they can 11 consider the 2008, 2012 elections? Will they be 12 able to split precincts as part of making a 13 reasonable effort to make a 10/3 split?</p> <p>14 REP. LEWIS: Representative Jackson, 15 thank you for that series of questions. The answer 16 to your question, the first part was -- I'm sorry. 17 Mr. Chairman, I'm sorry.</p> <p>18 SEN. RUCHO: Go ahead, please.</p> <p>19 REP. JACKSON: Will there be any type of 20 ranking of these criteria anywhere?</p> <p>21 REP. LEWIS: No. No is the answer. 22 That's why these criteria are being presented 23 individually and discussed and debated 24 individually. Map -- drawing maps is largely a 25 balancing act. We are trying to specify certain</p>

<p style="text-align: right;">66</p> <p>1 things that you cannot use. You asked about race. 2 You cannot use that, and I apologize; I don't 3 remember what else you asked about, Representative 4 Jackson. 5 REP. JACKSON: Follow-up, Mr. Chairman? 6 SEN. RUCHO: Follow-up. 7 REP. JACKSON: Okay. So it would be your 8 contention, then, that making reasonable efforts 9 would not include violating any of the other 10 criteria that we have passed? 11 REP. LEWIS: Absolutely. Mr. Chairman? 12 SEN. RUCHO: Yes? 13 REP. LEWIS: If there aren't further 14 questions, I move adoption of the 2016 contingent 15 Congressional plan proposed criteria labeled 16 "Partisan Advantage." 17 SEN. RUCHO: All right. 18 REP. JONES: Second. 19 SEN. RUCHO: Representative Jones has 20 seconded. All right, members of the committee, 21 there has been considerable discussion, and if 22 there's any additional thoughts, this is your 23 opportunity. 24 (No response.) 25 SEN. RUCHO: Seeing none, Mr. Clerk,</p>	<p style="text-align: right;">68</p> <p>1 CLERK: Jordan? 2 REP. JORDAN: Aye. 3 CLERK: McGrady? 4 REP. MCGRADY: Aye. 5 CLERK: Michaux? 6 REP. MICHAUX: No. 7 CLERK: Moore? 8 REP. MOORE: No. 9 CLERK: Stam? 10 REP. STAM: Aye. 11 CLERK: Stevens? 12 REP. STEVENS: Aye. 13 CLERK: Rucho? 14 SEN. RUCHO: Aye. 15 CLERK: Apodaca? 16 SEN. APODACA: Aye. 17 CLERK: Barefoot? 18 SEN. BAREFOOT: Aye. 19 CLERK: Blue? 20 SEN. BLUE: No. 21 CLERK: Brown? 22 SEN. BROWN: Aye. 23 CLERK: Clark? 24 SEN. CLARK: No. 25 CLERK: Harrington?</p>
<p style="text-align: right;">67</p> <p>1 please go through the roll. 2 CLERK: Lewis? 3 REP. LEWIS: Aye. 4 CLERK: Jones? 5 REP. JONES: Aye. 6 CLERK: Brawley? 7 REP. BRAWLEY: Aye. 8 CLERK: Cotham? 9 REP. COTHAM: No. 10 CLERK: Davis? 11 REP. DAVIS: Aye. 12 CLERK: Farmer-Butterfield? 13 REP. FARMER-BUTTERFIELD: No. 14 CLERK: Hager? 15 REP. HAGER: Aye. 16 CLERK: Hanes? 17 REP. HANES: No. 18 CLERK: Hardister? 19 REP. HARDISTER: Aye. 20 CLERK: Hurley? 21 REP. HURLEY: Aye. 22 CLERK: Jackson? 23 REP. JACKSON: No. 24 CLERK: Johnson? 25 REP. JOHNSON: Aye.</p>	<p style="text-align: right;">69</p> <p>1 SEN. HARRINGTON: Aye. 2 CLERK: Hise? 3 SEN. HISE: Aye. 4 CLERK: Jackson? 5 SEN. JACKSON: Aye. 6 CLERK: Lee? 7 SEN. LEE: Aye. 8 CLERK: McKissick? 9 SEN. MCKISSICK: No. 10 CLERK: Randleman? 11 SEN. RANDLEMAN: Aye. 12 CLERK: Sanderson? 13 SEN. SANDERSON: Aye. 14 CLERK: Smith? 15 SEN. SMITH: No. 16 CLERK: Smith-Ingram? 17 SEN. SMITH-INGRAM: No. 18 CLERK: Wells? 19 SEN. WELLS: Aye. 20 CLERK: 23-11. 21 SEN. RUCHO: All right, members of the 22 committee, roll call on the "Partisan Advantage" 23 criteria was ayes, 23, nos, 11. 24 We'll be going on to the next one, and 25 that is -- okay, got it. This is the 12th</p>

<p style="text-align: right;">70</p> <p>1 District. Would you, Ms. Churchill, read out --</p> <p>2 read this criteria, please?</p> <p>3 MS. CHURCHILL: "12th District: The</p> <p>4 current General Assembly inherited the</p> <p>5 configuration of the 12th District from past</p> <p>6 General Assemblies. This configuration was</p> <p>7 retained because of the -- because the district had</p> <p>8 already been heavily litigated over the past two</p> <p>9 decades, and ultimately approved by the courts.</p> <p>10 The Harris court has criticized the shape of the</p> <p>11 12th District, citing its serpentine nature. In</p> <p>12 light of this, the committee shall construct</p> <p>13 districts in the 2015 contingent Congressional plan</p> <p>14 that eliminate the current configuration of the</p> <p>15 12th District."</p> <p>16 SEN. RUCHO: And, Representative Lewis,</p> <p>17 would you explain the criteria under the "12th</p> <p>18 District" heading?</p> <p>19 REP. LEWIS: Thank you, Mr. Chairman.</p> <p>20 This largely goes -- I'll try to use my friend from</p> <p>21 Wake, Representative Jackson's, words. As these</p> <p>22 criteria stand on their own and have to be</p> <p>23 considered together, what this is saying is that</p> <p>24 the mapmakers will make an effort to draw the 12th</p> <p>25 Congressional District in a shape that the judges</p>	<p style="text-align: right;">72</p> <p>1 good idea.</p> <p>2 SEN. RUCHO: Members of the -- oh, I'm</p> <p>3 sorry. Go ahead, Chairman Lewis.</p> <p>4 REP. LEWIS: Mr. Chairman, I just -- I</p> <p>5 just wanted to thank Senator Blue for his words.</p> <p>6 I'm glad that after two decades of drawing maps,</p> <p>7 we've found something we can agree on.</p> <p>8 SEN. RUCHO: All right, members of the</p> <p>9 committee. Senator McKissick?</p> <p>10 SEN. MCKISSICK: While I appreciate the</p> <p>11 fact that the 12th District has an unusual shaped</p> <p>12 appearance, I'm also aware of the fact that it's</p> <p>13 gone up before the Supreme Court previously, and</p> <p>14 when I think of the fact that one of the things we</p> <p>15 have to consider is communities of interest, and</p> <p>16 communities of interest is certainly something</p> <p>17 that's a very valid consideration in drawing</p> <p>18 Congressional districts, and I've heard it stated</p> <p>19 on numerous occasions that communities of interest</p> <p>20 test here is met and satisfied with the shape being</p> <p>21 what it is today.</p> <p>22 Now, while it may appear a bit</p> <p>23 serpentine, a little bit unusual, I think it's</p> <p>24 possible to reconfigure the district, perhaps to</p> <p>25 make it somewhat more compact, but it links</p>
<p style="text-align: right;">71</p> <p>1 would not consider serpentine.</p> <p>2 SEN. RUCHO: Does that conclude your</p> <p>3 explanation?</p> <p>4 REP. LEWIS: Yes, sir.</p> <p>5 SEN. RUCHO: Okay. Members of the</p> <p>6 committee.</p> <p>7 SEN. BLUE: Mr. Chairman?</p> <p>8 SEN. RUCHO: Senator Blue?</p> <p>9 SEN. BLUE: I want to commend</p> <p>10 Representative Lewis. I agree that the 12th</p> <p>11 District ought to be contiguous, it ought to be</p> <p>12 compact, as all of the other districts in the</p> <p>13 state, and I think a good starting point for</p> <p>14 drawing constitutional maps would be to start with</p> <p>15 the 12th District and make it compact, and let it</p> <p>16 impact the other districts.</p> <p>17 I think differently about the 1st,</p> <p>18 because I think that the law requires it. I have</p> <p>19 no particular love for the shape of any of these</p> <p>20 strange districts, but if you're serious about</p> <p>21 creating a district that's compact, that's</p> <p>22 contiguous, and that covers as few counties as</p> <p>23 possible by not unreasonably splitting county</p> <p>24 lines, by not splitting county lines except where</p> <p>25 necessary to comply with population, I think it's a</p>	<p style="text-align: right;">73</p> <p>1 together significant cores of the urban parts of</p> <p>2 our state along the main street of the state, which</p> <p>3 is now Interstate 85. Interstate 85 is the main</p> <p>4 corridor.</p> <p>5 Those urban areas are linked from</p> <p>6 Charlotte going through Greensboro and back up into</p> <p>7 the Piedmont area of our state, so I would not want</p> <p>8 to abandon it. I'd want to perhaps reconfigure it,</p> <p>9 but keeping in mind the communities of interest</p> <p>10 that it ties together, major urban cores with</p> <p>11 populations that have similar interests and</p> <p>12 concerns, along with major banking centers.</p> <p>13 One of the -- I've heard before that that</p> <p>14 particular district had more banking headquarters</p> <p>15 than any Congressional district in our country, and</p> <p>16 I rely upon that based upon the sources of that</p> <p>17 data, so I would not abandon it; I would simply try</p> <p>18 to reconfigure it, perhaps make it more compact,</p> <p>19 but to respect the communities of interest that it</p> <p>20 does unify.</p> <p>21 SEN. RUCHO: Thank you. Any additional</p> <p>22 questions? Well, let me first say, Representative</p> <p>23 Lewis, do you want to make a comment to that?</p> <p>24 REP. LEWIS: (Shakes head.)</p> <p>25 SEN. RUCHO: Representative Hanes?</p>

<p style="text-align: right;">74</p> <p>1 REP. HANES: Thank you, Mr. Chairman. I</p> <p>2 think both the senators have -- have excellent</p> <p>3 points. I agree especially with Senator Blue and</p> <p>4 his statements with regard to what we need to be</p> <p>5 looking at as a whole as we consider what these</p> <p>6 districts look like. Certainly when it comes to</p> <p>7 Democrats -- and I know we're trying to avoid the</p> <p>8 word "race" here, but when it comes to folks who</p> <p>9 look like me, we want our voices heard everywhere,</p> <p>10 and so in that regard, part of the way we do that</p> <p>11 is to put our communities together within our</p> <p>12 counties. I think while we certainly don't have to</p> <p>13 abandon what the 12th is right now, certainly we</p> <p>14 need to be looking at very strongly doing what</p> <p>15 Senator Blue suggests, and so I will be supporting</p> <p>16 it. Thank you.</p> <p>17 SEN. RUCHO: Thank you. Members of the</p> <p>18 committee, any additional questions or comments?</p> <p>19 (No response.)</p> <p>20 SEN. RUCHO: Representative Lewis, do you</p> <p>21 have a motion?</p> <p>22 REP. LEWIS: Mr. Chairman, I move that</p> <p>23 the 2016 contingent Congressional plan proposed</p> <p>24 criteria labeled "12th District" be adopted.</p> <p>25 SEN. APODACA: Second.</p>	<p style="text-align: right;">76</p> <p>1 CLERK: Hurley?</p> <p>2 REP. HURLEY: Aye.</p> <p>3 CLERK: Jackson?</p> <p>4 REP. JACKSON: Yes.</p> <p>5 CLERK: Johnson?</p> <p>6 REP. JOHNSON: Aye.</p> <p>7 CLERK: Jordan?</p> <p>8 REP. JORDAN: Aye.</p> <p>9 CLERK: McGrady?</p> <p>10 REP. MCGRADY: Aye.</p> <p>11 CLERK: Michaux?</p> <p>12 REP. MICHAUX: Aye.</p> <p>13 CLERK: Moore?</p> <p>14 REP. MOORE: Aye.</p> <p>15 CLERK: Stam?</p> <p>16 REP. STAM: Aye.</p> <p>17 CLERK: Stevens?</p> <p>18 REP. STEVENS: Aye.</p> <p>19 CLERK: Rucho?</p> <p>20 SEN. RUCHO: Aye.</p> <p>21 CLERK: Apodaca?</p> <p>22 SEN. APODACA: Aye.</p> <p>23 CLERK: Barefoot?</p> <p>24 SEN. BAREFOOT: Aye.</p> <p>25 CLERK: Blue?</p>
<p style="text-align: right;">75</p> <p>1 SEN. RUCHO: Second by Senator Apodaca.</p> <p>2 Members of the committee, you have this motion</p> <p>3 before you. Any questions or comments prior to a</p> <p>4 roll call vote?</p> <p>5 (No response.)</p> <p>6 SEN. RUCHO: Seeing none, Mr. Clerk,</p> <p>7 would you go through the roll call, please?</p> <p>8 CLERK: Lewis?</p> <p>9 REP. LEWIS: Aye.</p> <p>10 CLERK: Jones?</p> <p>11 REP. JONES: Aye.</p> <p>12 CLERK: Brawley?</p> <p>13 REP. BRAWLEY: Aye.</p> <p>14 CLERK: Cotham?</p> <p>15 REP. COTHAM: Yes.</p> <p>16 CLERK: Davis?</p> <p>17 REP. DAVIS: Aye.</p> <p>18 CLERK: Farmer-Butterfield?</p> <p>19 REP. FARMER-BUTTERFIELD: Yes.</p> <p>20 CLERK: Hager?</p> <p>21 REP. HAGER: Aye.</p> <p>22 CLERK: Hanes?</p> <p>23 REP. HANES: Yes.</p> <p>24 CLERK: Hardister?</p> <p>25 REP. HARDISTER: Aye.</p>	<p style="text-align: right;">77</p> <p>1 SEN. BLUE: Aye.</p> <p>2 CLERK: Brown?</p> <p>3 SEN. BROWN: Aye.</p> <p>4 CLERK: Clark?</p> <p>5 SEN. CLARK: Aye.</p> <p>6 CLERK: Harrington?</p> <p>7 SEN. HARRINGTON: Aye.</p> <p>8 CLERK: Hise?</p> <p>9 SEN. HISE: Aye.</p> <p>10 CLERK: Jackson?</p> <p>11 SEN. JACKSON: Aye.</p> <p>12 CLERK: Lee?</p> <p>13 SEN. LEE: Aye.</p> <p>14 CLERK: McKissick?</p> <p>15 SEN. MCKISSICK: No.</p> <p>16 CLERK: Randleman?</p> <p>17 SEN. RANDLEMAN: Aye.</p> <p>18 CLERK: Sanderson?</p> <p>19 SEN. SANDERSON: Aye.</p> <p>20 CLERK: Smith?</p> <p>21 SEN. SMITH: Aye.</p> <p>22 CLERK: Smith-Ingram?</p> <p>23 SEN. SMITH-INGRAM: Aye.</p> <p>24 CLERK: Wells?</p> <p>25 SEN. WELLS: Aye.</p>

<p style="text-align: right;">78</p> <p>1 CLERK: One no.</p> <p>2 SEN. RUCHO: So 33 aye and 1 no, correct?</p> <p>3 CLERK: Yes.</p> <p>4 SEN. RUCHO: Members of the committee,</p> <p>5 the roll call vote on that, the criteria for the</p> <p>6 12th District adoption, is 33 aye and 1 no. All</p> <p>7 right.</p> <p>8 Before we go on to the next criteria,</p> <p>9 I'll make a statement to the committee that under</p> <p>10 the House rules, there is a way of amending or</p> <p>11 submitting an amendment forward. If you'll contact</p> <p>12 Ms. Churchill on this, she will assist you in doing</p> <p>13 so if you desire.</p> <p>14 All right, that being said,</p> <p>15 Representative Lewis, before us is --</p> <p>16 REP. LEWIS: "Compactness."</p> <p>17 SEN. RUCHO: -- "Compactness." All</p> <p>18 right. Please, Ms. Churchill, would you read that?</p> <p>19 MS. CHURCHILL: "Compactness: In light</p> <p>20 of the Harris court's criticism of the compactness</p> <p>21 of the 1st and 12th Districts, the committee shall</p> <p>22 make reasonable efforts to construct districts in</p> <p>23 the 2016 contingent Congressional plan that improve</p> <p>24 the compactness of the current districts and keep</p> <p>25 more counties and VTDs whole as compared to the</p>	<p style="text-align: right;">80</p> <p>1 Mecklenburg. There's only 1 in Wake, I believe.</p> <p>2 There's only 1 in Wake, and so 2 counties. There</p> <p>3 may be 2 in Guilford. Is there any other county</p> <p>4 with more than 1 incumbent?</p> <p>5 REP. LEWIS: Senator Blue, thank you for</p> <p>6 that question, and candidly, I don't believe so,</p> <p>7 but I don't know that, either.</p> <p>8 SEN. RUCHO: Follow-up?</p> <p>9 SEN. BLUE: So if the only place that you</p> <p>10 would worry about splitting the county to protect</p> <p>11 the incumbency would be Mecklenburg County based on</p> <p>12 the current layout -- I know that there are some of</p> <p>13 us counties that are split 3 and 4 different ways,</p> <p>14 but I know in Wake County, there's only 1 resident</p> <p>15 Congressperson, although we have 4 districts here,</p> <p>16 and I think that the same is true of every other</p> <p>17 county except Mecklenburg, with the exception of</p> <p>18 Guilford. There may be 2 from Guilford. I'm not</p> <p>19 sure, but nevertheless, why should we split</p> <p>20 counties if you don't have to, to protect the</p> <p>21 incumbents? Why shouldn't we leave counties whole</p> <p>22 all over the state except where you have to split</p> <p>23 them because of population?</p> <p>24 SEN. RUCHO: Representative Lewis?</p> <p>25 REP. LEWIS: Thank you for that question,</p>
<p style="text-align: right;">79</p> <p>1 current enacted plan. Division of counties shall</p> <p>2 only be made for reasons of equalizing population,</p> <p>3 consideration of incumbency, and political impact.</p> <p>4 Reasonable effort shall be made not to divide a</p> <p>5 county into more than two districts."</p> <p>6 SEN. RUCHO: Representative Lewis, would</p> <p>7 you please explain the "Compactness" criteria?</p> <p>8 REP. LEWIS: Thank you, Mr. Chairman. To</p> <p>9 be clear, the -- trying to explain compactness is</p> <p>10 very difficult, as I don't know that there is a</p> <p>11 hard-and-fast definition that I can offer to the</p> <p>12 committee. The way that I will interpret it is</p> <p>13 again trying to keep as many counties whole as</p> <p>14 possible, to split as few precincts as possible,</p> <p>15 and again, only to -- and to only do that to</p> <p>16 equalize population.</p> <p>17 I would -- I would point out, again going</p> <p>18 back to my friend, Representative Jackson's</p> <p>19 question, these criteria kind of layer on each</p> <p>20 other, and so I would -- I would urge the committee</p> <p>21 to adopt the guideline on compactness.</p> <p>22 SEN. RUCHO: Senator Blue?</p> <p>23 SEN. BLUE: Thank you. Representative</p> <p>24 Lewis, other than in 3 counties, are there multiple</p> <p>25 incumbents? I know that there's more than 1 in</p>	<p style="text-align: right;">81</p> <p>1 Senator Blue. My response would simply be that</p> <p>2 considering where incumbents live, and for lack of</p> <p>3 a better way to say it, the protection of</p> <p>4 incumbents has always been an accepted political</p> <p>5 practice in drawing maps. This does not require us</p> <p>6 to do that. This simply says that that could be</p> <p>7 one of the reasons that a county would be split.</p> <p>8 The most important part of this is trying</p> <p>9 to establish that we won't split counties more than</p> <p>10 2 times, and we've already passed a criteria that</p> <p>11 this reiterates, that the biggest reason a county</p> <p>12 should be split is only to equalize the population</p> <p>13 between the districts.</p> <p>14 SEN. BLUE: Follow-up.</p> <p>15 SEN. RUCHO: Follow-up.</p> <p>16 SEN. BLUE: And I agree with that, but</p> <p>17 I'm saying under the current scenario -- and in</p> <p>18 fact, I think Mecklenburg is the only county that</p> <p>19 has two Congresspeople, so you could split</p> <p>20 Mecklenburg anyhow because you've got to split it</p> <p>21 because it's got over 750,000, or whatever the</p> <p>22 number is, people. You've got to split Wake;</p> <p>23 you've got to split Mecklenburg. The others could</p> <p>24 be made whole except for population purposes, so</p> <p>25 why would you adopt criteria saying that you're not</p>

<p style="text-align: right;">82</p> <p>1 going to split counties except to protect</p> <p>2 incumbents when you don't have any incumbents to</p> <p>3 protect, and you ultimately say that you will split</p> <p>4 them for political impact, which means that you can</p> <p>5 indiscriminately split counties however you want to</p> <p>6 anyhow if you determine what the political impact</p> <p>7 is? Why would you say that, and why would you put</p> <p>8 that provision in there?</p> <p>9 SEN. RUCHO: Representative --</p> <p>10 SEN. BLUE: And that being said, would</p> <p>11 you be willing to --</p> <p>12 SEN. RUCHO: One question. Let him</p> <p>13 answer this one first, please.</p> <p>14 SEN. BLUE: It's part of the same</p> <p>15 question. That being said, would you be willing to</p> <p>16 strike after the comma and the word "population" on</p> <p>17 the third from the bottom line the phrases</p> <p>18 "consideration of incumbency" and "political</p> <p>19 impact" so that there's a clear signal that you're</p> <p>20 not going to split counties since you don't have to</p> <p>21 split them to protect incumbents, so that you're</p> <p>22 not going to split counties except where you have</p> <p>23 to, to get to the one person, one vote requirement?</p> <p>24 SEN. RUCHO: Representative Lewis, why</p> <p>25 don't you answer his first question first? He</p>	<p style="text-align: right;">84</p> <p>1 SEN. BLUE: If there is no incumbency,</p> <p>2 then incumbents won't be considered in splitting</p> <p>3 districts, and that can't be the reason for</p> <p>4 splitting it. I'm simply saying that when you say</p> <p>5 "political impact," you take away everything else</p> <p>6 you put in that phrase, and if we believe in</p> <p>7 keeping counties whole to the extent possible,</p> <p>8 especially small counties, if we believe in that,</p> <p>9 then all we've got to do is say we're only going to</p> <p>10 split counties to equalize population, and I'm</p> <p>11 wondering why it's so critical that you say</p> <p>12 "political impact," since that phrase is loaded</p> <p>13 with all kinds of subjective determinations, with</p> <p>14 the ability to totally disregard this earlier</p> <p>15 portion saying that you're not going to split</p> <p>16 counties, or you're only going to split counties to</p> <p>17 put them into two districts, because you don't say</p> <p>18 you won't split them; you say you'll make</p> <p>19 reasonable efforts not to. I'm saying why don't we</p> <p>20 have an absolute prohibition on splitting counties</p> <p>21 except when it's necessary to comply with one</p> <p>22 person, one vote?</p> <p>23 REP. LEWIS: Thank you for that question,</p> <p>24 Senator Blue. My response to that would be that we</p> <p>25 will look forward to reviewing maps that you may</p>
<p style="text-align: right;">83</p> <p>1 asked too many questions.</p> <p>2 REP. LEWIS: Senator Blue, thank you for</p> <p>3 that series of inquiries. I do apologize because I</p> <p>4 don't remember exactly what you asked.</p> <p>5 SEN. BLUE: Do you need me to reask it?</p> <p>6 REP. LEWIS: Let me just say that it is</p> <p>7 my intent to split as few counties as we possibly</p> <p>8 can, and to not allow the counties to be divided</p> <p>9 more than two times. Our overarching goal of this,</p> <p>10 as Representative Jackson and I have had some</p> <p>11 continued conversation, all of these criteria kind</p> <p>12 of overlap on each other.</p> <p>13 I would agree with you that equalizing</p> <p>14 population is a mandatory reason that a county may</p> <p>15 have to be split. I would also say that it would</p> <p>16 be dishonest of me to say that political impact</p> <p>17 can't be considered in how you draw districts.</p> <p>18 I don't see any harm in leaving the words</p> <p>19 "consideration of incumbency" because there's no</p> <p>20 requirement that the districts be drawn to include</p> <p>21 the current seated members. It just allows for</p> <p>22 the -- the consideration that they are -- that they</p> <p>23 are in fact there.</p> <p>24 SEN. BLUE: One last follow-up.</p> <p>25 SEN. RUCHO: Last follow-up.</p>	<p style="text-align: right;">85</p> <p>1 submit that follow that criteria. I feel very</p> <p>2 comfortable that we've made clear through this</p> <p>3 process of what our -- what our intents are, and I</p> <p>4 would prefer that this criteria remain as it's</p> <p>5 written.</p> <p>6 SEN. RUCHO: Thank you. Representative</p> <p>7 Jones?</p> <p>8 REP. JONES: Thank you, Mr. Chairman. I</p> <p>9 just wanted to clarify the record that there are</p> <p>10 two Congressmen that live in Guilford County, Mark</p> <p>11 Walker of the 6th District, and Alma Adams of the</p> <p>12 12th District.</p> <p>13 SEN. RUCHO: Okay. I've got -- I've got</p> <p>14 Senator Smith.</p> <p>15 SEN. SMITH: Thank you, Mr. Chairman. I</p> <p>16 certainly appreciate the idea of compactness. I</p> <p>17 very much want to see precincts and counties left</p> <p>18 whole. I would respectfully tell you that in 2011,</p> <p>19 there was a district drawn where an incumbent was</p> <p>20 drawn out. It was the district that I lived in,</p> <p>21 and so the 7th Congressional District drew -- was</p> <p>22 changed to the 8th Congressional District, and the</p> <p>23 Congressman McIntyre, who was the incumbent, was</p> <p>24 drawn out essentially of his own district, and my</p> <p>25 concern is what Senator Blue has said. The idea of</p>

<p style="text-align: right;">86</p> <p>1 compactness is great, but when we leave in this 2 other phrase about incumbency, we have taken away 3 the other reason, the only reason that really 4 should be the case, and that is population. 5 REP. LEWIS: Senator, I appreciate that. 6 Again, I would state that equalizing population is 7 definitely the required reason that a county may 8 have to be split. This simply allows for 9 consideration of incumbency and consideration of 10 political impact. I don't -- I don't see that that 11 would interfere with us being able to use 12 compactness in drawing the maps. 13 SEN. SMITH: Follow-up, Mr. Chair? 14 SEN. RUCHO: Follow-up. 15 SEN. SMITH: I just would point out that 16 population was not the case in 2011, and my concern 17 is that if we agree to this and keep this as 18 incumbency and political impact, that that will end 19 up trumping population, and splitting counties and 20 precincts. 21 SEN. RUCHO: Thank you. Representative 22 Lewis, do you want to comment? 23 REP. LEWIS: No. 24 SEN. RUCHO: You're all set? Just a 25 quick -- is it -- a question for the Chair,</p>	<p style="text-align: right;">88</p> <p>1 Representative Lewis: The way this is drafted now, 2 what I'm seeing is a statement of an aspirational 3 goal, but not a strict requirement. Is that 4 correct, or is that a misreading? It's one thing 5 to aspire to accomplish these things, which I 6 support. It's another thing if you make it a 7 litmus test, so can you clarify that? 8 REP. LEWIS: Thank you for that question, 9 Senator McKissick. Let me say that this is an 10 aspirational goal. 11 SEN. MCKISSICK: In which case, I embrace 12 it. 13 SEN. RUCHO: Okay. From the Chair, 14 Senator McKissick [sic], a question that 15 Representative Jackson asked earlier, and when you 16 talk about the criteria, is it accurate to say that 17 all of them are weighted at the same level, and 18 it's a matter of harmonizing to try to get to a map 19 that meets those criteria? 20 (No response.) 21 SEN. RUCHO: David? 22 REP. LEWIS: I'm sorry, Mr. Chairman. 23 SEN. RUCHO: Oh, I'm sorry. From the 24 Chair, a question for you. 25 REP. LEWIS: Yes, sir?</p>
<p style="text-align: right;">87</p> <p>1 Representative Lewis: Is it a requirement for a 2 Congressional candidate to live in the district 3 they're running in? 4 REP. LEWIS: No. A candidate for 5 Congress is not required to reside in the district 6 in which they run. 7 SEN. RUCHO: Okay, thank you. I've got 8 Representative Hager. 9 REP. HAGER: Thank you, Mr. Chairman, and 10 thank you, Representative Lewis, for -- for this 11 particularly, because as I said earlier, Rutherford 12 County, prior to the Rucho-Lewis maps that we're 13 under today, split Rutherford County between the 14 10th and the 11th. Now, I find it -- and I have a 15 question for you. I find it very ironic that that 16 split for the 11th included -- came down Main 17 Street in Rutherfordton to include Walter Dalton's 18 house, so the question I have for you is we won't 19 split districts depending on who we think may run 20 for that Congressional district; would that be 21 correct? 22 REP. LEWIS: Yes, sir, that's correct. 23 SEN. RUCHO: Okay. All right. I've got 24 Senator McKissick. 25 SEN. MCKISSICK: Let me ask you this,</p>	<p style="text-align: right;">89</p> <p>1 SEN. RUCHO: Based on what Representative 2 Jackson asked earlier, all of these criteria listed 3 that's being submitted and voted upon, is it fair 4 to say that the criteria established are not ranked 5 as far as priorities, but are a matter of 6 harmonizing until you can get a map that meets 7 those criteria? 8 REP. LEWIS: That's correct, sir. We are 9 seeking aspirational harmony. 10 (Laughter.) 11 SEN. RUCHO: Okay. Do you have a motion? 12 REP. LEWIS: Mr. Chairman, I would move 13 that the 2016 contingent Congressional plan 14 proposed criteria labeled "Compactness" be adopted 15 by the committee. 16 SEN. RUCHO: All right. I've got -- 17 Representative Davis has seconded that motion. 18 Members of the committee, any questions, comments 19 prior to a roll call vote? Representative Farmer- 20 Butterfield? 21 REP. FARMER-BUTTERFIELD: Thank you. I 22 want to ask about the hearings yesterday and how 23 much impact they had on the criteria, if any, based 24 on what you're presenting today. 25 SEN. RUCHO: Representative Lewis?</p>

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<p>1 REP. LEWIS: Thank you for that -- thank</p> <p>2 you for that inquiry, Representative. I will tell</p> <p>3 you that many things that stand out in my mind are</p> <p>4 do away with the 12th, keep counties whole, all of</p> <p>5 which we've addressed in this, so I would say that</p> <p>6 they had a great deal of impact on the criteria</p> <p>7 that you have before you.</p> <p>8 SEN. RUCHO: All set? Okay. Yes,</p> <p>9 Representative Stevens?</p> <p>10 REP. STEVENS: Thank you, Mr. Chair, and</p> <p>11 I just wanted to commend Representative Lewis and</p> <p>12 perhaps answer some of the things that some of the</p> <p>13 people are talking about, and I'd like to read -- I</p> <p>14 guess it's about one and a half paragraphs of one</p> <p>15 of the most recent redistricting cases in March of</p> <p>16 2015.</p> <p>17 It says, "Now consider the nature of</p> <p>18 those offsetting 'traditional race-neutral</p> <p>19 districting principles.' We have listed several,</p> <p>20 including 'compactness, contiguity, respect for</p> <p>21 political subdivisions or communities defined by</p> <p>22 actual shared interests,' incumbency protection,</p> <p>23 and political affiliation," those things that we've</p> <p>24 done.</p> <p>25 The next paragraph says, "But we have not</p>	<p>1 CLERK: Brawley?</p> <p>2 REP. BRAWLEY: Aye.</p> <p>3 CLERK: Cotham?</p> <p>4 REP. COTHAM: No.</p> <p>5 CLERK: Davis?</p> <p>6 REP. DAVIS: Aye.</p> <p>7 CLERK: Farmer-Butterfield?</p> <p>8 REP. FARMER-BUTTERFIELD: No.</p> <p>9 CLERK: Hager?</p> <p>10 REP. HAGER: Aye.</p> <p>11 CLERK: Hanes?</p> <p>12 REP. HANES: Yes.</p> <p>13 CLERK: Hardister?</p> <p>14 REP. HARDISTER: Aye.</p> <p>15 CLERK: Hurley?</p> <p>16 REP. HURLEY: Aye.</p> <p>17 CLERK: Jackson?</p> <p>18 REP. JACKSON: No.</p> <p>19 CLERK: Johnson?</p> <p>20 REP. JOHNSON: Aye.</p> <p>21 CLERK: Jordan?</p> <p>22 REP. JORDAN: Aye.</p> <p>23 CLERK: McGrady?</p> <p>24 REP. MCGRADY: Aye.</p> <p>25 CLERK: Michaux?</p>
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<p>1 listed equal population objectives. And there is a</p> <p>2 reason for that omission. The reason that equal</p> <p>3 population objectives do not appear on this list of</p> <p>4 'traditional' criteria is that equal population</p> <p>5 objectives play a major -- different role in a</p> <p>6 State's redistricting process. That role is not a</p> <p>7 minor one. Indeed, in light of the Constitution's</p> <p>8 demands, that role may often prove 'predominant' in</p> <p>9 the ordinary sense of that word," because the equal</p> <p>10 population, it goes on to talk about in the voting</p> <p>11 rights districts we really have to take a different</p> <p>12 focus on that, so I commend you for all of the</p> <p>13 criteria you've set forward. It seems to comply</p> <p>14 with the most recent case law.</p> <p>15 SEN. RUCHO: Representative Lewis?</p> <p>16 REP. LEWIS: Yes, sir, Mr. Chairman?</p> <p>17 SEN. RUCHO: All set? We've got a motion</p> <p>18 before us that we approve of the criteria that was</p> <p>19 listed and debated on the compactness. We've had a</p> <p>20 second from Representative Davis. Mr. Clerk, would</p> <p>21 you call the roll?</p> <p>22 CLERK: Lewis?</p> <p>23 REP. LEWIS: Aye.</p> <p>24 CLERK: Jones?</p> <p>25 REP. JONES: Aye.</p>	<p>1 REP. MICHAUX: No.</p> <p>2 CLERK: Moore?</p> <p>3 REP. MOORE: Yes.</p> <p>4 CLERK: Stam?</p> <p>5 REP. STAM: Yes.</p> <p>6 CLERK: Stevens?</p> <p>7 REP. STEVENS: Yes.</p> <p>8 CLERK: Rucho?</p> <p>9 SEN. RUCHO: Aye.</p> <p>10 CLERK: Apodaca?</p> <p>11 SEN. APODACA: Aye.</p> <p>12 CLERK: Barefoot?</p> <p>13 SEN. BAREFOOT: Aye.</p> <p>14 CLERK: Blue?</p> <p>15 SEN. BLUE: No.</p> <p>16 CLERK: Brown?</p> <p>17 SEN. BROWN: Aye.</p> <p>18 CLERK: Clark?</p> <p>19 SEN. CLARK: No.</p> <p>20 CLERK: Harrington?</p> <p>21 SEN. HARRINGTON: Aye.</p> <p>22 CLERK: Hise?</p> <p>23 SEN. HISE: Aye.</p> <p>24 CLERK: Jackson?</p> <p>25 SEN. JACKSON: Aye.</p>

<p style="text-align: right;">94</p> <p>1 CLERK: Lee?</p> <p>2 SEN. LEE: Aye.</p> <p>3 CLERK: McKissick?</p> <p>4 SEN. MCKISSICK: Aye.</p> <p>5 CLERK: Randleman?</p> <p>6 SEN. RANDLEMAN: Aye.</p> <p>7 CLERK: Sanderson?</p> <p>8 SEN. SANDERSON: Aye.</p> <p>9 CLERK: Smith?</p> <p>10 SEN. SMITH: No.</p> <p>11 CLERK: Smith-Ingram?</p> <p>12 SEN. SMITH-INGRAM: Aye.</p> <p>13 CLERK: Wells?</p> <p>14 SEN. WELLS: Aye.</p> <p>15 SEN. RUCHO: Members of the committee,</p> <p>16 the roll was taken. We have the ayes, 27, the</p> <p>17 noes, 7. That was adopted. Okay, everyone, pay</p> <p>18 close attention here. We have before us another</p> <p>19 criteria entitled "Incumbency." Ms. Churchill?</p> <p>20 MS. CHURCHILL: "Incumbency: Candidates</p> <p>21 for Congress are not required by law to reside in a</p> <p>22 district they seek to represent; however,</p> <p>23 reasonable efforts shall be made to ensure that</p> <p>24 incumbent members of Congress are not paired with</p> <p>25 another incumbent in one of the new districts</p>	<p style="text-align: right;">96</p> <p>1 REP. JONES: Aye.</p> <p>2 CLERK: Brawley?</p> <p>3 REP. BRAWLEY: Aye.</p> <p>4 CLERK: Cotham?</p> <p>5 (No response.)</p> <p>6 CLERK: Davis?</p> <p>7 (No response.)</p> <p>8 CLERK: Farmer-Butterfield?</p> <p>9 REP. FARMER-BUTTERFIELD: Yes.</p> <p>10 CLERK: Hager?</p> <p>11 REP. HAGER: Aye.</p> <p>12 CLERK: Hanes?</p> <p>13 REP. HANES: Aye.</p> <p>14 CLERK: Hardister?</p> <p>15 REP. HARDISTER: Aye.</p> <p>16 CLERK: Hurley?</p> <p>17 REP. HURLEY: Aye.</p> <p>18 CLERK: Jackson?</p> <p>19 REP. JACKSON: Aye.</p> <p>20 CLERK: Johnson?</p> <p>21 REP. JOHNSON: Aye.</p> <p>22 CLERK: Jordan?</p> <p>23 REP. JORDAN: Aye.</p> <p>24 CLERK: McGrady?</p> <p>25 REP. MCGRADY: Aye.</p>
<p style="text-align: right;">95</p> <p>1 constructed in the 2016 contingent Congressional</p> <p>2 plan."</p> <p>3 REP. LEWIS: Mr. Chairman, I'd call this</p> <p>4 the Senator Smith criteria, and I'd move its</p> <p>5 adoption.</p> <p>6 SEN. RUCHO: All right. That was the</p> <p>7 explanation?</p> <p>8 REP. LEWIS: Well, this is also</p> <p>9 aspirational, and attempting to harmonize the other</p> <p>10 criteria.</p> <p>11 SEN. RUCHO: All right. Members of the</p> <p>12 committee, any questions or comments on the</p> <p>13 criteria before you dealing with incumbency?</p> <p>14 (No response.)</p> <p>15 SEN. RUCHO: Seeing none, Representative</p> <p>16 Lewis has a motion that we -- that we approve --</p> <p>17 adopt the incumbency criteria. Representative</p> <p>18 Brawley seconded. We have before us -- any</p> <p>19 additional thoughts or questions?</p> <p>20 (No response.)</p> <p>21 SEN. RUCHO: If not, we'll take a roll.</p> <p>22 Mr. Clerk?</p> <p>23 CLERK: Lewis?</p> <p>24 REP. LEWIS: Aye.</p> <p>25 CLERK: Jones?</p>	<p style="text-align: right;">97</p> <p>1 CLERK: Michaux?</p> <p>2 REP. MICHAUX: Aye.</p> <p>3 CLERK: Moore?</p> <p>4 REP. MOORE: Aye.</p> <p>5 CLERK: Stam?</p> <p>6 REP. STAM: Aye.</p> <p>7 CLERK: Stevens?</p> <p>8 REP. STEVENS: Aye.</p> <p>9 CLERK: Rucho?</p> <p>10 SEN. RUCHO: Aye.</p> <p>11 CLERK: Apodaca?</p> <p>12 SEN. APODACA: Aye.</p> <p>13 CLERK: Barefoot?</p> <p>14 SEN. BAREFOOT: Aye.</p> <p>15 CLERK: Blue?</p> <p>16 SEN. BLUE: Aye.</p> <p>17 CLERK: Brown?</p> <p>18 SEN. BROWN: Aye.</p> <p>19 CLERK: Clark?</p> <p>20 SEN. CLARK: No.</p> <p>21 CLERK: Harrington?</p> <p>22 SEN. HARRINGTON: Aye.</p> <p>23 CLERK: Hise?</p> <p>24 SEN. HISE: Aye.</p> <p>25 CLERK: Jackson?</p>

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<p>1 SEN. JACKSON: Aye. 2 CLERK: Lee? 3 SEN. LEE: Aye. 4 CLERK: McKissick? 5 SEN. MCKISSICK: Aye. 6 CLERK: Randleman? 7 SEN. RANDLEMAN: Aye. 8 CLERK: Sanderson? 9 SEN. SANDERSON: Aye. 10 CLERK: Smith? 11 SEN. SMITH: Aye. 12 CLERK: Smith-Ingram? 13 SEN. SMITH-INGRAM: Aye. 14 CLERK: Wells? 15 SEN. WELLS: Aye. 16 SEN. RUCHO: All right. 17 REP. MICHAUX: Mr. Chairman? 18 SEN. RUCHO: One second. Let me call the 19 vote, please. We had aye, 31, no, 1. That 20 criteria for incumbency has been adopted. All 21 right. Question, Senator -- Representative 22 McKissick -- I mean, excuse me -- sorry. Mr. 23 Michaux, did you have a question? 24 REP. MICHAUX: No. 25 SEN. RUCHO: Okay. I thought I heard</p>	<p>1 amendments, so a couple of minutes to break. 2 (RECESS, 12:04 - 12:22 P.M.) 3 SEN. RUCHO: All right, members of the 4 committee, I think you have on each of your desks a 5 copy of an amendment submitted by Representative 6 Paul Stam, "Amendment to Political Data Criteria 7 #3." Representative Stam? 8 REP. STAM: Yes. It's just sort of 9 technical. I kept reading that thing, and the way 10 it read, you could read it that you couldn't 11 consider data from the 2008 election, since it said 12 "since 2008," so this makes clear that yes, you can 13 consider 2008 and things forward. 14 SEN. RUCHO: All right. You've explained 15 it. Is that a motion you're making? 16 REP. STAM: I move the amendment. 17 SEN. RUCHO: Representative Lewis? 18 REP. LEWIS: Mr. Chairman, if I could, to 19 the maker of the amendment, Representative Stam, 20 would the gentleman consider striking "#3" to make 21 clear that these are in no particular order? In 22 other words, it would say, "Amendment to Political 23 Data Criteria." 24 REP. STAM: Oh, sure. Well, it would 25 be -- yes, yes, I do. Whether it's spelled</p>
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<p>1 something from over there. 2 REP. LEWIS: Thank you, Mr. Chairman, 3 members. 4 SEN. RUCHO: Okay, let me see. All 5 right. We -- I mentioned earlier that -- 6 amendments being submitted. Are there any 7 amendments that are going to be submitted? All 8 right. Representative Blue? 9 SEN. BLUE: I have one that -- 10 SEN. RUCHO: Excuse me, Senator Blue. 11 I'm sorry. 12 SEN. BLUE: I have one. I had to change 13 it after the adoption of one of the other 14 amendments. I had given it to Erika earlier. 15 SEN. RUCHO: All right. It's being 16 worked on? 17 SEN. BLUE: Yeah. 18 SEN. RUCHO: Okay. I think Senator Hise 19 has an amendment. Okay. Senator Hise, do you have 20 an amendment? 21 SEN. HISE: I have a motion. 22 SEN. RUCHO: Motion. One second. They 23 need to have copies for distribution. (Pause.) 24 I'd like to have the committee stand at ease for a 25 few moments while we have some copies made of the</p>	<p>1 "criterion" or "criteria," I will. 2 SEN. RUCHO: All right. So therefore, 3 the amendment that you've having strikes out -- or 4 it just says "Amendment to Political Data," and 5 then you're striking out -- excuse me -- "Political 6 Data Criteria." You're striking out "#3"? 7 REP. STAM: We're striking out "#3." 8 SEN. RUCHO: Just "#3." Members of the 9 committee, is that clear? 10 REP. LEWIS: Mr. Chairman? 11 SEN. RUCHO: Who's calling me? Oh, 12 Representative Lewis? 13 REP. LEWIS: I would support the 14 gentleman's amendment. 15 SEN. RUCHO: All right. Representative 16 Stam has submitted an amendment before you, and 17 it's open for discussion. Members of the 18 committee? 19 (No response.) 20 SEN. RUCHO: Seeing none, would you have 21 a roll call, Mr. Clerk? 22 CLERK: Lewis? 23 REP. LEWIS: Aye. 24 CLERK: Lewis, aye. Jones? 25 REP. JONES: Aye.</p>

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<p>1 CLERK: Jones, aye. Brawley? 2 REP. BRAWLEY: Aye. 3 CLERK: Brawley, aye. Cotham? 4 REP. COTHAM: Aye. 5 CLERK: Cotham, aye. Davis? 6 REP. DAVIS: Aye. 7 CLERK: Davis, aye. Farmer-Butterfield? 8 REP. FARMER-BUTTERFIELD: Aye. 9 CLERK: Farmer-Butterfield, aye. Hager? 10 REP. HAGER: Aye. 11 CLERK: Hager, aye. Hanes? 12 REP. HANES: Aye. 13 CLERK: Hanes, aye. Hardister? 14 REP. HARDISTER: Aye. 15 CLERK: Hardister, aye. Hurley? 16 REP. HURLEY: Aye. 17 CLERK: Hurley, aye. Jackson? 18 REP. JACKSON: Aye. 19 CLERK: Jackson, aye. Johnson? 20 REP. JOHNSON: Aye. 21 CLERK: Johnson, aye. Jordan? 22 REP. JORDAN: Aye. 23 CLERK: Jordan, aye. McGrady? 24 REP. MCGRADY: Aye. 25 CLERK: McGrady, aye. Michaux?</p>	<p>1 CLERK: Jackson, aye. Lee? 2 SEN. LEE: Aye. 3 CLERK: Lee, aye. McKissick? 4 SEN. MCKISSICK: No. 5 CLERK: McKissick, no. Randleman? 6 SEN. RANDLEMAN: Aye. 7 CLERK: Randleman, aye. Sanderson? 8 SEN. SANDERSON: Aye. 9 CLERK: Sanderson, aye. Smith? 10 SEN. SMITH: No. 11 CLERK: Smith, no. Smith-Ingram? 12 SEN. SMITH-INGRAM: Nay. 13 CLERK: Smith-Ingram, no. Wells? 14 SEN. WELLS: Aye. 15 CLERK: Aye. 4. 16 SEN. RUCHO: That makes 30 yeses. Did 17 everybody vote? 18 CLERK: Yes. 30 to 4. 19 SEN. RUCHO: All right, members of the 20 committee, on the roll-call vote on Representative 21 Stam's amendment dealing with -- and it's titled 22 "Amendment to Political Data Criteria." It is 23 adopted 30 to 4. 24 Okay, we'll now just -- we'll go on to 25 the next. (Pause.) All right, members, you have</p>
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<p>1 REP. MICHAUX: Aye. 2 CLERK: Michaux, aye. Moore? 3 REP. MOORE: Aye. 4 CLERK: Moore, aye. Stam? 5 REP. STAM: Aye. 6 CLERK: Stam, aye. Stevens? 7 REP. STEVENS: Aye. 8 CLERK: Stevens, aye. Rucho? 9 SEN. RUCHO: Aye. 10 CLERK: Rucho, aye. Apodaca? 11 SEN. APODACA: Aye. 12 CLERK: Apodaca, aye. Barefoot? 13 SEN. BAREFOOT: Aye. 14 CLERK: Barefoot, aye. Blue? 15 SEN. BLUE: No. 16 CLERK: Blue, no. Brown? 17 SEN. BROWN: Aye. 18 CLERK: Brown, aye. Clark? 19 SEN. CLARK: No. 20 CLERK: Clark, no. Harrington? 21 SEN. HARRINGTON: Aye. 22 CLERK: Harrington, aye. Hise? 23 SEN. HISE: Aye. 24 CLERK: Hise, aye. Jackson? 25 SEN. JACKSON: Aye.</p>	<p>1 an amendment coming out toward you, and it is 2 "Amendment, Compactness Criteria." It's -- all 3 right. 4 REP. LEWIS: Mr. Chairman? 5 SEN. RUCHO: Yes, sir, Representative 6 Lewis? Excuse me, Representative Lewis. I've 7 got -- we need to have Senator Blue explain his 8 amendment. Go ahead. 9 REP. LEWIS: I was wondering if Senator 10 Blue would agree to a -- to a technical fix to 11 strike the number sign and the 6. 12 SEN. BLUE: I would. 13 SEN. RUCHO: Okay. Members of the 14 committee, on Senator Blue's amendment, the title 15 will be, "Amendment, Compactness Criteria." You 16 will scratch "#6." That will not be in there. 17 All right, Senator Blue, everyone has a 18 copy of the amendment. Would you like to explain 19 your amendment? 20 SEN. BLUE: I would. Thank you, Mr. 21 Chairman. Mr. Chairman and ladies and gentlemen of 22 the committee and Senators and House members 23 present, what I tried to do in this amendment is 24 simply recognize that the county is the most 25 important governmental unit following the state,</p>

<p style="text-align: right;">106</p> <p>1 because they're extensions of the state, and to set 2 forth clearly that we are -- we're only going to 3 divide counties when you're equalizing population, 4 although that's a federal requirement, too, and 5 when you're complying with federal law. 6 It's something you've got to do. You 7 might as well admit that we have to comply with 8 federal law. Federal law is supreme, and so this 9 says that we will split counties only when you're 10 trying to get down to zero deviation in population, 11 which we're going to try to do, I take it, and only 12 when you're complying with a federal law regarding 13 redistricting. All of the other reasons that have 14 been given would not be justification for splitting 15 counties, and I move the adoption of the amendment. 16 SEN. RUCHO: Representative Lewis? 17 REP. LEWIS: Thank you, Mr. Chairman, and 18 thank you, Senator Blue, for that explanation. Let 19 me be clear, ladies and gentlemen. We of course 20 are going to comply with federal law. We would not 21 be here were we not attempting to comply with the 22 federal decision issued by the courts. I would 23 submit that this amendment is not necessary, and 24 should not be adopted because we of course are 25 going -- as Senator Blue said, of course we're</p>	<p style="text-align: right;">108</p> <p>1 were looking at. I can't really look at all that I 2 want to. 3 SEN. RUCHO: Okay. You all set? Members 4 of the committee -- oh, excuse me. Senator Hise? 5 SEN. HISE: Thank you, Mr. Chairman, and 6 this may be for -- just trying to get clarity on 7 what this amendment would actually do. One of the 8 outcomes of the last maps is that all of the major 9 urban areas in the state were represented by two 10 Congressmen that was coming in, and something we 11 saw at least that was coming in. Would this 12 amendment prohibit that type of decision for those 13 districts so that -- as that would be a political 14 impact that was coming in that we could not make 15 sure that urban areas were represented by two 16 Congressmen? 17 SEN. RUCHO: Okay. Representative -- 18 excuse me. Senator Blue, would you please answer 19 that question? 20 SEN. BLUE: I'll be happy to answer that. 21 Certainly not. As I said, the only two counties 22 that absolutely would be guaranteed to be 23 represented by two Congresspeople would be 24 Mecklenburg and Wake, since each of them has a 25 population in excess of the 700-plus thousand</p>
<p style="text-align: right;">107</p> <p>1 going to comply with the federal law. 2 As we've already had a pretty lengthy 3 discussion, that consideration, the word 4 "consideration" of incumbency and political impact 5 may be considered. It's not required to be 6 considered, and I've already stated for the record 7 that equalizing population is the most important 8 reason that a county would be divided. I would 9 respectfully ask the members to vote against this 10 amendment. 11 SEN. RUCHO: I've got Representative 12 Stam. 13 REP. STAM: I would oppose the amendment, 14 and point out what may be obvious. Senator Blue as 15 the Minority Leader is going to be perfectly 16 entitled to submit his own plan, and nothing in 17 what we've written would prohibit him from striking 18 those two criteria from his maps. He doesn't need 19 this amendment to do what he wants to do. 20 SEN. RUCHO: Yes, Senator Blue? 21 SEN. BLUE: Just a comment. My cape 22 disappeared, and I'm not Superman anymore, so I 23 can't do a map in a day that takes into account all 24 of the stuff that we have as criteria. I was 25 thinking we were narrowing the things that we</p>	<p style="text-align: right;">109</p> <p>1 that's necessary to draw a Congressional district. 2 If you started drawing a district toward an urban 3 area, then you could split that urban area when you 4 got to it so that it's in two separate districts. 5 This would in no way prohibit having two 6 Congresspeople from whichever other urban areas 7 other than Wake and Mecklenburg, where you'd be 8 guaranteed at least two, where you could bring them 9 into one of the urban counties, but you couldn't 10 split it but one time, so you get -- you could get 11 two from Guilford, two from Cumberland, two from 12 Forsyth, two from any of the counties, including 13 the smallest, if you paired it with a much bigger 14 population. 15 SEN. RUCHO: Representative Lewis, 16 comment? 17 REP. LEWIS: No, sir. I would say I'm 18 sure that the answer Senator Blue gave is correct 19 to Senator Hise's question. I just again would not 20 support the amendment as it's drafted for the 21 reasons that I've already stated. 22 SEN. RUCHO: All right. Members of the 23 committee, you have an amendment before you from 24 Senator Blue, and the amendment is entitled 25 "Amendment, Compactness Criteria." Any additional</p>

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<p>1 questions, comments? 2 (No response.) 3 SEN. RUCHO: Seeing none, the roll call, 4 Mr. Clerk? 5 CLERK: Lewis? 6 REP. LEWIS: No. 7 CLERK: Lewis, no. Jones? 8 REP. JONES: No. 9 CLERK: Jones, no. Brawley? 10 REP. BRAWLEY: No. 11 CLERK: Brawley, no. Cotham? 12 REP. COTHAM: Yes. 13 CLERK: Cotham, yes. Davis? 14 REP. DAVIS: No. 15 CLERK: Davis, no. Farmer-Butterfield? 16 REP. FARMER-BUTTERFIELD: Yes. 17 CLERK: Farmer-Butterfield, yes. Hager? 18 REP. HAGER: No. 19 CLERK: Hager, no. Hanes? 20 REP. HANES: Yes. 21 CLERK: Hanes, yes. Hardister? 22 REP. HARDISTER: No. 23 CLERK: Hardister, no. Hurley? 24 REP. HURLEY: No. 25 CLERK: Hurley, no. Jackson?</p>	<p>1 CLERK: Brown, no. Clark? 2 SEN. CLARK: Aye. 3 CLERK: Clark, aye. Harrington? 4 SEN. HARRINGTON: No. 5 CLERK: Harrington, no. Hise? 6 SEN. HISE: No. 7 CLERK: Hise, no. Jackson? 8 SEN. JACKSON: No. 9 CLERK: Jackson, no. Lee? 10 SEN. LEE: No. 11 CLERK: Lee, no. McKissick? 12 SEN. MCKISSICK: Aye. 13 CLERK: McKissick, aye. Randleman? 14 SEN. RANDLEMAN: No. 15 CLERK: Randleman, no. Sanderson? 16 SEN. SANDERSON: No. 17 CLERK: Sanderson, no. Smith? 18 SEN. SMITH: Aye. 19 CLERK: Smith, aye. Smith-Ingram? 20 SEN. SMITH-INGRAM: Aye. 21 CLERK: Smith-Ingram, aye. Wells? 22 SEN. WELLS: No. 23 CLERK: No. 24 SEN. RUCHO: All right, members of the 25 committee, the roll call vote was aye -- excuse</p>
111	113
<p>1 REP. JACKSON: Yes. 2 CLERK: Jackson, yes. Johnson? 3 REP. JOHNSON: No. 4 CLERK: Johnson, no. Jordan? 5 REP. JORDAN: No. 6 CLERK: Jordan, no. McGrady? 7 REP. MCGRADY: No. 8 CLERK: McGrady, no. Michaux? 9 REP. MICHAUX: Aye. 10 CLERK: Michaux, aye. Moore? 11 REP. MOORE: Aye. 12 CLERK: Moore, aye. Stam? 13 REP. STAM: No. 14 CLERK: Stam, no. Stevens? 15 REP. STEVENS: No. 16 CLERK: Stevens, no. Rucho? 17 SEN. RUCHO: No. 18 CLERK: Rucho, no. Apodaca? 19 SEN. APODACA: No. 20 CLERK: Apodaca, no. Barefoot? 21 SEN. BAREFOOT: No. 22 CLERK: Barefoot, no. Blue? 23 SEN. BLUE: Aye. 24 CLERK: Blue, aye. Brown? 25 SEN. BROWN: No.</p>	<p>1 me -- no, 23; aye, 11. 2 All right, we have another one before us, 3 and this one will be Senator Erica Smith-Ingram's 4 amendment on criteria. 5 REP. LEWIS: Mr. Chairman? 6 SEN. RUCHO: Yes, Representative Lewis? 7 REP. LEWIS: Would Senator Smith-Ingram 8 agree to a small technical amendment to strike the 9 number and "6"? 10 SEN. SMITH-INGRAM: Yes. 11 REP. LEWIS: Thank you, ma'am. 12 SEN. RUCHO: Members of the committee, 13 Senator Smith-Ingram has agreed to a technical 14 amendment that will strike the title, and the title 15 will read "Amendment to Compactness Criteria," and 16 that'll be all it'll say there. 17 Okay, I have Senator Smith-Ingram to 18 present her amendment. 19 SEN. SMITH-INGRAM: Thank you, Mr. Chair. 20 In light of our previous discussions and our effort 21 to promote harmony, you can have one-part harmony, 22 two-part, three-part. In this case, this will add 23 the four-part harmony, and I would ask staff if 24 there is needed discussion about the actual 25 language, it came from the federal case.</p>

<p style="text-align: right;">114</p> <p>1 REP. LEWIS: Mr. Chairman?</p> <p>2 SEN. RUCHO: Representative Lewis,</p> <p>3 comment?</p> <p>4 REP. LEWIS: Yes, sir. I appreciate the</p> <p>5 amendment and the sentiment expressed by the</p> <p>6 Senator. I would offer that it appears to me that</p> <p>7 the language that's attempting to be added is</p> <p>8 somewhat vague and nebulous, as I don't know that</p> <p>9 we have a defined -- or an actionable definition of</p> <p>10 what "community of interest" is, or "community of</p> <p>11 shared interest," so respectfully, I would ask the</p> <p>12 committee to defeat this amendment.</p> <p>13 SEN. RUCHO: Members of the committee,</p> <p>14 any questions or comments?</p> <p>15 (No response.)</p> <p>16 SEN. RUCHO: We have a motion before us</p> <p>17 dealing with "Amendment to Compact Criteria"</p> <p>18 submitted by Senator Erica Smith-Ingram. You have</p> <p>19 that before you. Seeing no comments or questions,</p> <p>20 Mr. Clerk, roll call, please?</p> <p>21 CLERK: Lewis?</p> <p>22 REP. LEWIS: No.</p> <p>23 CLERK: Lewis, no. Jones?</p> <p>24 REP. JONES: No.</p> <p>25 CLERK: Jones, no. Brawley?</p>	<p style="text-align: right;">116</p> <p>1 CLERK: Michaux, yes. Moore?</p> <p>2 REP. MOORE: Yea.</p> <p>3 CLERK: Moore, yea. Stam?</p> <p>4 REP. STAM: No.</p> <p>5 CLERK: Stam, no. Stevens?</p> <p>6 REP. STEVENS: Yes.</p> <p>7 CLERK: Stevens --</p> <p>8 REP. STEVENS: Sorry. No.</p> <p>9 CLERK: Stevens, no. Rucho?</p> <p>10 SEN. RUCHO: No.</p> <p>11 CLERK: Rucho, no. Apodaca?</p> <p>12 SEN. APODACA: No.</p> <p>13 CLERK: Apodaca, no. Barefoot?</p> <p>14 SEN. BAREFOOT: No.</p> <p>15 CLERK: Barefoot, no. Blue?</p> <p>16 SEN. BLUE: Yes.</p> <p>17 CLERK: Blue, yes. Brown?</p> <p>18 SEN. BROWN: No.</p> <p>19 CLERK: Brown, no. Clark?</p> <p>20 SEN. CLARK: Yes.</p> <p>21 CLERK: Clark, yes. Harrington?</p> <p>22 SEN. HARRINGTON: No.</p> <p>23 CLERK: Harrington, no. Hise?</p> <p>24 SEN. HISE: No.</p> <p>25 CLERK: Hise, no. Jackson?</p>
<p style="text-align: right;">115</p> <p>1 REP. BRAWLEY: No.</p> <p>2 CLERK: Brawley, no. Cotham?</p> <p>3 REP. COTHAM: Yes.</p> <p>4 CLERK: Cotham, yes. Davis?</p> <p>5 REP. DAVIS: No.</p> <p>6 CLERK: Davis, no. Farmer-Butterfield?</p> <p>7 REP. FARMER-BUTTERFIELD: Yes.</p> <p>8 CLERK: Farmer-Butterfield, yes. Hager?</p> <p>9 REP. HAGER: No.</p> <p>10 CLERK: Hager, no. Hanes?</p> <p>11 REP. HANES: Yes.</p> <p>12 CLERK: Hanes, yes. Hardister?</p> <p>13 REP. HARDISTER: No.</p> <p>14 CLERK: Hardister, no. Hurley?</p> <p>15 REP. HURLEY: No.</p> <p>16 CLERK: Hurley, no. Jackson?</p> <p>17 REP. JACKSON: Yes.</p> <p>18 CLERK: Jackson, yes. Johnson?</p> <p>19 REP. JOHNSON: No.</p> <p>20 CLERK: Johnson, no. Jordan?</p> <p>21 REP. JORDAN: No.</p> <p>22 CLERK: Jordan, no. McGrady?</p> <p>23 REP. MCGRADY: No.</p> <p>24 CLERK: McGrady, no. Michaux?</p> <p>25 REP. MICHAUX: Yes.</p>	<p style="text-align: right;">117</p> <p>1 SEN. JACKSON: No.</p> <p>2 CLERK: Jackson, no. Lee?</p> <p>3 SEN. LEE: No.</p> <p>4 CLERK: Lee, no. McKissick?</p> <p>5 SEN. MCKISSICK: Yes.</p> <p>6 CLERK: McKissick, yes. Randleman?</p> <p>7 SEN. RANDLEMAN: No.</p> <p>8 CLERK: Randleman, no. Sanderson?</p> <p>9 SEN. SANDERSON: No.</p> <p>10 CLERK: Sanderson, no. Smith?</p> <p>11 SEN. SMITH: Aye.</p> <p>12 CLERK: Smith, aye. Smith-Ingram?</p> <p>13 SEN. SMITH-INGRAM: Aye.</p> <p>14 CLERK: Smith-Ingram, aye. Wells?</p> <p>15 SEN. WELLS: No.</p> <p>16 CLERK: Wells, no. 23-11.</p> <p>17 SEN. RUCHO: 23 no; 11 yes?</p> <p>18 CLERK: Yes.</p> <p>19 SEN. RUCHO: Members of the committee, on</p> <p>20 "Amendment to Compactness Criteria" from Senator</p> <p>21 Erica Smith-Ingram, the ayes, 11; the noes, 23.</p> <p>22 That amendment was not adopted.</p> <p>23 All right, we have another one, and I</p> <p>24 believe it's already at your desk, and this one is</p> <p>25 "Communities of Interest," submitted by Senator</p>

<p style="text-align: right;">118</p> <p>1 Floyd McKissick. Senator McKissick, would you like 2 to explain your amendment? 3 SEN. MCKISSICK: Sure, and it's very 4 straightforward. It's not seeking to amend any 5 other criteria. This would just be a criteria that 6 is aspirational, as many of the others. It does 7 follow case law in terms of what is stated, and 8 what this says is that the committee will make 9 reasonable efforts to respect political 10 subdivisions, cities, towns, what have you, as well 11 as communities as defined by actual interest. What 12 I would like to do is recognize Kara as well as 13 Erica, perhaps, to provide further clarification in 14 terms of existing case law. 15 I think we are -- we would be remiss if 16 we did not include this as one of the benchmarks 17 that we would seek to use in drawing the plans as 18 we move forward. I can't imagine why we would want 19 to ignore communities of shared interest or not 20 respect political subdivisions other than counties. 21 This is talking about other political subdivisions 22 or towns that might be within these Congressional 23 districts, which should also be respected to the 24 extent it's possible and feasible to do so, not 25 just counties.</p>	<p style="text-align: right;">120</p> <p>1 on the vagueness of these terms, to reject this 2 additional criteria. 3 SEN. MCKISSICK: Follow-up, Mr. Chair? 4 SEN. RUCHO: Senator McKissick? 5 SEN. MCKISSICK: Let me ask you this, 6 Representative Lewis: I see you have some problems 7 with that terminology that was used by the US 8 Supreme Court, which I think is pretty clear in 9 terms of a directive, but what is the objection to 10 respecting political subdivisions, because I would 11 think that we would all want to do so for the 12 cities and towns and communities -- 13 SEN. RUCHO: Representative Lewis? 14 SEN. MCKISSICK: -- represent, and they 15 are used collectively by the Supreme Court, but I 16 mean, if you have problems with that, I think 17 you've got still to follow it, or you end up in 18 litigation. I don't think any of us want to end up 19 in litigation any more than we already are in this 20 state. I don't know why -- what's the objection to 21 respecting political subdivisions? 22 REP. LEWIS: Well, sir, to be clear, as I 23 pointed out when we adopted the compactness 24 criteria, it's not our intent to split -- we're 25 going to do the best we can to keep as many</p>
<p style="text-align: right;">119</p> <p>1 Kara, Erika, if you could comment, 2 please? 3 SEN. RUCHO: Please identify yourself and 4 respond to Senator McKissick's request if you can. 5 MS. MCCRAW: I'm Kara McCraw, staff 6 attorney with the Legislative Analysis Division. 7 Senator McKissick is referring to the last part of 8 this amendment. The term -- the language "respect 9 political subdivisions and communities defined by 10 actual shared interests" is language that was used 11 by the Supreme Court in the Miller v. Johnson case 12 from 1995 as part of the list of traditional race- 13 neutral districting principles. 14 SEN. RUCHO: All right. Representative 15 Lewis? 16 REP. LEWIS: Thank you, Mr. Chairman, and 17 thank you, Senator, for offering this additional 18 criteria. As best I can understand it, to the 19 extent it's required by federal law, of course 20 we're going to be mindful of that, but as you and I 21 had an aside conversation earlier, I don't believe 22 we have defined in this state at least what a 23 community of interest is. I don't understand, 24 actually, what "actual shared interests" means, so 25 therefore, I would have to ask the committee, based</p>	<p style="text-align: right;">121</p> <p>1 counties and as many VTDs whole. I'll give you a 2 direct example of why I think this is vague. 3 We've already heard from the gentleman 4 from Wake, Senator Blue, as he I think correctly 5 stated that a county is the most important 6 political subdivision. I actually -- I actually 7 agree with that. Your city, Durham, has annexed 8 into Wake County, so when I say it's vague and 9 nebulous, how do you know which -- which interest 10 you're going to follow? I think we've done a good 11 job in this committee of saying we're going to keep 12 as many counties and as many VTDs whole as we can. 13 SEN. RUCHO: Okay, I've got 14 Representative Stam. 15 REP. STAM: Yes, I was about to make the 16 same point. Cary has annexed into Chatham, so 17 under this, it would give mapmakers an excuse to 18 break the Wake/Chatham line so they could keep Cary 19 together. Angier, if you can believe it, has 20 annexed into Wake County. I don't know how David 21 Lewis let them do that. With this amendment, 22 mapmakers could despoil Wake County just to get a 23 few more Republicans into the Harnett County 24 district. 25 REP. LEWIS: Mr. Chairman?</p>

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<p>1 SEN. RUCHO: Representative Lewis?</p> <p>2 REP. LEWIS: For the record, while I do</p> <p>3 not support Senator McKissick's amendment, I think</p> <p>4 anywhere Angier can be shared is a positive thing.</p> <p>5 (Laughter.)</p> <p>6 SEN. RUCHO: Senator McKissick?</p> <p>7 SEN. MCKISSICK: I would simply say that</p> <p>8 we ought to try to respect these political</p> <p>9 subdivisions. I don't think with the current mood</p> <p>10 of this General Assembly, we have to worry about</p> <p>11 too many more annexations occurring for a while,</p> <p>12 so, you know, respecting political subdivisions is</p> <p>13 a valid criteria regardless of what those political</p> <p>14 subdivisions might look like, so obviously I</p> <p>15 support it, but I can certainly put my finger in</p> <p>16 the air and see the way these winds are blowing.</p> <p>17 SEN. RUCHO: Members of the committee,</p> <p>18 any additional questions? Senator?</p> <p>19 SEN. SMITH-INGRAM: Yes. Representative</p> <p>20 Lewis, I'm a little bit confused about your</p> <p>21 objection to the use of this language inasmuch as</p> <p>22 it relates to not having a definitive definition.</p> <p>23 Is it possible for staff to be able to comment on</p> <p>24 what is the definition used in North Carolina of</p> <p>25 "communities of interest" as we have applied it in</p>	<p>1 the citizens of Wake County? I don't think we've</p> <p>2 ever defined it. I certainly think that to the</p> <p>3 extent that it's not restricted from being used as</p> <p>4 the maps are prepared that, you know, I think</p> <p>5 that's something that the map drawers may wish to</p> <p>6 try and use, but I don't know that it -- I don't</p> <p>7 understand -- I don't understand it enough, and I</p> <p>8 do want to take this opportunity to respectfully</p> <p>9 let my friend from Durham know that, as I reminded</p> <p>10 him, I'm not an attorney, and in no way have I</p> <p>11 tried to disrespect or disregard any ruling from</p> <p>12 the US Supreme Court, nor from this federal trial</p> <p>13 court, but I'm not prepared to stand before this</p> <p>14 committee today and say that I understand what this</p> <p>15 is trying to do; therefore, I continue to oppose</p> <p>16 this new criteria.</p> <p>17 SEN. RUCHO: Members of the committee?</p> <p>18 (No response.)</p> <p>19 SEN. RUCHO: From the Chair,</p> <p>20 Representative Lewis, I recognize, and I think the</p> <p>21 committee recognizes the full effort to keep</p> <p>22 counties whole. I think the counties are</p> <p>23 relatively stable in their -- in their borders, but</p> <p>24 yet a municipality and a town and the like, with</p> <p>25 annexation, deannexation and the like, is more</p>
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<p>1 the past?</p> <p>2 SEN. RUCHO: The chair will allow that.</p> <p>3 Which staff member would like to define</p> <p>4 "communities of interest"?</p> <p>5 MS. MCCRAW: I'm Kara McCraw, staff</p> <p>6 attorney with the Legislative Analysis Division.</p> <p>7 North Carolina has not adopted a definition of</p> <p>8 "communities of interest."</p> <p>9 SEN. RUCHO: Follow-up?</p> <p>10 SEN. SMITH-INGRAM: Follow-up. As I</p> <p>11 recall, Representative Stevens just read from -- I</p> <p>12 believe she was citing case law, but it just seems</p> <p>13 that all the other elements that you have already</p> <p>14 in the criteria are there, with the exception of</p> <p>15 communities of interest, and so I'm just concerned</p> <p>16 about why you have adopted the other three, and why</p> <p>17 you feel comfortable with that, but not with the</p> <p>18 communities of interest.</p> <p>19 SEN. RUCHO: Representative Lewis?</p> <p>20 REP. LEWIS: Well, again, thank you for</p> <p>21 that inquiry, Senator. I would just say again that</p> <p>22 as we've never defined what a community of interest</p> <p>23 is -- and the example I tried to use with Senator</p> <p>24 McKissick, how do you define -- is the City of</p> <p>25 Durham a more important community of interest than</p>	<p>1 variable. Do you think that that may be one of the</p> <p>2 reasons for what could be adding confusion?</p> <p>3 REP. LEWIS: I think that's fair. I</p> <p>4 think that's a good indication of why I say this is</p> <p>5 vague, and not really defined. We got a request</p> <p>6 from a member for the central staff to explain how</p> <p>7 communities of interest are defined in the state,</p> <p>8 and they're not, so since there's not a definition,</p> <p>9 they shouldn't be in the criteria.</p> <p>10 SEN. RUCHO: Members of the committee,</p> <p>11 we've had discussion on this issue. We have an</p> <p>12 amendment before us, submitted by Senator Floyd</p> <p>13 McKissick dealing with communities of interest.</p> <p>14 Any additional questions, comments?</p> <p>15 (No response.)</p> <p>16 SEN. RUCHO: Seeing none, Mr. Clerk, a</p> <p>17 roll call, please?</p> <p>18 CLERK: Lewis?</p> <p>19 REP. LEWIS: No.</p> <p>20 CLERK: Lewis, no. Jones?</p> <p>21 REP. JONES: No.</p> <p>22 CLERK: Jones, no. Brawley?</p> <p>23 REP. BRAWLEY: No.</p> <p>24 CLERK: Brawley, no. Cotham?</p> <p>25 REP. COTHAM: Yes.</p>

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<p>1 CLERK: Cotham, yes. Davis? 2 REP. DAVIS: No. 3 CLERK: Davis, no. Farmer-Butterfield? 4 REP. FARMER-BUTTERFIELD: Yes. 5 CLERK: Farmer-Butterfield, yes. Hager? 6 REP. HAGER: No. 7 CLERK: Hager, no. Hanes? 8 REP. HANES: Yes. 9 CLERK: Hanes, yes. Hardister? 10 REP. HARDISTER: No. 11 CLERK: Hardister, no. Hurley? 12 REP. HURLEY: No. 13 CLERK: Hurley, no. Jackson? 14 REP. JACKSON: Yes. 15 CLERK: Jackson, yes. Johnson? 16 REP. JOHNSON: No. 17 CLERK: Johnson, no. Jordan? 18 REP. JORDAN: No. 19 CLERK: Jordan, no. McGrady? 20 REP. MCGRADY: No. 21 CLERK: McGrady, no. Michaux? 22 REP. MICHAUX: Aye. 23 CLERK: Michaux, aye. Moore? 24 REP. MOORE: Aye. 25 CLERK: Moore, aye. Stam?</p>	<p>1 CLERK: McKissick, aye. Randleman? 2 SEN. RANDLEMAN: No. 3 CLERK: Randleman, no. Sanderson? 4 SEN. SANDERSON: No. 5 CLERK: Sanderson, no. Smith? 6 SEN. SMITH: Aye. 7 CLERK: Smith, aye. Smith-Ingram? 8 SEN. SMITH-INGRAM: Aye. 9 CLERK: Smith-Ingram, aye. Wells? 10 SEN. WELLS: No. 11 CLERK: Wells, no. 12 SEN. RUCHO: Members of the committee, 13 the result of the vote on Senator McKissick's 14 amendment dealing with communities of interest, 15 aye, 11; no, 22. The motion is not adopted. 16 Members of the committee, any additional 17 amendments? Any motions? 18 REP. LEWIS: Mr. Chairman -- 19 SEN. RUCHO: Senator Hise? Oh, excuse 20 me. 21 REP. LEWIS: Mr. Chairman? 22 SEN. RUCHO: Yes, sir? 23 REP. LEWIS: I just wanted to thank the 24 members for their indulgence this morning, and I'm 25 proud of the 2016 contingent Congressional plan</p>
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<p>1 REP. STAM: No. 2 CLERK: Stam, no. Stevens? Stevens? 3 (No response.) 4 CLERK: Rucho? 5 SEN. RUCHO: No. 6 CLERK: Rucho, no. Apodaca? 7 SEN. APODACA: No. 8 CLERK: Apodaca, no. Barefoot? 9 SEN. BAREFOOT: No. 10 CLERK: Barefoot, no. Blue? 11 SEN. BLUE: Aye. 12 CLERK: Blue, aye. Brown? 13 SEN. BROWN: No. 14 CLERK: Brown, no. Clark? 15 SEN. CLARK: Aye. 16 CLERK: Clark, aye. Harrington? 17 SEN. HARRINGTON: No. 18 CLERK: Harrington, no. Hise? 19 SEN. HISE: No. 20 CLERK: Hise, no. Jackson? 21 SEN. JACKSON: No. 22 CLERK: Jackson, no. Lee? 23 SEN. LEE: No. 24 CLERK: Lee, no. McKissick? 25 SEN. MCKISSICK: Aye.</p>	<p>1 proposed criteria that we have adopted. I did want 2 to say for the record that it's my intent that 3 these be used in the drawing of the 2016 contingent 4 Congressional plan in response to the lawsuit only. 5 This is not an attempt to establish any other long- 6 running criteria. 7 SEN. RUCHO: Okay. Senator Hise, you 8 have a motion? 9 SEN. HISE: Mr. Chairman, I have a 10 motion, a written motion. 11 SEN. RUCHO: Okay. Has that been sent 12 out to each member? 13 SEN. HISE: Sergeant-at-Arms -- 14 SEN. RUCHO: Are the Sergeant-At Arms 15 distributing it? Let's take about a two- or three- 16 minute break so everybody can read this motion. 17 (Pause.) 18 Has everyone had an opportunity to review 19 Senator Hise's motion? Representative Jackson? 20 REP. JACKSON: Thank you, Mr. Chairman. 21 One question would be the way this is worded -- 22 SEN. RUCHO: Well, let me do this: if 23 it's dealing with what's in there, I'm going to 24 give Senator Hise a chance to explain it. I was 25 giving everybody a chance to review it.</p>

<p style="text-align: right;">130</p> <p>1 All right, everybody has it. Senator</p> <p>2 Hise, would you like to explain that motion, and</p> <p>3 then we'll open it up for discussion?</p> <p>4 SEN. HISE: Thank you, Mr. Chairman.</p> <p>5 Basically what this does is it consolidates the</p> <p>6 criteria we've already adopted and voted on into</p> <p>7 one piece, and then directs the co-chairs to go</p> <p>8 through the process of developing the maps on the</p> <p>9 basis of those criteria, and provides the sum of</p> <p>10 \$25,000 under the way we need to appropriate it,</p> <p>11 with approval of the speaker, and those type of</p> <p>12 things in the interim that are coming in, and then</p> <p>13 allows the minority party to have access to the</p> <p>14 same funds, and to draw maps under those criteria</p> <p>15 or any other criteria that they would establish.</p> <p>16 It also rescinds that provided that the Supreme</p> <p>17 Court issues a stay.</p> <p>18 SEN. RUCHO: Representative Lewis,</p> <p>19 comment?</p> <p>20 REP. LEWIS: Thank you, Mr. Chairman and</p> <p>21 members. Just to be clear where I hope we're going</p> <p>22 with this, as you know, we are still optimistic</p> <p>23 that we'll receive a stay from the Supreme Court.</p> <p>24 If we do not receive a stay, it would be the</p> <p>25 chairs' intent to bring a map before this committee</p>	<p style="text-align: right;">132</p> <p>1 REP. JACKSON: My question, I guess, was</p> <p>2 directed to you as chairman, or either Senator</p> <p>3 Hise. I was just wondering if we could change the</p> <p>4 first sentence of Paragraph 3. The way you've got</p> <p>5 it written is that the co-chairs, Lewis and Rucho,</p> <p>6 can pick their mapmakers, but our entire caucus</p> <p>7 would have to do it, the members of this committee,</p> <p>8 which means we'd have to stay together and vote and</p> <p>9 do things like that, and I would just ask that you</p> <p>10 consider substituting that, and as Minority Leader</p> <p>11 of the Senate, let Senator Blue make that choice</p> <p>12 for us, and our entire caucus not be involved and</p> <p>13 have to make that decision.</p> <p>14 SEN. RUCHO: Senator Hise, do you have a</p> <p>15 thought or a comment, or would you like to ponder</p> <p>16 that one a little bit?</p> <p>17 SEN. HISE: I don't see what's written as</p> <p>18 requiring that type of vote or operation from the</p> <p>19 minority caucus. This coming in would allow them</p> <p>20 to decide if they want to allow their leader to</p> <p>21 make that decision all on his own. I think that's</p> <p>22 within the way it's written here, so I don't</p> <p>23 necessarily see that issue in the way it's written,</p> <p>24 but however the minority -- the members of the</p> <p>25 minority part of this committee choose to select</p>
<p style="text-align: right;">131</p> <p>1 for recommendation for introduction to a special</p> <p>2 session that would be held later this week.</p> <p>3 The chairs would encourage in the</p> <p>4 issue -- in the -- for the goal of increased</p> <p>5 transparency that should other people have maps</p> <p>6 that they'd like this committee to consider, that</p> <p>7 they get them prepared and submitted as well, but</p> <p>8 to be clear, once the General Assembly convenes,</p> <p>9 there would also be an opportunity for maps to be</p> <p>10 presented to either the House or the Senate</p> <p>11 redistricting committees when they meet.</p> <p>12 However, the House rules, and I believe</p> <p>13 the Senate rules -- I won't speak for the Senate</p> <p>14 rules, but I know the House rules will require that</p> <p>15 any amendments that are offered to the plans that</p> <p>16 are submitted in fact be complete plans. In other</p> <p>17 words, you would have to have all 13 districts</p> <p>18 drawn to -- you would -- instead of trying to amend</p> <p>19 whatever plan that this committee will release, you</p> <p>20 would have to in essence prepare and release a plan</p> <p>21 to compete with this plan.</p> <p>22 SEN. RUCHO: All right. Members of the</p> <p>23 committee? Senator Blue? Oh, excuse me. Let me</p> <p>24 do this: Representative Jackson asked a question</p> <p>25 earlier. Go ahead, please.</p>	<p style="text-align: right;">133</p> <p>1 who the mapmaker is their concern.</p> <p>2 SEN. RUCHO: Okay. Senator Blue?</p> <p>3 SEN. BLUE: Two questions, basically,</p> <p>4 practical questions. I assume that the co-chairs</p> <p>5 have consulted with somebody who's available to be</p> <p>6 the consultant to draw a map. We haven't, but I</p> <p>7 can assure you that anybody that you consult with</p> <p>8 normally isn't going to do it, at least not for us,</p> <p>9 on a contingent fee basis, and we don't know when</p> <p>10 there may be an order one way or the other on this</p> <p>11 stay if the plaintiffs have until midafternoon to</p> <p>12 submit their papers. I don't know what the Chief</p> <p>13 Justice is going to do or when he's going to do it,</p> <p>14 but practically speaking, first, we haven't</p> <p>15 consulted with anybody, but secondly, if you</p> <p>16 consult with somebody, you've got to promise them</p> <p>17 you're going to pay them, and this says that you</p> <p>18 won't pay them even if they work two or three days</p> <p>19 if a stay is granted.</p> <p>20 SEN. RUCHO: All right. Representative</p> <p>21 Lewis?</p> <p>22 REP. LEWIS: Mr. Chairman and Senator</p> <p>23 Blue, if we need to have the attorney review this,</p> <p>24 we certainly can, and correct any offending</p> <p>25 language. I just wanted to state for the record</p>

<p style="text-align: right;">134</p> <p>1 that it is the intent, after having consulted with</p> <p>2 the Speaker and the President Pro Tem, that any</p> <p>3 mapmaker engaged would be paid.</p> <p>4 I think -- well, I don't think. What the</p> <p>5 language is trying to say is that should a stay be</p> <p>6 issued, the maps would never be released, not that</p> <p>7 the person would not be paid for their time. We're</p> <p>8 not trying to get somebody to draw maps on a</p> <p>9 contingency fee. We're having maps drawn</p> <p>10 contingent upon us not getting a stay.</p> <p>11 I would be glad, if you are concerned</p> <p>12 about the way the language is written, to take a</p> <p>13 moment and have that defined, but I did want to</p> <p>14 state for the record that the intent would be any</p> <p>15 map drawer that you would engage or the minority</p> <p>16 party would engage would be paid for their time.</p> <p>17 SEN. RUCHO: Senator Blue?</p> <p>18 SEN. BLUE: Andrew has some language</p> <p>19 that'll fix it.</p> <p>20 SEN. RUCHO: All right. Senator Hise?</p> <p>21 SEN. HISE: I think they may be -- I just</p> <p>22 wanted to say I think they may be working on some</p> <p>23 clarification, but the intent as drafted is that</p> <p>24 work done while it's authorized to be done would be</p> <p>25 paid for, but once the stay came out or a ruling</p>	<p style="text-align: right;">136</p> <p>1 MS. CHURCHILL: If there is a member of</p> <p>2 the General Assembly that would like a map drawn,</p> <p>3 we will do so at their direction; however, we will</p> <p>4 need instruction from that member how to assign all</p> <p>5 the geography of the state.</p> <p>6 SEN. RUCHO: Does that answer your</p> <p>7 question?</p> <p>8 SEN. BLUE: You need instructions as to</p> <p>9 how to sign -- assign what?</p> <p>10 SEN. RUCHO: No, how to assign.</p> <p>11 MS. CHURCHILL: How to assign the</p> <p>12 geography of the state.</p> <p>13 SEN. RUCHO: How you want the -- they can</p> <p>14 draw the map. Just give them the direction on how</p> <p>15 you want the -- the districts to be drawn.</p> <p>16 SEN. BLUE: Okay.</p> <p>17 SEN. RUCHO: Follow-up?</p> <p>18 SEN. BLUE: Yeah, one follow-up. I'm</p> <p>19 trying to keep up with the many iterations of the</p> <p>20 case -- cases involving redistricting, and I think</p> <p>21 that in that sense, even those instructions now are</p> <p>22 considered confidential; is that correct?</p> <p>23 MS. CHURCHILL: At this point in time,</p> <p>24 any member of the General Assembly that makes a</p> <p>25 drafting or information request to any legislative</p>
<p style="text-align: right;">135</p> <p>1 came out that we would stop work at that point, and</p> <p>2 wouldn't be paid for work done after that point</p> <p>3 that was coming in, but while the authorization</p> <p>4 exists, we would pay for those funds, thinking we'd</p> <p>5 get the check cut within 24 hours.</p> <p>6 SEN. RUCHO: We'll stand at ease a moment</p> <p>7 while we're studying some language, if we may.</p> <p>8 While that's being looked at, Senator Blue, did you</p> <p>9 have a second point that you were making?</p> <p>10 SEN. BLUE: I did, as a matter of fact.</p> <p>11 Do you have some experts hanging around who can do</p> <p>12 this mapmaking that we might could talk to? We</p> <p>13 haven't engaged anybody.</p> <p>14 SEN. RUCHO: I think we're probably going</p> <p>15 to use the one that you're presently using now.</p> <p>16 SEN. BLUE: Which one is that one?</p> <p>17 SEN. RUCHO: Whichever one that is.</p> <p>18 SEN. BLUE: Is there capability within</p> <p>19 the staff to do it, Mr. Chair?</p> <p>20 SEN. RUCHO: I'm sorry. Say that again?</p> <p>21 SEN. BLUE: Is there capability within</p> <p>22 the staff to do mapmaking?</p> <p>23 SEN. RUCHO: Ms. Churchill? Okay. Is</p> <p>24 there capability within the staff of being able to</p> <p>25 draw maps as requested by the minority party?</p>	<p style="text-align: right;">137</p> <p>1 employee, that drafting and information request is</p> <p>2 treated as confidential, subjective to legislative</p> <p>3 confidentiality by that legislative employee. Upon</p> <p>4 enactment of any Congressional plan, the plans</p> <p>5 themselves and the drafting and information</p> <p>6 requests related to that plan do become a public</p> <p>7 record.</p> <p>8 SEN. RUCHO: Okay. Still working, so</p> <p>9 just -- oh, excuse me. Senator McKissick? We're</p> <p>10 working on the language, so --</p> <p>11 SEN. MCKISSICK: Sure. I understand.</p> <p>12 This is a question to Erika to get further</p> <p>13 clarification. In terms of the stat packs of data</p> <p>14 that would be available, would we have the same</p> <p>15 type of data that was available in 2011 as a basis</p> <p>16 for drawing -- drawing plans? I mean, I know</p> <p>17 there was some discussion today about not</p> <p>18 considering race as a factor and, you know, things</p> <p>19 of that sort, but would we still have available</p> <p>20 data packs that are -- provide the statistics and</p> <p>21 data that we would have used in 2011 were we</p> <p>22 drawing those districts, and if so, is any of that</p> <p>23 data updated at this time as well?</p> <p>24 MS. CHURCHILL: Mr. Chair, as I</p> <p>25 understand it -- and Mr. Frye will need to correct</p>

<p style="text-align: right;">138</p> <p>1 me, because he maintains our databases, but there</p> <p>2 have been no changes to the 2011 database. It</p> <p>3 still has the 2010 Census data in it. It still has</p> <p>4 the voter registration data in it. It still has</p> <p>5 the election data in it. We still have the</p> <p>6 capability of running exactly the same reports off</p> <p>7 of that database.</p> <p>8 SEN. MCKISSICK: Last follow-up.</p> <p>9 SEN. RUCHO: Follow-up.</p> <p>10 SEN. MCKISSICK: Yeah. Erika, I mean --</p> <p>11 and I know this is not a fair question, perhaps,</p> <p>12 but to what extent can we get reasonably quick</p> <p>13 turnaround, considering the time frame that we're</p> <p>14 in? I think our challenge is obviously we relied</p> <p>15 upon consultants and experts before, Mr. David</p> <p>16 Harris and Mr. Bill Gilkeson, but they are both</p> <p>17 attorneys engaged in private practice, handling</p> <p>18 clients, and to think that we can displace them</p> <p>19 this quickly to get them reengaged on less than 24</p> <p>20 hours notice is not a -- perhaps a reasonable</p> <p>21 expectation.</p> <p>22 I'm trying to see if we want to get these</p> <p>23 maps drawn, I think Senator Blue is on the right</p> <p>24 track. We're going to need to rely upon in-house</p> <p>25 resources, perhaps supplemented by consultants, but</p>	<p style="text-align: right;">140</p> <p>1 SEN. RUCHO: I think what you're -- what</p> <p>2 you reflect is what our concern is, that we have a</p> <p>3 short -- short window, and we're all faced with</p> <p>4 that same tight timeline, so -- but I'm sure staff,</p> <p>5 as Ms. Churchill said, will do its best to help you</p> <p>6 achieve your goal. Representative -- or Chairman</p> <p>7 Lewis?</p> <p>8 REP. LEWIS: Thank you, Mr. Chairman.</p> <p>9 Senator McKissick, just to be clear, sir, the</p> <p>10 criteria that will be available to the mapmaker</p> <p>11 that Senator Rucho and I employ will only be the</p> <p>12 criteria that this -- that this committee has</p> <p>13 adopted. The stat packs, as you well recall,</p> <p>14 contain additional information. That information</p> <p>15 obviously will be available at the end of the map</p> <p>16 drawing process. Just to be clear, the map drawer</p> <p>17 that Senator Rucho and I will contract with will</p> <p>18 have only access to the criteria that this</p> <p>19 committee has adopted.</p> <p>20 SEN. MCKISSICK: Follow-up.</p> <p>21 SEN. RUCHO: Yes, sir. Follow-up.</p> <p>22 SEN. MCKISSICK: Some of the critical</p> <p>23 language in here under Bullet 3, if we go down</p> <p>24 about five lines, it talks about using the adopted</p> <p>25 criteria or any other criteria selected by the</p>
<p style="text-align: right;">139</p> <p>1 are we going to be able to get quick turnaround?</p> <p>2 MS. CHURCHILL: Mr. Chair, if I might, we</p> <p>3 will do our best. We do have a limited number of</p> <p>4 people who have the capa- -- the knowledge to</p> <p>5 actually use the mapping software, but amongst</p> <p>6 ourselves, once we know what the requests are, we</p> <p>7 will try to efficiently meet all of the needs.</p> <p>8 SEN. MCKISSICK: Thank you.</p> <p>9 SEN. RUCHO: All right. Senator</p> <p>10 McKissick, any specifics? I mean, you were talking</p> <p>11 about the stat packs and all that. Do you have any</p> <p>12 specific criteria that you want included in the</p> <p>13 stat pack?</p> <p>14 SEN. MCKISSICK: I mean, as long as we</p> <p>15 have the same type of stat pack that we had</p> <p>16 previously, the demographic data and the political</p> <p>17 data that's available, I think we'll probably be</p> <p>18 okay. I cannot think of any additional data that</p> <p>19 we would need. As long as that's readily</p> <p>20 accessible and we can get pretty quick</p> <p>21 turnaround -- I am deeply concerned that since we</p> <p>22 did not learn about the availability of the funds</p> <p>23 for consultants before today that trying to engage</p> <p>24 people who are deeply familiar with be challenging</p> <p>25 at this late point in time.</p>	<p style="text-align: right;">141</p> <p>1 minority caucus, so if we want to use other</p> <p>2 criteria that might be consistent with the ruling</p> <p>3 in Harris versus McCrory -- and we would contend</p> <p>4 that race can be used; it just cannot be the</p> <p>5 predominant factor. I just want to know that that</p> <p>6 data will be available if we need to use and rely</p> <p>7 upon it in drafting constitutionally correct</p> <p>8 districts, because that was not included in your</p> <p>9 criteria, but this language in this particular</p> <p>10 motion does give us as the minority caucus the</p> <p>11 right to use other criteria.</p> <p>12 SEN. RUCHO: Hold on. I'll try to get</p> <p>13 you an answer. (Pause.) Our understanding -- the</p> <p>14 Chairs' understanding is that, you know, in drawing</p> <p>15 maps, you can request any data you feel that needs</p> <p>16 to be there to help you achieve what you believe is</p> <p>17 a -- a map trying to resolve the issue dealing with</p> <p>18 the court decision.</p> <p>19 SEN. MCKISSICK: Thank you.</p> <p>20 SEN. RUCHO: Okay. Senator Blue?</p> <p>21 SEN. BLUE: Yes. So that I can follow</p> <p>22 that point up, it's my understanding, and correct</p> <p>23 me, that the -- that the database will have</p> <p>24 information about the 2012, 2014 elections in</p> <p>25 addition to the data that was available at the time</p>

<p style="text-align: right;">142</p> <p>1 the original maps were drawn. That is, they will 2 be current in the information that they have. Is 3 that right? 4 SEN. RUCHO: Let's ask Mr. Frye if he'll 5 be kind enough to explain what is in the database, 6 and of course, it's based on the 2010 Census, but 7 election results you're asking about. 8 MR. FRYE: Yes. So -- so what I've got 9 worked up for this round is there's -- you know, of 10 course, you know, like we were talking about, all 11 of the old data is totally in place if it makes 12 sense to use that for whoever wants it, and for the 13 2016 database, I've got total population, voting 14 age population, because that's the only thing 15 that's not -- just election data, right, and that 16 is just election data. There's the 2008 general 17 election, basically all the Council of State 18 contests. There's the 2010 general election, US 19 Senate, the 2012 general election, you know, 20 basically governor and Council of State contests, 21 and -- and then the 2014 US Senate. 22 SEN. RUCHO: Does that help you? 23 SEN. BLUE: You said 2014 US Senate. 24 2014 Congressional data, elections data? 25 SEN. RUCHO: Mr. Frye?</p>	<p style="text-align: right;">144</p> <p>1 SEN. BLUE: I'm just trying to make sure 2 that whatever data is used by one is used and 3 available by all. 4 SEN. RUCHO: Well, my -- 5 SEN. BLUE: If we're basing it on the 6 legislative computers and the legislative database. 7 SEN. RUCHO: If I'm understanding it 8 correctly, any data that you need to have is going 9 to be available as long as you give some -- some 10 request for it. Am I correct? 11 MR. FRYE: Well, certainly -- 12 SEN. BLUE: Aspirational. 13 MR. FRYE: Yeah. I'm concerned about 14 timeline, you know, about preparing things, and 15 certain things are prepared and ready to go, and 16 yeah, those things can be -- 17 SEN. RUCHO: Ms. Churchill? 18 MS. CHURCHILL: (Inaudible.) 19 SEN. RUCHO: Talking about the data -- I 20 think that was Mr. Frye's question. Okay, that's 21 where we are. All right, still on -- did we get 22 the language? 23 REP. STAM: Yeah, on a big-picture issue 24 here, while they're working out the language, I was 25 minority leader during the Pender County</p>
<p style="text-align: right;">143</p> <p>1 MR. FRYE: Well, for the -- no, for the 2 2014 database, it has just the US Senate. 3 SEN. BLUE: I can't hear him. 4 SEN. RUCHO: Could you repeat that again? 5 We missed you with that. 6 MR. FRYE: For the 2014 general election, 7 I've just got US Senate. There are other -- 8 because there's sort -- there's a difference 9 between like what data is -- has been generally 10 processed and what data is sort of ready to go in 11 our redistricting database. There's kind of a fair 12 gap between those two things, so we do have some 13 other information relating to other contests from 14 2014, but -- 15 SEN. BLUE: So the database will not have 16 the location of current incumbents or anything like 17 that? 18 SEN. RUCHO: Mr. Frye? 19 MR. FRYE: What we have is locations of 20 current incumbents that -- a lot of them were 21 updated as of the 2011 cycle, so we may want to 22 double-check. There are a few of them I was 23 looking at that we may want to double-check on 24 their addresses and see if they've moved. 25 SEN. RUCHO: Senator Blue?</p>	<p style="text-align: right;">145</p> <p>1 redistricting. Speaker Hackney was the speaker. 2 If I had been offered a deal like this, I would go 3 give Representative Lewis and Senator Rucho a big 4 bear hug and "Thank you." 5 SEN. RUCHO: Don't hug us. 6 SEN. BLUE: Certainly no kiss associated 7 with it. 8 (Laughter.) 9 SEN. RUCHO: Representative -- or Senator 10 Blue? 11 SEN. BLUE: Yeah. I have a question of 12 the Chair, but I guess you've got a motion pending, 13 so I'll wait -- 14 SEN. RUCHO: We've got a motion. 15 SEN. BLUE: -- until after the motion. 16 SEN. RUCHO: Yeah, we've got a motion 17 first. Senator Hise? 18 SEN. HISE: Question, probably directed 19 for staff. If -- and under this motion where it 20 currently is, if the minority caucus is going to 21 load additional information, including things like 22 race and others, onto the stat pack for the 23 operations, do we have a sufficient wall of 24 separation, say separate computers, separate 25 databases, separate operating, that the co-chairs</p>

<p style="text-align: right;">146</p> <p>1 do not have access to that information, or the</p> <p>2 other committees cannot have access to that</p> <p>3 information, because it's inconsistent with the</p> <p>4 criteria that's established, so can we make sure</p> <p>5 that once those are loaded, they are not available</p> <p>6 if they are not part of the criteria for the co-</p> <p>7 chairs' drawing?</p> <p>8 SEN. RUCHO: Mr. Frye?</p> <p>9 MR. FRYE: Yes. I believe for -- if the</p> <p>10 co-chairs are working on a plan, they can work on</p> <p>11 it and follow the criteria separately, and for any</p> <p>12 reports they produce, would just use that</p> <p>13 information.</p> <p>14 SEN. RUCHO: To follow up on what his</p> <p>15 question is, is there a clear wall that we have to</p> <p>16 actually request that information before it's</p> <p>17 eligible -- eligible for us to use? Am I correct?</p> <p>18 I mean, you're talking a firewall?</p> <p>19 SEN. HISE: Yeah, making sure that no</p> <p>20 one -- once it's loaded in, anyone could draw --</p> <p>21 could pull it up. I want to make sure that you</p> <p>22 don't have access to that information.</p> <p>23 MR. FRYE: Right. No, there is a</p> <p>24 firewall.</p> <p>25 SEN. RUCHO: Okay.</p>	<p style="text-align: right;">148</p> <p>1 SEN. MICHAUX: Okay.</p> <p>2 SEN. RUCHO: Okay. Are we close with the</p> <p>3 language?</p> <p>4 REP. LEWIS: Mr. Chairman?</p> <p>5 SEN. RUCHO: Yes, sir, Representative?</p> <p>6 REP. LEWIS: Could we deal with another</p> <p>7 matter while this is being perfected?</p> <p>8 SEN. RUCHO: Yes, sir. Let's just</p> <p>9 displace this amendment if we can, Senator Hise,</p> <p>10 while we're working on the language, and</p> <p>11 Representative Lewis has another issue he'd like to</p> <p>12 bring before -- before us.</p> <p>13 REP. LEWIS: Mr. Chairman, what I'd like</p> <p>14 to do is offer a motion that the committee directs</p> <p>15 the ISD to establish a computer and to populate the</p> <p>16 database of that computer with only the information</p> <p>17 that is consistent with the criteria adopted by the</p> <p>18 committee today, and to ensure that the firewalls</p> <p>19 that Mr. Frye spoke of are in place during the</p> <p>20 entire time that the map for this committee is</p> <p>21 drawn.</p> <p>22 SEN. RUCHO: We have a motion before us.</p> <p>23 Do we have a second on that, David?</p> <p>24 SEN. APODACA: Second.</p> <p>25 SEN. RUCHO: Second, Senator Apodaca.</p>
<p style="text-align: right;">147</p> <p>1 MR. FRYE: It is not a central server</p> <p>2 that would be --</p> <p>3 SEN. RUCHO: Are you okay, Senator Hise?</p> <p>4 Ms. Churchill, you okay?</p> <p>5 REP. LEWIS: Mr. Chairman?</p> <p>6 SEN. RUCHO: Where am I?</p> <p>7 REP. LEWIS: Mr. Chairman?</p> <p>8 SEN. RUCHO: Oh, excuse me.</p> <p>9 REP. LEWIS: I think perhaps we can --</p> <p>10 can summarize this by saying that all people will</p> <p>11 have access to all of the data. This committee has</p> <p>12 directed the chairs not to use some of it, so the</p> <p>13 computer on which this committee's map is drawn</p> <p>14 will only contain the criteria that was adopted by</p> <p>15 the committee, so to kind of get the gist of what</p> <p>16 Senator Blue was trying to ask, he can have access</p> <p>17 to more stuff than we can, not less.</p> <p>18 SEN. RUCHO: Okay. Representative --</p> <p>19 REP. MICHAUX: Yeah, I just wanted to be</p> <p>20 clear on this. It says that you-all must do your</p> <p>21 maps according to the criteria that this body has</p> <p>22 passed. It also says that our group can use any --</p> <p>23 this criteria or any other criteria we deem</p> <p>24 necessary. Is that correct?</p> <p>25 SEN. RUCHO: That's correct.</p>	<p style="text-align: right;">149</p> <p>1 Second. Representative Michaux?</p> <p>2 REP. MICHAUX: I was trying to get the</p> <p>3 gist of what he -- what his motion is.</p> <p>4 REP. LEWIS: May I speak on my motion?</p> <p>5 SEN. RUCHO: Yes, sir.</p> <p>6 REP. LEWIS: Members, the motion would</p> <p>7 direct ISD to establish a computer with the</p> <p>8 Maptitude software that has only the criteria as</p> <p>9 defined and authorized by this committee to use,</p> <p>10 and it is on that computer that the chairs would</p> <p>11 work, along with any consultant they would hire, to</p> <p>12 produce a map to return back to this committee for</p> <p>13 review.</p> <p>14 What it's doing in essence is limiting</p> <p>15 the chairs to only the criteria that this committee</p> <p>16 has adopted, while making sure that it does not</p> <p>17 limit the minority party to have access to whatever</p> <p>18 they deem important to be able to fully participate</p> <p>19 in this process.</p> <p>20 SEN. RUCHO: Follow-up?</p> <p>21 SEN. MICHAUX: Follow-up. What about the</p> <p>22 firewall separating the two on that?</p> <p>23 REP. LEWIS: Thank you for that -- that</p> <p>24 question, Representative Michaux. I was trying to</p> <p>25 use the same language that Mr. Frye. What I'm --</p>

<p style="text-align: right;">150</p> <p>1 to be absolutely clear, the only data the map 2 drawers on behalf of this committee can have is the 3 data that the criteria adopted by this committee 4 allows. There -- the firewall means that you won't 5 be able -- the map drawer won't have access to flip 6 a switch and say, "Well, I really do want to see 7 what the 2008 presidential race was." That will 8 not be loaded on the computer that he has access 9 to. 10 SEN. RUCHO: Okay. Senator McKissick? 11 SEN. MCKISSICK: Representative Lewis, 12 just to get some clarification here, if we as the 13 minority caucus want to look at the 2008 race, or 14 we want to look at other variables other than those 15 that were approved today, in the past, we had our 16 own computer available that also had Maptitude, or 17 whatever the appropriate program was at that time, 18 which we could utilize for crafting maps that 19 were -- met our criteria, so I'm just wanting to 20 determine if we will have a separate computer 21 available to us that we can use that will give us 22 the additional data that we might seek to use in 23 preparing maps. 24 REP. LEWIS: Senator -- 25 SEN. RUCHO: Representative Lewis?</p>	<p style="text-align: right;">152</p> <p>1 SEN. RUCHO: We'll get a copy of that. 2 All right. We have a motion before us from 3 Representative Lewis. It's been explained; it's 4 been debated. Any additional thoughts or questions 5 on that before we move to adopt his motion? 6 (No response.) 7 SEN. RUCHO: Seeing none, Mr. Clerk, if 8 you'd be kind enough to call roll? 9 CLERK: Lewis? 10 REP. LEWIS: Aye. 11 CLERK: Lewis, aye. Jones? 12 REP. JONES: Aye. 13 CLERK: Jones, aye. Brawley? 14 REP. BRAWLEY: Aye. 15 CLERK: Brawley, aye. Cotham? 16 REP. COTHAM: No. 17 CLERK: Cotham, no. Davis? 18 REP. DAVIS: Aye. 19 CLERK: Davis, aye. Farmer-Butterfield? 20 (No response.) 21 CLERK: Hager? 22 REP. HAGER: Aye. 23 CLERK: Hager, aye. Hanes? 24 REP. HANES: No. 25 CLERK: No? Hanes, no. Hardister?</p>
<p style="text-align: right;">151</p> <p>1 REP. LEWIS: Thank you, Mr. Chairman. 2 Senator McKissick and Mr. Chairman, if my motion is 3 adopted, I will offer the identical motion for the 4 minority party, except that they are able to 5 populate the data with whatever they want to 6 populate it with. 7 SEN. MCKISSICK: With that being said, I 8 could support this, but I want to make sure that 9 the minority party does have their own computer 10 populated with their own data, separate and apart 11 from the fields or subcategories which have been 12 identified as appropriate criteria today. 13 REP. LEWIS: Yes, sir, we're on the exact 14 same page on that point. 15 SEN. MCKISSICK: Thank you. 16 SEN. RUCHO: Okay. You -- any additional 17 questions on -- 18 REP. MICHAUX: Yeah. Can we get that in 19 writing? 20 (Laughter.) 21 REP. LEWIS: Mr. Chairman? 22 SEN. RUCHO: Yes, sir? 23 REP. LEWIS: We do have a court reporter, 24 so perhaps we could forward that to Representative 25 Michaux, and he could read it.</p>	<p style="text-align: right;">153</p> <p>1 REP. HARDISTER: Aye. 2 CLERK: Hardister, aye. Hurley? 3 REP. HURLEY: Aye. 4 CLERK: Hurley, aye. Jackson? 5 REP. JACKSON: No. 6 CLERK: Jackson, no. Johnson? 7 REP. JOHNSON: Aye. 8 CLERK: Johnson, aye. Jordan? 9 REP. JORDAN: Aye. 10 CLERK: Jordan, aye. McGrady? 11 REP. MCGRADY: Aye. 12 CLERK: McGrady, aye. Michaux? 13 REP. MICHAUX: No. 14 CLERK: Michaux, no. Moore? 15 REP. MOORE: Nay. 16 CLERK: Moore, nay. Stam? 17 REP. STAM: Aye. 18 CLERK: Stam, aye. Stevens? 19 (No response.) 20 CLERK: Rucho? 21 SEN. RUCHO: Aye. 22 CLERK: Rucho, aye. Apodaca? 23 SEN. APODACA: Aye. 24 CLERK: Apodaca, aye. Barefoot? 25 SEN. BAREFOOT: Aye.</p>

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<p>1 CLERK: Barefoot, aye. Blue?</p> <p>2 SEN. BLUE: No.</p> <p>3 CLERK: Blue, no. Brown?</p> <p>4 SEN. BROWN: Aye.</p> <p>5 CLERK: Brown, aye. Clark?</p> <p>6 SEN. CLARK: No.</p> <p>7 CLERK: Clark, no. Harrington?</p> <p>8 SEN. HARRINGTON: Aye.</p> <p>9 CLERK: Harrington, aye. Hise?</p> <p>10 SEN. HISE: Aye.</p> <p>11 CLERK: Hise, aye. Jackson?</p> <p>12 SEN. JACKSON: Aye.</p> <p>13 CLERK: Jackson, aye. Lee?</p> <p>14 SEN. LEE: Aye.</p> <p>15 CLERK: Lee, aye. McKissick?</p> <p>16 SEN. MCKISSICK: No.</p> <p>17 CLERK: McKissick, no. Randleman?</p> <p>18 SEN. RANDLEMAN: Aye.</p> <p>19 CLERK: Randleman, aye. Sanderson?</p> <p>20 SEN. SANDERSON: Aye.</p> <p>21 CLERK: Sanderson, aye. Smith?</p> <p>22 SEN. SMITH: No.</p> <p>23 CLERK: Smith, no. Smith-Ingram?</p> <p>24 SEN. SMITH-INGRAM: Nay.</p> <p>25 CLERK: Smith-Ingram, nay. Wells?</p>	<p>1 Representative Lewis, seconded by Senator</p> <p>2 McKissick, was that -- for the minority party to</p> <p>3 have access to the computer and have all the</p> <p>4 information they deem necessary for them to</p> <p>5 participate in trying to see what was requested as</p> <p>6 a remedy for the three-judge panel's decision. Any</p> <p>7 questions or comments?</p> <p>8 REP. MICHAUX: Yeah. I want to know what</p> <p>9 the last part of that motion was that he made. It</p> <p>10 was sort of sub rosa.</p> <p>11 SEN. RUCHO: Is that a question to</p> <p>12 Representative Lewis?</p> <p>13 REP. MICHAUX: Representative Lewis.</p> <p>14 REP. LEWIS: Representative Michaux, what</p> <p>15 I said was that the minority members -- the members</p> <p>16 of the minority party on this committee may caucus</p> <p>17 and elect a member or members to direct the drawing</p> <p>18 of these maps on their behalf, and if they're</p> <p>19 unable to do so, that the responsibility would be</p> <p>20 vested in Senator Blue.</p> <p>21 SEN. RUCHO: Do you have a follow-up</p> <p>22 question?</p> <p>23 REP. MICHAUX: We -- what I -- you are</p> <p>24 vesting -- you're telling us what to do? Is that</p> <p>25 what I'm hearing?</p>
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<p>1 SEN. WELLS: Aye.</p> <p>2 CLERK: Wells, aye.</p> <p>3 SEN. RUCHO: All right, members of the</p> <p>4 committee, a motion by Representative Lewis</p> <p>5 requiring and asking that the computer that will be</p> <p>6 used by the majority party will only contain the</p> <p>7 criteria that's been established and voted upon</p> <p>8 today, and that vote was aye, 21, no, 11, so that</p> <p>9 passed.</p> <p>10 REP. LEWIS: Mr. Chairman?</p> <p>11 SEN. RUCHO: Representative Lewis?</p> <p>12 REP. LEWIS: For motion.</p> <p>13 SEN. RUCHO: Motion.</p> <p>14 REP. LEWIS: Mr. Chairman, I move that</p> <p>15 the minority party be given access to a computer</p> <p>16 and whatever information they deem necessary to</p> <p>17 populate that computer in order to fully</p> <p>18 participate in this pro- -- in this process.</p> <p>19 Further, I move that the minority party members of</p> <p>20 this committee may caucus and designate that</p> <p>21 responsibility to one or more members, and if they</p> <p>22 are not able to do that, that the responsibility</p> <p>23 would fall to Senator Blue.</p> <p>24 SEN. MCKISSICK: I'll second that.</p> <p>25 SEN. RUCHO: All right. The motion by</p>	<p>1 REP. LEWIS: To repeat for the third</p> <p>2 time, Representative Michaux, the minority party</p> <p>3 members of this committee would caucus and</p> <p>4 designate members or members to act on their</p> <p>5 behalf, and if they are unable to do so, that that</p> <p>6 responsibility would fall to Senator Blue.</p> <p>7 REP. MICHAUX: Mr. Chairman?</p> <p>8 SEN. RUCHO: Yes, sir?</p> <p>9 REP. MICHAUX: Why don't you --</p> <p>10 SEN. RUCHO: Follow-up?</p> <p>11 REP. MICHAUX: Yes. Why don't you let us</p> <p>12 make that decision as to who it should fall -- fall</p> <p>13 to?</p> <p>14 REP. LEWIS: Mr. Chairman?</p> <p>15 SEN. RUCHO: Yes, sir?</p> <p>16 REP. LEWIS: Could we have maybe staff</p> <p>17 clarify what it means that the minority party can</p> <p>18 caucus and designate members or members, if that's</p> <p>19 not allowing them to make a decision? Could</p> <p>20 somebody explain exactly what language I'm not</p> <p>21 communicating?</p> <p>22 SEN. RUCHO: Okay. Senator Apodaca, you</p> <p>23 had a comment?</p> <p>24 SEN. APODACA: Mr. Chairman, inquiry of</p> <p>25 the Chair.</p>

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<p>1 SEN. RUCHO: Yes, sir?</p> <p>2 SEN. APODACA: I'm somewhat confused. I</p> <p>3 thought Representative Jackson asked this question</p> <p>4 about how they could nominate somebody. I thought</p> <p>5 this is what we were trying to fix.</p> <p>6 SEN. RUCHO: All right. Then you're the</p> <p>7 one that's going to explain to -- to Senator --</p> <p>8 Representative Michaux. Okay? All right. A</p> <p>9 motion is before us. It's been seconded. Any</p> <p>10 additional questions or comments on Representative</p> <p>11 Lewis' motion?</p> <p>12 (No response.)</p> <p>13 SEN. RUCHO: Seeing none --</p> <p>14 CLERK: Lewis?</p> <p>15 SEN. RUCHO: -- Mr. Clerk, roll call,</p> <p>16 please?</p> <p>17 CLERK: Lewis?</p> <p>18 REP. LEWIS: Aye.</p> <p>19 CLERK: Lewis, aye. Jones?</p> <p>20 REP. JONES: Aye.</p> <p>21 CLERK: Jones, aye. Brawley?</p> <p>22 REP. BRAWLEY: Aye.</p> <p>23 CLERK: Brawley, aye. Cotham?</p> <p>24 REP. COTHAM: Aye.</p> <p>25 CLERK: Cotham, aye. Davis?</p>	<p>1 CLERK: Moore, aye. Stam?</p> <p>2 REP. STAM: Aye.</p> <p>3 CLERK: Stam, aye. Stevens?</p> <p>4 (No response.)</p> <p>5 CLERK: Rucho?</p> <p>6 SEN. RUCHO: Aye.</p> <p>7 CLERK: Rucho, aye. Apodaca?</p> <p>8 SEN. APODACA: Aye.</p> <p>9 CLERK: Apodaca, aye. Barefoot?</p> <p>10 SEN. BAREFOOT: Aye.</p> <p>11 CLERK: Barefoot, aye. Blue?</p> <p>12 SEN. BLUE: Aye.</p> <p>13 CLERK: Blue, aye. Brown?</p> <p>14 SEN. BROWN: Aye.</p> <p>15 CLERK: Brown, aye. Clark?</p> <p>16 SEN. CLARK: Aye.</p> <p>17 CLERK: Clark, aye. Harrington?</p> <p>18 SEN. HARRINGTON: Aye.</p> <p>19 CLERK: Harrington, aye. Hise?</p> <p>20 SEN. HISE: Aye.</p> <p>21 CLERK: Hise, aye. Jackson?</p> <p>22 SEN. JACKSON: Aye.</p> <p>23 CLERK: Jackson, aye. Lee?</p> <p>24 SEN. LEE: Aye.</p> <p>25 CLERK: Lee, aye. McKissick?</p>
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<p>1 REP. DAVIS: Aye.</p> <p>2 CLERK: Davis, aye. Farmer-Butterfield?</p> <p>3 REP. FARMER-BUTTERFIELD: Aye.</p> <p>4 CLERK: Aye? Farmer-Butterfield, aye.</p> <p>5 Hager?</p> <p>6 SEN. RUCHO: Please speak loudly, folks.</p> <p>7 REP. HAGER: Aye.</p> <p>8 CLERK: Hager, aye. Hanes?</p> <p>9 REP. HANES: Aye</p> <p>10 CLERK: Hanes, aye. Hardister?</p> <p>11 REP. HARDISTER: Aye.</p> <p>12 CLERK: Hardister, aye. Hurley?</p> <p>13 REP. HURLEY: Aye.</p> <p>14 CLERK: Hurley, aye. Jackson?</p> <p>15 REP. JACKSON: Aye.</p> <p>16 CLERK: Jackson, aye. Johnson?</p> <p>17 REP. JOHNSON: Aye.</p> <p>18 CLERK: Johnson, aye. Jordan?</p> <p>19 REP. JORDAN: Aye.</p> <p>20 CLERK: Jordan, aye. McGrady?</p> <p>21 REP. MCGRADY: Aye.</p> <p>22 CLERK: McGrady, aye. Michaux?</p> <p>23 REP. MICHAUX: No.</p> <p>24 CLERK: Michaux, no. Moore?</p> <p>25 REP. MOORE: Aye.</p>	<p>1 SEN. MCKISSICK: Aye.</p> <p>2 CLERK: McKissick, aye. Randleman?</p> <p>3 SEN. RANDLEMAN: Aye.</p> <p>4 CLERK: Randleman, aye. Sanderson?</p> <p>5 SEN. SANDERSON: Aye.</p> <p>6 CLERK: Sanderson, aye. Smith?</p> <p>7 SEN. SMITH: Aye.</p> <p>8 CLERK: Smith, aye. Smith-Ingram?</p> <p>9 SEN. SMITH-INGRAM: Aye.</p> <p>10 CLERK: Smith-Ingram, aye. Wells?</p> <p>11 SEN. WELLS: Aye.</p> <p>12 CLERK: Wells, aye.</p> <p>13 SEN. RUCHO: Members of the committee,</p> <p>14 after a roll-call vote, 32 aye and 1 no, so</p> <p>15 therefore, that has been settled. Senator Hise, do</p> <p>16 we have language?</p> <p>17 SEN. HISE: I think we have two</p> <p>18 amendments.</p> <p>19 SEN. RUCHO: Two amendments?</p> <p>20 SEN. HISE: Yeah.</p> <p>21 SEN. RUCHO: All right. Are you going to</p> <p>22 present it, or staff?</p> <p>23 SEN. HISE: I can present them. I think</p> <p>24 staff's going to read them. The first one is to</p> <p>25 clarify the payments made for work performed.</p>

<p style="text-align: right;">162</p> <p>1 SEN. RUCHO: Let's pay attention, here. 2 I know we're moving forward. Go ahead, please. 3 SEN. HISE: The first is to add some 4 clarification for the -- to allow payments for work 5 performed prior to the stay. 6 SEN. RUCHO: All right. First -- the 7 first amendment, Ms. Churchill, would you explain 8 what that amendment says and what it does? 9 MS. CHURCHILL: Yes, Mr. Chair. The 10 amendment would be to the end, to the last sentence 11 of Paragraph 2 and Paragraph 3 of Senator Hise's 12 motion. It would remove the period at the end of 13 that sentence, inset a semicolon, and all of the 14 following at the end of each sentence: "Provided, 15 however, this authorization shall permit 16 compensation to be paid for any work performed 17 prior to the issuance of such stay." 18 SEN. RUCHO: Members of the committee, 19 you have that before you. Is there any questions 20 on that first amendment that has been put forward 21 by Senator Hise on trying to provide some clarity 22 in what was brought up by Senator Blue? 23 Representative Jackson? 24 REP. JACKSON: Thank you, Mr. Chairman. 25 Would that -- that would amendment allow payment</p>	<p style="text-align: right;">164</p> <p>1 CLERK: Hager, yes. Hanes? 2 REP. HANES: Yes. 3 CLERK: Hanes, yes. Hardister? 4 REP. HARDISTER: Aye. 5 CLERK: Hardister, aye. Hurley? 6 REP. HURLEY: Aye. 7 CLERK: Hurley, aye. Jackson? 8 REP. JACKSON: Yes. 9 CLERK: Jackson, yes. Johnson? 10 REP. JOHNSON: Aye. 11 CLERK: Johnson, aye. Jordan? 12 REP. JORDAN: Aye. 13 CLERK: Jordan, aye. McGrady? 14 REP. MCGRADY: Aye. 15 CLERK: McGrady, aye. Michaux? 16 REP. MICHAUX: Aye. 17 CLERK: Michaux, aye. Moore? 18 REP. MOORE: Aye. 19 CLERK: Moore, aye. Stam? 20 REP. STAM: Aye. 21 CLERK: Stam, aye. Stevens? 22 (No response.) 23 CLERK: Rucho? 24 SEN. RUCHO: Aye. 25 CLERK: Rucho, aye. Apodaca?</p>
<p style="text-align: right;">163</p> <p>1 for services provided prior to the approval of 2 this? 3 SEN. RUCHO: No, sir, I don't believe so. 4 REP. JACKSON: Thank you. 5 SEN. RUCHO: Yeah. Questions? Any 6 additional? 7 (No response.) 8 SEN. RUCHO: All right, we have an 9 amendment before us that was read by staff, and we 10 will ask the Clerk to have a roll-call vote on 11 that, please. 12 CLERK: Lewis? 13 REP. LEWIS: Aye. 14 CLERK: Lewis, aye. Jones? 15 REP. JONES: Aye. 16 CLERK: Jones, aye. Brawley? 17 REP. BRAWLEY: Aye. 18 CLERK: Brawley, aye. Cotham? 19 REP. COTHAM: Aye. 20 CLERK: Cotham, aye. Davis? 21 REP. DAVIS: Yes. 22 CLERK: Davis, yes. Farmer-Butterfield? 23 REP. FARMER-BUTTERFIELD: Yes. 24 CLERK: Farmer-Butterfield, yes. Hager? 25 REP. HAGER: Yes.</p>	<p style="text-align: right;">165</p> <p>1 SEN. APODACA: Aye. 2 CLERK: Apodaca, aye. Barefoot? 3 SEN. BAREFOOT: Aye. 4 CLERK: Barefoot, aye. Blue? 5 SEN. BLUE: Aye. 6 CLERK: Blue, aye. Brown? 7 SEN. BROWN: Aye. 8 CLERK: Brown, aye. Clark? 9 SEN. CLARK: Aye. 10 CLERK: Clark, aye. Harrington? 11 SEN. HARRINGTON: Aye. 12 CLERK: Harrington, aye. Hise? 13 SEN. HISE: Aye. 14 CLERK: Hise, aye. Jackson? 15 SEN. JACKSON: Aye. 16 CLERK: Jackson, aye. Lee? 17 SEN. LEE: Aye. 18 CLERK: Lee, aye. McKissick? 19 SEN. MCKISSICK: Aye. 20 CLERK: McKissick, aye. Randleman? 21 SEN. RANDLEMAN: Aye. 22 CLERK: Randleman, aye. Sanderson? 23 SEN. SANDERSON: Aye. 24 CLERK: Sanderson, aye. Smith? 25 SEN. SMITH: Aye.</p>

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<p>1 CLERK: Smith, aye. Smith-Ingram?</p> <p>2 SEN. SMITH-INGRAM: Aye.</p> <p>3 CLERK: Smith-Ingram, aye. Wells?</p> <p>4 SEN. WELLS: Aye.</p> <p>5 CLERK: Wells, aye.</p> <p>6 SEN. RUCHO: Members of the committee,</p> <p>7 we -- okay. Members of the committee, Amendment 1,</p> <p>8 which was read by staff, was agreed upon</p> <p>9 unanimously, 33 to zero.</p> <p>10 Senator Hise, Amendment Number 2?</p> <p>11 SEN. HISE: Thank you, Mr. Chairman.</p> <p>12 This was with some further consultation with</p> <p>13 Senator Blue, and clarifies for a legislative</p> <p>14 confidentiality amendment when that applies, and</p> <p>15 applies to once it's submitted to this committee,</p> <p>16 and she has specific language they can read.</p> <p>17 SEN. RUCHO: Ms. Churchill, can you read</p> <p>18 the clarifying language there, please?</p> <p>19 MS. CHURCHILL: Yes, sir. In Paragraph</p> <p>20 2, this new sentence would be inserted at the --</p> <p>21 following the first sentence. "The co-chairs shall</p> <p>22 control legislative confidentiality of any drafting</p> <p>23 requests or maps produced from this authority</p> <p>24 unless and until presented to the committee in the</p> <p>25 co-chairs' discretion."</p>	<p>1 CLERK: Farmer-Butterfield, yes. Hager?</p> <p>2 REP. HAGER: Yes.</p> <p>3 CLERK: Hager, yes. Hanes?</p> <p>4 REP. HANES: Yes.</p> <p>5 CLERK: Hanes, yes. Hardister?</p> <p>6 REP. HARDISTER: Aye.</p> <p>7 CLERK: Hardister, aye. Hurley?</p> <p>8 REP. HURLEY: Aye.</p> <p>9 CLERK: Hurley, aye. Jackson?</p> <p>10 REP. JACKSON: Yes.</p> <p>11 CLERK: Jackson, yes. Johnson?</p> <p>12 REP. JOHNSON: Aye.</p> <p>13 CLERK: Johnson, aye. Jordan?</p> <p>14 REP. JORDAN: Aye.</p> <p>15 CLERK: Jordan, aye. McGrady?</p> <p>16 REP. MCGRADY: Aye.</p> <p>17 CLERK: McGrady, aye. Michaux?</p> <p>18 REP. MICHAUX: Yes.</p> <p>19 CLERK: Michaux, yes. Moore?</p> <p>20 REP. MOORE: Aye.</p> <p>21 CLERK: Moore, aye. Stam?</p> <p>22 REP. STAM: Aye.</p> <p>23 CLERK: Stam, aye. Rucho?</p> <p>24 SEN. RUCHO: Aye.</p> <p>25 CLERK: Rucho, aye. Apodaca?</p>
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<p>1 For Paragraph 3, this sentence would be</p> <p>2 inserted after -- following the first sentence:</p> <p>3 "The minority caucus' designee, Senator Blue, shall</p> <p>4 control legislative confidentiality of any drafting</p> <p>5 requests or maps produced from this authority</p> <p>6 unless and until presented to the committee in</p> <p>7 Senator Blue's discretion."</p> <p>8 SEN. RUCHO: Members of the committee,</p> <p>9 you have that before you. Any questions or</p> <p>10 comments?</p> <p>11 (No response.)</p> <p>12 SEN. RUCHO: Seeing -- seeing none, Mr.</p> <p>13 Clerk, would you do the roll call?</p> <p>14 CLERK: Lewis?</p> <p>15 REP. LEWIS: Aye.</p> <p>16 CLERK: Lewis, aye. Jones?</p> <p>17 REP. JONES: Aye.</p> <p>18 CLERK: Jones, aye. Brawley?</p> <p>19 REP. BRAWLEY: Aye.</p> <p>20 CLERK: Brawley, aye. Cotham?</p> <p>21 REP. COTHAM: Aye.</p> <p>22 CLERK: Cotham, aye. Davis?</p> <p>23 REP. DAVIS: Yes.</p> <p>24 CLERK: Davis, yes. Farmer-Butterfield?</p> <p>25 REP. FARMER-BUTTERFIELD: Yes.</p>	<p>1 SEN. APODACA: Aye.</p> <p>2 CLERK: Apodaca, aye. Barefoot?</p> <p>3 SEN. BAREFOOT: Aye.</p> <p>4 CLERK: Barefoot, aye. Blue?</p> <p>5 SEN. BLUE: Aye.</p> <p>6 CLERK: Blue, aye. Brown?</p> <p>7 SEN. BROWN: Aye.</p> <p>8 CLERK: Brown, aye. Clark?</p> <p>9 SEN. CLARK: Aye.</p> <p>10 CLERK: Clark, aye. Harrington?</p> <p>11 SEN. HARRINGTON: Aye.</p> <p>12 CLERK: Harrington, aye. Hise?</p> <p>13 SEN. HISE: Aye.</p> <p>14 CLERK: Hise, aye. Jackson?</p> <p>15 SEN. JACKSON: Aye.</p> <p>16 CLERK: Jackson, aye. Lee?</p> <p>17 SEN. LEE: Aye.</p> <p>18 CLERK: Lee, aye. McKissick?</p> <p>19 SEN. MCKISSICK: Aye.</p> <p>20 CLERK: McKissick, aye. Randleman?</p> <p>21 SEN. RANDLEMAN: Aye.</p> <p>22 CLERK: Randleman, aye. Sanderson?</p> <p>23 SEN. SANDERSON: Aye.</p> <p>24 CLERK: Sanderson, aye. Smith?</p> <p>25 SEN. SMITH: Aye.</p>

<p style="text-align: right;">170</p> <p>1 CLERK: Smith, aye. Smith-Ingram? 2 SEN. SMITH-INGRAM: Aye. 3 CLERK: Smith-Ingram, aye. Wells? 4 SEN. WELLS: Aye. 5 CLERK: Wells, aye. 6 SEN. RUCHO: Members of the committee, 7 the roll-call vote was 33 aye, zero nay. 8 Now, what you have before you is a motion 9 set forth by Senator Hise which has been amended, 10 and now it's before you for any further discussion 11 or questions, and if there are none, then we will 12 take a vote to adopt Senator Hise's motion. 13 Thoughts, questions? 14 (No response.) 15 SEN. RUCHO: Seeing none, Mr. Clerk, a 16 vote, please? 17 CLERK: Lewis? 18 REP. LEWIS: Aye. 19 CLERK: Lewis, aye. Jones? 20 REP. JONES: Aye. 21 CLERK: Jones, aye. Brawley? 22 REP. BRAWLEY: Aye. 23 CLERK: Brawley, aye. Cotham? 24 REP. COTHAM: No. 25 CLERK: Cotham, no. Davis?</p>	<p style="text-align: right;">172</p> <p>1 CLERK: Stam, aye. Rucho? 2 SEN. RUCHO: Aye. 3 CLERK: Rucho, aye. Apodaca? 4 SEN. APODACA: Aye. 5 CLERK: Apodaca, aye. Barefoot? 6 SEN. BAREFOOT: Aye. 7 CLERK: Barefoot, aye. Blue? 8 SEN. BLUE: No. 9 CLERK: Blue, no. Brown? 10 SEN. BROWN: Aye. 11 CLERK: Brown, aye. Clark? 12 SEN. CLARK: No 13 CLERK: Clark, no. Harrington? 14 SEN. HARRINGTON: Aye. 15 CLERK: Harrington, aye. Hise? 16 SEN. HISE: Aye. 17 CLERK: Hise, aye. Jackson? 18 SEN. JACKSON: Aye. 19 CLERK: Jackson, aye. Lee? 20 SEN. LEE: Aye. 21 CLERK: Lee, aye. McKissick? 22 SEN. MCKISSICK: No. 23 CLERK: McKissick, no. Randleman? 24 SEN. RANDLEMAN: Aye. 25 CLERK: Randleman, aye. Sanderson?</p>
<p style="text-align: right;">171</p> <p>1 REP. DAVIS: Yes. 2 CLERK: Davis, yes. Farmer-Butterfield? 3 REP. FARMER-BUTTERFIELD: No. 4 CLERK: Farmer-Butterfield, no. Hager? 5 REP. HAGER: Aye. 6 CLERK: Hager, aye. Hanes? 7 REP. HANES: No. 8 CLERK: Hanes, no. Hardister? 9 REP. HARDISTER: Aye. 10 CLERK: Hardister, aye. Hurley? 11 REP. HURLEY: Aye. 12 CLERK: Hurley, aye. Jackson? 13 REP. JACKSON: No. 14 CLERK: Jackson, no. Johnson? 15 REP. JOHNSON: Aye. 16 CLERK: Johnson, aye. Jordan? 17 REP. JORDAN: Aye. 18 CLERK: Jordan, aye. McGrady? 19 REP. MCGRADY: Aye. 20 CLERK: McGrady, aye. Michaux? 21 REP. MICHAUX: No. 22 CLERK: Michaux, no. Moore? 23 REP. MOORE: Nay. 24 CLERK: Moore, nay. Stam? 25 REP. STAM: Aye.</p>	<p style="text-align: right;">173</p> <p>1 SEN. SANDERSON: Aye. 2 CLERK: Sanderson, aye. Smith? 3 SEN. SMITH: No. 4 CLERK: Smith, no. Smith-Ingram? 5 SEN. SMITH-INGRAM: No. 6 CLERK: Smith-Ingram, no. Wells? 7 SEN. WELLS: Aye. 8 CLERK: Wells, aye. 9 SEN. RUCHO: Okay, members of the 10 committee, when that motion was up for adoption as 11 amended, we have 22 aye and 11 no. I believe that 12 we have concluded our business for today. 13 SEN. BLUE: Just a request, Mr. Chair. 14 SEN. RUCHO: Senator Blue? 15 SEN. BLUE: As I prepare to do this, 16 could you have the Clerk make available to me his 17 roll-call votes on these items, since it's all 18 official now? 19 SEN. RUCHO: That can be done. 20 SEN. BLUE: Thank you. 21 SEN. RUCHO: Okay. Senator Blue requests 22 that he gets a copy of the roll-call votes. Thank 23 you. 24 Before we finish up, let me just make it 25 clear. Now that we have criteria established, and</p>

<p style="text-align: right;">174</p> <p>1 understanding that there is access to computers and 2 the necessary resources to accomplish that, I'm 3 sure that the map drawers will do their job, come 4 forward with a map. We will possibly have a 5 meeting tomorrow. The chairs will allow you 6 notice. We're going to need to give the map 7 writers -- or drawers a chance to do their work. 8 We are also waiting for a decision by the Supreme 9 Court on the motion for stay to allow that election 10 to take place in an orderly manner, without any 11 voter dysfunction, so we will let you know at what 12 time tomorrow, or whether we will be meeting 13 tomorrow. 14 REP. STAM: Mr. Chair? 15 SEN. RUCHO: Sir? 16 REP. STAM: What is the earliest we would 17 be -- I mean, can we block out the morning for real 18 work, other work? 19 SEN. RUCHO: I think to give sufficient 20 time for map drawers to work, I think we would be 21 looking at -- the earliest would be 1:00. Okay? 22 Members of the committee, any questions on what was 23 discussed? 24 (No response.) 25 SEN. RUCHO: You all know what we've got,</p>	<p style="text-align: right;">176</p> <p>STATE OF NORTH CAROLINA COUNTY OF WAKE CERTIFICATE I, Carol M. Smith, a duly commissioned Notary Public in and for the State of North Carolina, do hereby certify that on February 16, 2016, this proceeding was held before me, this proceeding being reported by me verbatim and then reduced to typewritten form under my direct supervision; that the foregoing is a true and correct transcript of said proceedings to the best of my ability and understanding; that I am not related to any of the parties to this action; that I am not interested in the outcome of this case; that I am not of counsel nor in the employ of any of the parties to this action. IN WITNESS WHEREOF, I have hereto set my hand, this the 29th day of February, 2016. _____ Notary Public Carol M. Smith Notary Number 19943320153</p>
<p style="text-align: right;">175</p> <p>1 so stay tuned, and thank you for your quick 2 response. Meeting adjourned. 3 (WHEREUPON, THE MEETING WAS CONCLUDED AT 1:43 P.M.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	

EXHIBIT B

NORTH CAROLINA GENERAL ASSEMBLY
NORTH CAROLINA HOUSE OF REPRESENTATIVES

TRANSCRIPT OF THE PROCEEDINGS
FLOOR SESSION ONE (11:30 A.M.)

In Raleigh, North Carolina
Friday, February 19, 2016
Reported by Rachel L. Hammond, CVR-M

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

1 (Reporter's note: Proceedings in this matter
2 began at 11:30 a.m. on February 19, 2016.)

3 SPEAKER MOORE: The House will come to order.
4 Members will take their seats. Visitors will retire
5 from the chamber. The Sergeant-at-Arms will close the
6 doors. Members and guests are asked to please silence
7 all electronic devices.

8 This morning's prayer will be offered by
9 Representative Avila. We'd ask all members and all
10 guests in the gallery to please stand for the prayer
11 and remain standing for the Pledge of Allegiance.

12 Representative Avila.

13 (Prayer and the Pledge of Allegiance.)

14 SPEAKER MOORE: The gentleman from Harnett,
15 Representative Lewis, is recognized for a motion.

16 REP. LEWIS: Mr. Speaker, the journal for
17 February 18, has been examined and found to be correct.
18 I move that it stand approved as written.

19 SPEAKER MOORE: Representative Lewis moves that
20 the journal for February 18 be approved as written;
21 those in favor will say "aye."

22 (Voice vote.)

23 SPEAKER MOORE: Those opposed "no."

24 The ayes have it. The journal is approved as
25 written. Notices and announcements -- strike that.

1 Reports of standing committees.

2 Representative Lewis, the Chair on the
3 Committee -- the Redistricting Committee is recognized
4 to send forward the committee report. The clerk will
5 read.

6 CLERK: Representative Lewis Redistricting
7 Committee reported Senate Bill 2 2016 Contingent
8 Congressional Plan.

9 SPEAKER MOORE: Calendar for this morning.
10 Senate Bill 2, the clerk will read.
11 (Bill read by clerk.)

12 SPEAKER MOORE: The gentleman from Harnett,
13 Representative Lewis, is recognized to debate the bill.
14 The House will come to order.

15 Members, before the gentleman starts, I want to
16 remind the body we do have the court reporter with us
17 again here today. So all of the extra noise and the
18 chatter that is occurring makes it very difficult for
19 her to hear. So, again, if you need to have any extra
20 conversations, I would ask members to please step off
21 the floor to do so or to keep that to a very low tone.

22 The gentleman from Harnett has the floor to
23 debate the bill.

24 REP. LEWIS: Thank you, Mr. Speaker. Members
25 of the House, we are here today to comply with a court

1 order issued in the Harris versus McCrory case, which
2 instructed us not to hold the 2016 race for the United
3 States House of Representatives under the current map
4 and instructed us to redraw the districts. We, as you
5 know, have appealed and sought a stay of that decision.
6 However, as of this moment, that stay has not been
7 granted. We are still hopefully optimistic that it
8 will, in fact, come. However, out of respect for the
9 rule of law and the court's findings, I will present to
10 you today a 2016 Contingent Congressional Map. I will
11 point out that this map was created based on criteria
12 that was adopted by a Joint Select Committee of the
13 House and the Senate appointed by the Speaker and the
14 President Pro Tem; the committee adopted this criteria
15 on February 16.

16 I will point out to you the criteria on which
17 the maps before you were drawn. First, was the
18 criteria of equal population. All of the districts
19 were drawn with either 733,499 total persons or 733,498
20 total persons. This is as equal as practicable and is
21 in accordance with federal law. Another criteria was
22 contiguity. All the areas of every district are
23 composed within contiguous territories. Another
24 criteria was political data. The stat pack attached to
25 the maps placed on each one of your desk show which

1 election results were used in building these districts.
2 Race was not considered and is not present in these
3 reports. A further criteria was partisan advantage.
4 We believe that this map will produce an opportunity to
5 elect ten Republican members of Congress, but make no
6 mistake, this is a weaker map than the enacted plan in
7 that respect. The Committee further adopted criteria
8 to do away with the 12th district, which has been
9 described as serpentine in nature because of the shape,
10 the way it appears on a map. The drawing of this
11 corrected -- the drawing of this plan before you
12 corrects that. An additional criteria was compactness.
13 Only 13 counties and 12 voting districts were split in
14 this map. In accordance with the criteria, more whole
15 counties and more whole precincts are the best
16 indicator of compactness that we believe to be
17 available. An additional criteria adopted by the
18 committee was incumbency. In this map, only two
19 incumbent members of Congress reside in the same
20 congressional district, one Republican and one
21 Democrat. They are Representative Holding and
22 Representative Price, both of whom reside within the
23 geographic territory that makes up the proposed 4th
24 Congressional District. Eleven incumbents were placed
25 in a congressional district by themselves.

1 I want to offer only a bit of historical
2 context that I hope you will consider when you're
3 voting for those maps. The 1992 Congressional Plan
4 split 44 counties; the 1997 plan split 22 counties; the
5 1998 plan split 21 counties; the 2001 plan split 28
6 counties and 22 Voting Tabulation Districts; the 2011
7 Congressional Plan, which I'll refer to henceforth as
8 the enacted plan, split 40 counties and 68 voting
9 districts, or VTDs; and the map that you have before
10 you splits 13 counties and 12 VTDs.

11 I am very proud and appreciative of all of the
12 work that members of the committee gave, that our
13 central staff dedicated themselves to do. I appreciate
14 all of the members who brought forward constructive
15 advice on how to design these maps to comply with the
16 court decision. And I look forward to being able to
17 more fully debate and explain these maps as directed by
18 the Speaker. But I would ask for your support. I
19 believe that this is a major step forward and should
20 the stay not be granted by the U.S. Supreme Court, I
21 believe that this map, drawn in accordance with the
22 criteria that I have mentioned in my earlier remarks,
23 will help us comply with the court order from the
24 Harris case. And I would respectfully ask at the
25 conclusion of this debate that you would vote "aye" on

1 this bill. Thank you, Mr. Speaker.

2 SPEAKER MOORE: For what purpose does the
3 gentleman from Durham, Representative Michaux, arise?

4 REP. MICHAUX: To speak on the bill.

5 SPEAKER MOORE: The gentleman has the floor to
6 debate the bill.

7 REP. MICHAUX: Mr. Speaker and ladies and
8 gentlemen of the House, I'm not going to ask
9 Representative Lewis any questions on this. I think
10 that has been thoroughly covered in committee, and the
11 record has been made in committee on this. What I want
12 to do very simply is to caution you about what you're
13 about to do. And in order to set the framework for
14 that -- what I want to say about this, I want to quote
15 a couple of things from the Harris decision that got us
16 where we are today. The first is that on page 2 of
17 that decision -- page 3 it says, "This does not mean
18 that race can never play a role in redistricting.
19 Legislatures are almost always cognizant of race when
20 drawing district lines, and simply being aware of race
21 poses no constitutional violation. Only when race is
22 the 'dominant and controlling' consideration in drawing
23 district lines does strict scrutiny, strict scrutiny
24 apply." What the Court is saying very simply in this
25 is that race can still be used in drawing lines, but if

1 you use race, "strict scrutiny" applies. It doesn't
2 mean it can't be applied, but you have to look at it a
3 little bit closer than the way you normally look at.
4 What this body has done in this -- I'm sorry, what the
5 committee has done, is they have taken race out of the
6 equation totally and completely. In other words, this
7 map that you have before you today was drawn without
8 consideration of race.

9 Now everybody tries to think that we're going
10 to have a colorblind situation and wishes for one,
11 which is the ultimate dream in euphoria. Race will
12 always be there because there will always be
13 differences either race, class, whatever way you want
14 to put it. So you cannot, you cannot do maps without
15 including race as a part of it.

16 The second part of that, or other part of that
17 decision says this, "redistricting legislation must,"
18 and I repeat, "redistricting legislation must comply
19 with the Voting Rights Act of 1965." Many people have
20 thought that the Shelby case knocked out the Voting
21 Rights Act. It did not. It only knocked out Section 4
22 from the Voting Rights Act, that section which set up a
23 formula for which preclearance was required. The
24 Voting Rights Act of 1965 still stands. And I repeat,
25 that it says that any district lines must comply with

1 the Voting Rights Act of 1965. And in that same vein,
2 they said that, "the Voting Rights Act prohibits states
3 from adopting plans that would result in vote dilution
4 under section 2." So, Section 2 basically is the
5 operative clause under which we operate and draw
6 district lines.

7 Now, what you have done with this map is you
8 have gone in the complete opposite, and you have made
9 race a predominant factor again because you left it
10 out. You don't consider whether or not these districts
11 that have been drawn on this map create any dilution of
12 minority registrants, minority voting. You don't have
13 any clue as to whether or not minorities, African
14 Americans in particular, are able to elect
15 representatives of their choice. That's because you
16 cut out race as a factor in determining what these
17 lines are being drawn for. So I say that you set up an
18 unconstitutionally drawn map, and you're sending back
19 another unconstitutionally drawn map. But that is not
20 for me to decide. That is for the Court to decide.
21 But just taking a simple look at it you say, well, how
22 do we do this? All you have to do -- you don't have to
23 make it a predominant factor. You can look at it and
24 you can draw lines that fall within parameters that
25 don't make race a predominant factor and still

1 guarantee that you don't have voter dilution and still
2 guarantee that you have a position where African
3 Americans are able to elect persons of their choosing.

4 Now, there is one other thing I want to call to
5 your attention out of that same decision. It says that
6 there is strong evidence -- and this comes from the
7 Harris decision -- "There is strong evidence that race
8 was the only nonnegotiable criterion and that
9 traditional redistricting principles were subordinated
10 to race." I say again, "There is strong evidence that
11 race was the only nonnegotiable criterion." Here
12 again, in these maps that are being drawn, race is the
13 only nonnegotiable criterion that has brought these
14 maps about.

15 Finally, it says, "A congressional district
16 necessarily is crafted because of race, when a racial
17 quota is the single filter through which all
18 line-drawing decisions are made." Now, folks, it
19 doesn't take a rocket scientist or a mathematician to
20 figure that if you're going to draw district lines,
21 you've got to take into account the population of that
22 district. How it affects not just one part of the
23 population, but the total, the total population, and
24 that includes members of any ethnic group, any racial
25 group, anything. It all has to be considered. Here,

1 in this map that was drawn, none of that was
2 considered. And I say to you that I know what you're
3 going to do. Everybody is going -- both sides are
4 going to probably go lockstep, no question about it.
5 But what you're doing is you're setting up a situation
6 where there is a good possibility of you coming back
7 here again if the courts find that you have not
8 followed their instructions. They could send it back.
9 They could do it themselves, or they could put in a
10 Special Master to draw the lines. There are other
11 things here, everybody says, well, it is confusing.
12 Chaos reigns as a result of this. Well, folks, those
13 of us on this side did not cause that chaos. We were
14 never asked to have any input into this. We got -- to
15 give you an example, this map that you have drawn
16 today, I think the decision was handed down February 5
17 or February 6, and before any criteria was set up, I
18 understand from folks on the other side, that plans
19 were already being drawn and criteria was already being
20 set up -- not having been set up, but maps were being
21 drawn without that. And then to come in on, I think,
22 Tuesday of this -- Monday or Tuesday of this week and
23 pass criteria, and on Wednesday we've got a map, then
24 there's a problem. There are many things wrong with
25 this, and I know this was done in a hurry. But we need

1 to take the time to make sure that every facet of this
2 thing is covered. A lot of folks don't want to talk
3 about race. I don't particularly. One thing about my
4 good friend Martin Luther King, Jr., Martin told me --
5 I never heard him use the word "colorblind" because in
6 his thinking we will never have a colorblind society.
7 And unfortunately, or fortunately, it is here, and it's
8 faced. And we have to take it into consideration. And
9 when you take it out, then that becomes a predominant
10 factor in this whole thing. So you're going to do what
11 you're going to do, but I don't think you've seen the
12 end of this problem yet.

13 REP. LEWIS: Mr. Speaker.

14 SPEAKER MOORE: For what purpose does the
15 gentleman from Harnett, Representative Lewis, arise?

16 REP. LEWIS: Would the distinguished gentleman
17 from Durham yield to a question?

18 SPEAKER MOORE: Does the gentleman from Durham,
19 Representative Michaux, yield to the gentleman from
20 Harnett?

21 REP. MICHAUX: The gentleman will yield. I
22 don't know how distinguished he is.

23 SPEAKER MOORE: He yields.

24 REP. MICHAUX: I yield.

25 REP. LEWIS: Mr. Speaker, I appreciate not only

1 the distinguished but the well-dressed gentleman taking
2 time to yield to me.

3 Representative Michaux, you referenced the
4 Harris decision in your remarks. Would I be safe to
5 operate under the belief that you have it before you?

6 REP. MICHAUX: You -- yes, sir. Here it is,
7 yes.

8 REP. LEWIS: Thank you. May I ask another
9 question, Mr. Speaker?

10 SPEAKER MOORE: The gentleman is recognized for
11 a second question. Does the gentleman from Durham
12 yield?

13 REP. MICHAUX: Yes, I yield.

14 SPEAKER MOORE: He yields.

15 REP. LEWIS: Thank you, Mr. Speaker.

16 Representative, may I ask you to please look at page 57
17 of that opinion?

18 REP. MICHAUX: 57?

19 REP. LEWIS: Page 57, yes, sir. And, sir, the
20 particular --

21 REP. MICHAUX: Yes, sir, I have it.

22 REP. LEWIS: Right before the number 2 there,
23 there is a sentence that reads in part, "As the
24 defendants," which would have been us, "fail to meet
25 the third Gingles factor, the Court concludes that

1 section 2 did not require the defendants to create a
2 majority-minority district in CD 1." Is that not
3 saying that the Court finds that racially polarized
4 voting was not present or proven so that we shouldn't
5 have used it in drawing the map?

6 REP. MICHAUX: That's not what it says to me,
7 Representative Lewis. What it says to me is that there
8 was racially polarized showing in that. You didn't
9 meet the requirements, the third requirement of --
10 requirements in the Gingles case. Which set up the
11 fact that if you have racial polarization, you have got
12 to take into consideration these factors.

13 REP. LEWIS: Mr. Speaker, may I ask the
14 gentleman another question?

15 SPEAKER MOORE: Does the gentleman from Durham
16 yield to an additional question?

17 REP. MICHAUX: Yes, I yield.

18 SPEAKER MOORE: He yields.

19 REP. LEWIS: Thank you, Mr. Speaker, and thank
20 you, Representative. If I may, would you turn to
21 page 56 of the same opinion of which we were just
22 looking.

23 REP. MICHAUX: I have it, yes, sir.

24 REP. LEWIS: Thank you, sir. When the Court
25 writes, "the composition and election results under the

1 earlier version of CD 1 vividly demonstrate that,
2 though not previously a majority-BVAP district, the
3 white majority" -- this is the operative part I'd like
4 your advice on -- "the white majority did not vote as a
5 bloc to defeat the African-Americans' candidate of
6 choice. In fact, precisely the opposite occurred in
7 these two districts: significant crossover voting by
8 white voters supported the African-American candidate."
9 Does that not indicate that the Harris court did not
10 find racially polarized voting?

11 REP. MICHAUX: I'm not sure that it does,
12 Representative Lewis, because you have to have certain
13 iterations in these types of situations. It's known,
14 and it is a known fact, and it has been proved.
15 Gingles proved it and several of the other cases,
16 Stevens' case proved it, that whites sometimes
17 basically vote as a bloc in order to keep
18 African-Americans, or whatever ethnic group, out. And
19 that has happened -- it has happened in my case. I
20 personally had it happen to me. So this iteration in
21 here is actually stating what should not or could not
22 have to happen. And of course, you know, you're on
23 that segment. I've got that page marked also.

24 REP. LEWIS: May I ask the gentleman an
25 additional question?

1 SPEAKER MOORE: Does the gentleman from Durham
2 yield to an additional question?

3 REP. MICHAUX: Yes, sir.

4 SPEAKER MOORE: He yields.

5 REP. LEWIS: Just for the sake of this
6 conversation, Representative Michaux, and I've
7 acknowledged freely in earlier meetings that you are an
8 attorney and I'm not. You're much more versed in the
9 law. Would you acknowledge at least with me -- and I
10 apologize to skip around in this opinion, but do --
11 would I be correct to operate under the understanding
12 of this opinion that at least in the opinion issued in
13 the Harris court, that the third Gingles element of
14 establishing racially polarized voting per this court
15 decision was not met?

16 REP. MICHAUX: Yes, it says that.

17 REP. LEWIS: Thank you, sir. Mr. Speaker, may
18 I ask the gentleman another question on another subject
19 matter?

20 SPEAKER MOORE: Does the gentleman from Durham
21 yield to an additional question from the gentleman from
22 Harnett?

23 REP. MICHAUX: Yes, sir. I yield.

24 SPEAKER MOORE: He yields.

25 REP. LEWIS: Thank you, Mr. Speaker, and thank

1 you, Representative. You mentioned in your remarks the
2 map that is prepared before us and also perhaps the
3 steps that were taken in the preparation of those maps,
4 I was wondering, sir, if you would speak to what -- and
5 of course, I only ask for your personal knowledge, of
6 what steps the Democratic Party took, or the Democratic
7 members of this House took, to comply with the court
8 order that we were all notified about on February 6.

9 REP. MICHAUX: My answer to you, Representative
10 Lewis, on that is we were not ordered to comply with
11 that decision. You were ordered to comply with that
12 decision. We did not draw the maps. You drew the
13 maps, so that decision was aimed at you. The matter is
14 in court. If the Court wants our advice, we will give
15 them that advice. We tried to give you our advice on
16 the mistakes that you made. You could take them any
17 kind of way you see, and it comes back, you say, well,
18 the minority party helped us do this.

19 This is a problem that you created. This is a
20 problem that you have to solve. If the Courts want our
21 opinion on it, they will ask us, and we are prepared --
22 we will be prepared to answer any questions that the
23 Court raises with us on it. And by the way,
24 Representative Lewis, let me just -- since you are
25 referring to the opinion, you referred to page 55 on

1 that -- 56 on that. On 54, "Strikingly, there is no
2 evidence that the General Assembly conducted or
3 considered any sort of a particularized
4 polarized-voting analysis during the 2011 redistricting
5 process." So I just wanted to clear that up.

6 REP. LEWIS: Mr. Speaker, may I ask the
7 gentleman another question?

8 SPEAKER MOORE: Does the gentleman from Durham
9 yield to an additional question?

10 REP. MICHAUX: Anytime. Yes, sir.

11 SPEAKER MOORE: He yields.

12 REP. LEWIS: Thank you, Mr. Speaker, and thank
13 you, Representative. I just wanted to -- and this is
14 along the lines of the last question I asked, if I may.
15 Would it be fair to say that you, as a member of the
16 General Assembly, as a member of the Joint Select
17 Committee, and of the House Committee, while, by your
18 own remarks, had the opportunity to participate and
19 offer input to the map, have instead elected not to do
20 that and are preparing instead to offer maps that you
21 developed to the Court? So it would be fair to say
22 that you declined largely to constructively participate
23 in the legislative process, preferring to focus on the
24 judicial process?

25 REP. MICHAUX: In the joint meeting of the

1 committee, several amendments were offered by the
2 minority party. They were all killed. In other
3 instances in this body when we have tried to
4 participate and offer what we thought were constructive
5 amendments, whether some, even folks on your side have
6 agreed, we have been struck down. And here again, I
7 refer to my good friend Martin Luther King, Jr. Martin
8 said, Mickey, you have always got to be able to -- if
9 they hit you on one side to turn the other cheek and
10 let them hit you on -- you know, don't hit back. Well,
11 I've been hit on both cheeks by you-all, and I am just
12 not going to let you hit me anymore. And that's -- I
13 mean, that's it, Mr. Lewis, why should we, why should
14 we -- when you haven't sought our help in the beginning
15 and you haven't sought our help now. You haven't asked
16 us anything. You have already gone on and done these
17 maps before we even had a committee meeting.

18 REP. LEWIS: Mr. Speaker, may I ask the
19 gentleman another question?

20 SPEAKER MOORE: Does the gentleman from Durham
21 yield to an additional question from the gentleman from
22 Harnett?

23 REP. MICHAUX: Yes, I yield.

24 SPEAKER MOORE: He yields.

25 REP. LEWIS: Thank you, Mr. Speaker, and thank

1 you, Representative. I do not have the committee
2 minutes before me, and I am certainly prepared to be
3 corrected. Did members of the minority party, the
4 Democratic Party, offer amendments in the form of a map
5 or guidelines to how the map should look, or were those
6 amendments largely unrelated to the drawing of a map?

7 REP. MICHAUX: The amendments affected the
8 criteria under which the maps were to be drawn.

9 REP. LEWIS: Thank you, sir, for your time.
10 And thank you, Mr. Speaker.

11 SPEAKER MOORE: For what purpose does the
12 gentleman from Bladen, Representative Brisson, arise?

13 REP. BRISSON: To see if Representative Lewis
14 will yield for a couple of questions.

15 SPEAKER MOORE: Does the gentleman from Harnett
16 yield to the gentleman from Bladen?

17 REP. LEWIS: I do, Mr. Speaker.

18 SPEAKER MOORE: He yields.

19 REP. BRISSON: Thank you, Mr. Speaker. Thank
20 you, Representative Lewis. It may take me a minute
21 here to get through my questions, but in the beginning
22 when the Courts made the decision, it was certainly
23 on -- obviously it was on district 1 and 12, which was
24 two out of the 13 districts. And, I guess, I'm
25 certainly not speaking for any of the other members,

1 but I kind of assumed that should we -- evidently,
2 we've got a problem there. When we started off I
3 thought, I assumed, that maybe the problem could be
4 worked out in the general consensus of that district.
5 Do you understand what I'm saying? That maybe it
6 didn't involve the whole state. One of my questions,
7 how much time did the committee spend on concentrating
8 on trying to get in compliance in that general area
9 versus -- and when was the decision made to do it
10 statewide because it changed? In the original
11 committee was kind of -- I saw the members. It looked
12 like that it was maybe not intentionally set up, but
13 basically a lot of -- it was close by neighbors
14 involved in that general vicinity of the state on the
15 committee, maybe one or two scattered out away from,
16 kind of, more distant away. And after the two
17 questions that I'm trying to ask, and I'll them both is
18 how much time, or if any time was spent on just the
19 general consensus and vicinity of the question -- the
20 two districts in question? And at what time did the
21 committee decide to expand and redo the whole state?
22 And did the committee look at maybe taking a look at
23 the committee then when they went to the full state to
24 maybe justify expanding the committee or make sure we
25 have broader input from throughout the state?

1 REP. LEWIS: Thank you for that question,
2 Representative. Let me do my very best to answer.
3 First of all, you are right when you say the case that
4 was brought and adjudicated by the three-judge panel
5 involved the 1st Congressional District and the 12th,
6 not all 13. However, when you're drawing districts,
7 what you're talking about is assigning geographic areas
8 where 733,498 or 499 people can elect a member to the
9 U.S. House. So, when you change lines in one part of
10 the state, you are essentially moving people. And as
11 you move people that a cause in one district almost
12 certainly causes a change in those around it. So what
13 you'll notice when you look at the proposed map is that
14 some districts seem to have changed very little. The
15 11th, for instance, the mountain district, really I
16 think the only change that was made there had to do
17 with trying to equalize some population because
18 additional population had been pushed west, if you
19 will, from the 10th and from the 5th. So, as far as
20 the time spent, what the committee did was debate the
21 criteria that we felt would help us comply with the
22 Harris court decision. We respect the judges and want
23 to honor both the written law and the spirit in which
24 they issued the opinion. But in candor, there was not
25 a great deal of curative language in the opinion that

1 said had you done X, Y and Z, we would not have found
2 the way we found. So what the committee did instead is
3 it went through in a full and open session in which
4 amendments were, in fact, considered, and it adopted
5 criteria that it felt would help us be able to comply
6 with the court order. Those, as I have said, were the
7 equal population, the contiguity, the political data,
8 partisan advantage, doing away with the serpentine
9 nature of the 12th, compactness, and incumbency. So
10 once the committee adopted those criteria, we set about
11 and have been able to produce a map which is based on
12 those criteria.

13 I think what you're asking about in particular
14 is there are some counties that seem to be
15 geographically far away from either the 1st or the 12th
16 that their district lines have changed. And I will
17 openly concede that you are right in the observation
18 that you have made. But, again, for lack of a better
19 analogy, if you picture a child playing with a balloon,
20 when the child will squeeze the balloon in one part,
21 another part will change its shape. And that is
22 largely why districts all across the state changed.
23 But, again, I would point out, even though certain
24 counties may have changed the district they were in or
25 certain counties may be divided that weren't divided

1 before, this map divides only 13 counties and only 12
2 VTDs. So this map, to the extent that it has to be
3 used because a stay is not granted, at least based on
4 the criteria adopted by the committee, is a superior
5 map and we believe complies with what we were ordered
6 to do by the Court.

7 REP. BRISSON: Thank you.

8 SPEAKER MOORE: Does the gentleman from Bladen
9 wish to ask an additional question?

10 REP. BRISSON: I just --

11 SPEAKER MOORE: Or does the gentleman wish to
12 debate the bill?

13 REP. BRISSON: I just wanted to ask to make
14 sure that I got my question, both questions answered.

15 SPEAKER MOORE: Does the gentleman from Harnett
16 yield to an additional question?

17 REP. LEWIS: I yield.

18 SPEAKER MOORE: He yields. The gentleman is
19 recognized -- and Representative Brisson, I am trying
20 to do this orderly because the court reporter is trying
21 to make a record, so bear with me on that. The
22 gentleman has the floor for a question.

23 REP. BRISSON: Thank you, Mr. Speaker. Thank
24 you, Representative Lewis. What -- so did the
25 committee ever look at expanding when we decided to

1 go -- that was one of my questions, expanding the
2 committee to make sure that we had a pretty much
3 representation statewide on the committee?

4 REP. LEWIS: Thank you for that question,
5 Representative. And I did fail to answer it the first
6 time you asked it, I apologize. The Speaker and the
7 President Pro Tem made these appointments about a week
8 ago today. We have been operating under -- I think
9 even those opposed to the maps, would acknowledge that
10 we have been operating under a very compressed
11 timetable. And when the decisions were made, I did not
12 ask the Speaker and the President Pro Tem to expand the
13 membership of the committees. They certainly have the
14 authority to do that. I don't even know, in candor,
15 that it was contemplated to expand the committee. We
16 did make clear though, in every effort that we could,
17 that all members of the General Assembly, regardless if
18 they were voting members of the committee or not, were
19 encouraged to attend the committee and were certainly
20 given a chance to speak. I think, in fact, I think
21 several did actually ask questions or take part in the
22 debate that were not actually seated members of the
23 committee. And I would point out that while it is
24 pretty much a expected tradition of the General
25 Assembly that a member of the General Assembly that

1 wants to address a standing committee can certainly do
2 so, I think we actually went above and beyond trying to
3 reassure members that their input or their questions
4 were welcomed whether or not they were a seated member
5 of the committee.

6 REP. BRISSON: Thank you, Representative Lewis.
7 Mr. Speaker, can I speak on the bill?

8 SPEAKER MOORE: The gentleman has the floor to
9 debate the bill.

10 REP. BRISSON: Thank you, Mr. Speaker. Ladies
11 and gentlemen, I just -- and I know that we have ended
12 up with less split counties, divided counties, which is
13 great. But I just want to remind this body that with
14 small populated counties, and I represent -- two out of
15 three that I represent are kind of considered small
16 population -- any time that the smaller counties have
17 to be divided, it does make a big difference to the
18 people. Maybe not statewide concerns, but the
19 general -- people in general in small populations, they
20 feel like divided, when you divide them, they are not
21 whole. And we don't get a whole lot of recognition
22 with the small population to begin with. We don't feel
23 that maybe our word is not heard. Our message is not
24 heard quite as well as the larger counties populated.
25 But when you divide us in half or take a third of our

1 folks, it does have the people concerned that maybe we
2 don't end up with the representation in Congress or
3 wherever it be. And that is my concern and it is all
4 about the small populated. Anytime that we can do
5 anything to help those situations, I hope that we will
6 certainly consider that. Thank you so much, Mr.
7 Speaker.

8 SPEAKER MOORE: For what purpose does the
9 gentleman from Wake, Rep. Martin, arise?

10 REP. MARTIN: To see if the gentleman from
11 Harnett would yield to a few questions.

12 SPEAKER MOORE: Does the gentleman from
13 Harnett, Representative Lewis, yield to the gentleman
14 from Wake?

15 REP. LEWIS: I yield, Mr. Speaker.

16 SPEAKER MOORE: He yields.

17 REP. MARTIN: Thank you, Mr. Speaker, and thank
18 you, Representative Lewis. I was in attendance in the
19 committees and tried to pay attention to the questions
20 that were asked. Unfortunately, I made the mistake of
21 the sitting next to Representative Torbett, and we were
22 cutting up in class a little bit. So, Representative
23 Lewis, I may repeat some of the questions that you have
24 already attempted to answer and for that I apologize,
25 but blame Representative Torbett for that.

1 Mr. Speaker, the first question I would ask the
2 gentleman from Harnett is regarding Dr. Hofeller who I
3 believe he said was the map drawer. And my question
4 is, was Dr. Hofeller paid for his services with public
5 funds? And if so, how much did he receive in public
6 money?

7 REP. LEWIS: Thank you for that question,
8 Representative. Dr. Hofeller has not, to my knowledge,
9 invoiced the state yet. I do anticipate that he will.
10 I don't have access to that at the moment. It
11 certainly would not exceed the 25,000 that was
12 authorized to Chairman Rucho and myself on behalf of
13 the Republicans and the 25,000 that was authorized to
14 the Democrats to be able to produce the maps. But I
15 don't have an exact figure. I'm sorry.

16 REP. MARTIN: Thank you, sir. Mr. Speaker, to
17 ask another question of the gentleman.

18 SPEAKER MOORE: Does the gentleman from Harnett
19 yield to an additional question from the gentleman from
20 Wake?

21 REP. LEWIS: I yield.

22 SPEAKER MOORE: He yields.

23 REP. MARTIN: Thank you, Mr. Speaker. Thank
24 you, Representative Lewis. Representative Lewis has
25 been quite up front that this is an attempt to get ten

1 seats for Republicans and three for Democrats and that
2 this has partisan purposes. So my question to the
3 gentleman from Harnett is, is this essentially a
4 partisan gerrymander?

5 REP. LEWIS: Well, thank you for that question,
6 Representative. To be clear, the map that you have
7 before you was drawn using criteria that was openly
8 debated and adopted by the Joint Redistricting
9 Committee. Those factors that went into this were of
10 course the requirement to have equal population,
11 contiguity. Political data did play a part in drawing
12 the map. We did seek partisan advantage in drawing the
13 map. We did seek to eliminate the shape of the 12th
14 Congressional District. We did strive for compactness,
15 a lot to what Representative Brisson was just referring
16 to, trying not to split the smaller rural counties if
17 we could. And we considered incumbency. So, as I said
18 earlier in the committee, when a partisan such as you
19 or I look at a political map, some of us see an evil
20 sinister gerrymander if it doesn't meet the objectives
21 that we would like for it to meet. And some see it as
22 a work of art or a work of good public policy. So I
23 would submit to you that the map was drawn based on the
24 criteria adopted by the committee, and is, in fact,
25 good public policy.

1 REP. MARTIN: Thank you, Representative Lewis.
2 And, Mr. Speaker, to see if the gentleman would yield
3 to another question.

4 SPEAKER MOORE: Does the gentleman from Harnett
5 yield to an additional question from the gentleman from
6 Wake?

7 REP. LEWIS: I yield.

8 SPEAKER MOORE: He yields.

9 REP. MARTIN: And I apologize, Mr. Speaker, you
10 can rule me out of order pretty quickly, but a slight
11 editorial comment. Representative Lewis and I are both
12 fathers, and I will note that when our babies made
13 their first production in their diaper, we think it is
14 beautiful also. And I will withdraw that, and with it,
15 an apology.

16 Representative Lewis, the next question I would
17 have for you is do you believe that a partisan
18 gerrymander -- that -- I will restate that. That a
19 plan that would elect ten Republicans and three
20 Democrats in a state that is much more evenly divided
21 in electorates would violate the U.S. Constitution or
22 our State Constitution?

23 REP. LEWIS: Thank you for that question,
24 Representative. To be clear, when I went through the
25 criteria earlier, we did not look at political

1 registration because we believe that election results,
2 election outcome are much better predictors of how the
3 people actually vote than partisan registration is. I
4 mean, you and I have had conversations in the past
5 about the continued growth of the total percentage of
6 voters that choose to list themselves as unaffiliated.
7 We have talked about that in the past. So we believe
8 that we looked at the political results of past
9 elections and have been able to produce a map that will
10 still require the political parties or the individual
11 seeking to be elected within those districts to offer a
12 good solid candidate who can appeal to their base, be
13 it Democrat or Republican, but also be able to appeal
14 to the ever-growing unaffiliated. So, we believe that
15 while -- and I freely acknowledge that I sought
16 partisan advantage as based on the criteria in drawing
17 this map. We do believe that the map has been drawn in
18 a fair and open attempt to comply with the court
19 ruling.

20 REP. MARTIN: Mr. Speaker, to see if the
21 gentleman would yield to another question.

22 SPEAKER MOORE: Does the gentleman from Harnett
23 yield to an additional question from the gentleman from
24 Wake?

25 REP. LEWIS: I yield.

1 SPEAKER MOORE: He yields.

2 REP. MARTIN: Thank you, sir. Representative
3 Lewis, my question actually is intended to get more at
4 the issue not of partisan registration but actual
5 election results, and more specifically, election
6 results in congressional elections since we are talking
7 about congressional districts here. So my question is,
8 do you believe that it is constitutional under the
9 federal and the state constitutions to draw a plan, to
10 have a plan that elects ten Republicans and three
11 Democrats where election results of the past several
12 cycles are much more -- would suggest a much more --
13 are much closer than a ten to three margin?

14 REP. LEWIS: Thank you for that question,
15 Representative. And let me try to answer it a
16 different way. But for the criteria adopted by the
17 committee which instructed the map drawers to do
18 certain things like try to maintain compactness, try to
19 make, you know -- take incumbency into account, try to
20 make the districts look more compact, be more compact,
21 keep more counties compact, we could have been much
22 more aggressive partisan-wise trying to obtain a map
23 that would elect 11 Republicans. But you can't really
24 do that if you simply consider partisanship as a part
25 of the criteria adopted by the committee, which is what

1 we did.

2 REP. MARTIN: Mr. Speaker, to see if the
3 gentleman would yield to another question.

4 SPEAKER MOORE: Does the gentleman from Harnett
5 yield to an additional question from the gentleman from
6 Wake?

7 Actually before the gentleman does -- before
8 these students leave, the students up on the right, the
9 Chair wanted to recognize a group of elementary
10 students from Easley Elementary School in Durham.
11 Would you all please stand so that we can welcome you
12 and thank you for being with us today. From Durham
13 your representatives are Representative Hall,
14 Representative Michaux, I believe Representative Meyer
15 has part of Durham. Am I missing anybody?

16 REP. MICHAUX: Luebke.

17 SPEAKER MOORE: Representative Luebke is not
18 here, I don't think. So those are your representatives
19 also. Thanks for being with us today.

20 Sorry for the interruption. I believe the
21 gentleman from Wake was stating a question at this
22 point. The gentleman from Wake has the floor to
23 continue propounding the question to the gentleman from
24 Harnett.

25 REP. MARTIN: Thank you very much, Mr. Speaker.

1 Representative Lewis, the question I'm going to ask is
2 an attempt to restate the question I've previously
3 asked, and the fault is all with me for not stating it
4 clearly. You've produced a district with ten
5 Republicans, likely to elect ten Republicans and three
6 Democrats. You stated, I think, just stated that you
7 could have even done 11 Republicans and two Democrats,
8 and I am trying to understand and get an answer from
9 you as to whether or not you think that the plan you
10 have now with the partisan result it has, in light of
11 congressional election results of North Carolina, is
12 constitutional?

13 REP. LEWIS: Representative, thank you for that
14 question. As -- and I'm not trying to sound like a
15 broken record. I know that you're an attorney. I'm
16 not. I will tell you that the committee adopted
17 criteria, one of which was to seek partisan advantage
18 for the Republicans. Now, if you ask me personally if
19 I think that is a good thing, I will tell you I do. I
20 think you are a great man. I think you are a fine
21 public servant. I think electing Republicans is better
22 than electing Democrats. So I drew this map in a way
23 to help foster what I think is better for the country.

24 REP. MARTIN: Mr. Speaker, to see if the
25 gentleman would yield to another question.

1 SPEAKER MOORE: Does the gentleman from Harnett
2 yield to an additional question from the gentleman from
3 Wake?

4 REP. LEWIS: I yield.

5 SPEAKER MOORE: He yields.

6 REP. MARTIN: Thank you, Mr. Speaker. And let
7 me add for the record that I think the gentleman from
8 Harnett is a fine public servant also with the interest
9 in the public at heart, and to boot, he has wonderful
10 hair also.

11 Mr. Speaker and members, I do feel that we have
12 a tendency to treat questioning on the floor of the
13 General Assembly like a cross-examination. We've heard
14 the adage, physician heal thyself. I think in this
15 case lawyer heal thyself is appropriate. So I don't
16 want to turn this into a cross-examination, but I've
17 tried to answer the question about his opinion on the
18 constitutionality of a partisan gerrymander. I don't
19 think it has been answered, but to avoid this from
20 turning into cross-examination, I would like to move on
21 to another question. And that question is, Dr.
22 Hofeller and anyone else involved in the map drawing,
23 what data did they use to meet your stated criteria of
24 attempting to get a ten to three Republican advantage?

25 REP. LEWIS: Well, thank you for that question,

1 Representative. On every member's desk and also before
2 every member in the committee, the Joint Committee, the
3 Committee in the Senate, and the Committee in the
4 House, is a stat pack, if you will, that lists a
5 variety of races that over 2008, 2010, and 2014, we
6 list out all of the political contests that were used.
7 I'll be happy, if you would like me to, to let you know
8 which ones they were, but I think it's pretty clear to
9 the members and on the record which political contests
10 we used. Just real quick, Attorney General 2008,
11 Commissioner of Agriculture 2008, you know, in fact --
12 yeah, I mean, we used a variety of political contests
13 from 2008 through 2014, all of which we provided to the
14 members on their desk.

15 REP. MARTIN: Mr. Speaker, to see if the
16 gentleman would yield to another question.

17 SPEAKER MOORE: Does the gentleman from Harnett
18 yield to an additional question from the gentleman from
19 Wake?

20 REP. LEWIS: Yes, sir, I yield.

21 SPEAKER MOORE: He yields.

22 REP. MARTIN: Thank you, Mr. Speaker. And Mr.
23 Speaker, the gentleman from Harnett has been most
24 gracious with his time in committee, in several
25 committee meetings over going through the lists and

1 explaining what the races are and what the codes meant.
2 But I do want to ask just a couple of clarifying
3 questions on that if I could. Representative Lewis,
4 would it be accurate to say that the mapmakers
5 considered every one of the races that's listed in the
6 charts that were presented at committee several times.

7 REP. LEWIS: Yes, sir.

8 REP. MARTIN: And another question, Mr.
9 Speaker.

10 SPEAKER MOORE: Does the gentleman wish to ask
11 an additional question?

12 REP. MARTIN: Yes, sir.

13 SPEAKER MOORE: And does the gentleman from
14 Harnett yield to an additional question?

15 REP. LEWIS: Yes, sir.

16 SPEAKER MOORE: He yields.

17 REP. MARTIN: Thank you, Mr. Speaker. And,
18 Representative Lewis, are there any races that are not
19 listed on these charts that the mapmakers considered?

20 REP. LEWIS: No, sir.

21 REP. MARTIN: Mr. Speaker, to see if the
22 gentleman would yield to another question.

23 SPEAKER MOORE: Does the gentleman yield to an
24 additional question?

25 REP. LEWIS: I yield.

1 SPEAKER MOORE: He yields.

2 REP. MARTIN: Thank you, Mr. Speaker. Thank
3 you, Representative Lewis. In looking at those
4 different races, did you weigh, for example, the
5 results in lieutenant gubernatorial elections equally
6 with those of say a gubernatorial election?

7 REP. LEWIS: Thank you for that question,
8 Representative. I think it is important to understand,
9 the races that we used were statewide. We were trying
10 to get, you know, the broadest swath of data that would
11 apply equally in every district. I've had a couple of
12 members say, well, why didn't you look at the race for
13 Congress and whatnot, and it was just too hard to
14 figure out how the data -- you know, for districts that
15 have changed over time would work. So in terms of did
16 we weigh them equally, to be candid with you, I think
17 that those of us that spend way too much time in
18 politics know that certain races, maybe weren't as
19 equal as they should be because one party or the other
20 either had a nonincumbent candidate that was trying to
21 seek the office, which we believe -- you know, I'm sure
22 you would agree, that most of the time, most the time
23 incumbency is an advantage. Sometimes it might have
24 been an underfunded campaign. So we looked at all of
25 them, but, no, my gut would tell me that I would gain

1 more or garner more by looking at the Governor's
2 results than I would the Lieutenant Governor's results
3 and so on. But we looked at all of them and tried to
4 blend the results. I mean, you know, frankly they
5 don't always come up like we want them to. The
6 Attorney General, the Democratic nominee for AG has won
7 in all 13 of these. So certainly the strength of the
8 candidate, if that is what you're trying to ask,
9 certainly that matters.

10 REP. MARTIN: Mr. Speaker, to see if the
11 gentleman would yield to another question.

12 SPEAKER MOORE: Does the gentleman from Harnett
13 yield to an additional question from the gentleman from
14 Wake?

15 REP. LEWIS: I yield. Yes, sir.

16 SPEAKER MOORE: He yields.

17 REP. MARTIN: Thank you, Mr. Speaker. I would
18 like to thank the gentleman from Harnett for his
19 patience also.

20 SPEAKER MOORE: Representative Martin, I
21 apologize, the gentleman's time has expired. The Chair
22 will, however, at the Chair's discretion will allow the
23 gentleman to ask one additional question.

24 REP. MARTIN: I would be happy to yield in my
25 time if that is permissible under the rules because

1 this is my fault.

2 SPEAKER MOORE: It is actually the gentleman's
3 time spending to ask the question. But the Chair will
4 give the gentleman one additional question.

5 REP. MARTIN: Thank you, Mr. Speaker.
6 Representative Lewis, the question I would ask is, do
7 you believe under these maps that African American
8 voters have a reasonable opportunity to elect a
9 candidate of their choice in any of the districts
10 you've drawn? And if so, which of those districts do
11 they have such an opportunity? And if so, how did you
12 determine that?

13 REP. LEWIS: Thank you for that question,
14 Representative. As I've said before, the criteria that
15 we used in drawing these maps has been spelled out.
16 One of those criteria was not race. Race was not
17 considered in the drawing of these maps. I do not know
18 what the racial composition of the voters that reside
19 in these districts is. So I don't feel that is a
20 question that I can give a direct answer to as race was
21 not among the criteria considered when we drew these
22 maps, based on our understanding of the Harris case,
23 which said that racially polarized voting did not
24 exist. Thank you.

25 SPEAKER MOORE: And, Representative Martin,

1 should the gentleman wish additional questions, the
2 gentleman will be recognized a second time for that in
3 just a bit if the gentleman so desires.

4 For what purpose does the lady from Buncombe,
5 Representative Fisher, arise?

6 REP. FISHER: To ask a question of the bill
7 sponsor, please.

8 SPEAKER MOORE: Does the gentleman from Harnett
9 yield to the lady from Buncombe?

10 REP. LEWIS: Yes, sir. I yield.

11 SPEAKER MOORE: He yields.

12 REP. FISHER: Take a breath, Representative. I
13 know you've been on the spot for a little while, but I
14 appreciate your taking a moment to answer. I had a
15 concern passed along to me and because it happens to
16 deal with my district, which I thought was kind of
17 unusual because I thought that this was only going to
18 deal with a couple of congressional districts, but it
19 seems like it is stretching even further west. Can you
20 tell me why, for example, Calvary Baptist Church area
21 on Haywood Road in West Asheville might have been moved
22 from the 10th to the 11th district?

23 REP. LEWIS: Thank you for the question,
24 Representative. And sadly, while I know you represent
25 one of the most beautiful parts of our state, I am not

1 immediately familiar with the church that you
2 referenced. I will tell you that the changes that were
3 made in Buncombe County were to equalize population
4 that had been moved around because other districts were
5 redrawn.

6 REP. FISHER: A follow-up.

7 SPEAKER MOORE: Does the gentleman from Harnett
8 yield to an additional question from the lady from
9 Buncombe?

10 REP. LEWIS: Yes, sir. I yield.

11 SPEAKER MOORE: He yields.

12 REP. FISHER: And I think then from your
13 answer -- from your previous answer, that I can assume
14 that the same would be true for having moved part of
15 Biltmore Forest in Asheville to the 11th, east of
16 Sweeten Creek Road, from the 11th to the 10th. And
17 then an area of North Asheville in Woodfin from the
18 10th to the 11th; am I assuming correctly?

19 REP. LEWIS: Thank you for the question,
20 Representative. The reason that we would have divided
21 counties would have been one of the criteria that was
22 listed earlier and considered by the committee. I have
23 a map on my desk that shows only whole VTDs of Buncombe
24 County. I'm afraid I just don't know -- my wife
25 actually fussed at me because I've been gone for two

1 weeks doing this. She would like to go to Grove Park
2 this weekend. So maybe I could visit Biltmore Forest
3 when I'm there, but I don't that we're going to be able
4 to make it.

5 REP. FISHER: Well, I hope you'll be able to.
6 There's a great Arts and Crafts Mission Furniture
7 Conference going on there right now that my daughter
8 helped plan. But I think --

9 SPEAKER MOORE: Does the lady wish to ask an
10 additional question?

11 REP. FISHER: I would like to speak on the bill
12 for just briefly, Mr. Speaker.

13 SPEAKER MOORE: The lady is recognized to
14 debate the bill and to do a public service announcement
15 for Asheville as well.

16 REP. FISHER: Sure, I can do an advertisement
17 anytime. I'm very proud of my town. I appreciate the
18 representative taking the time to try to address my
19 questions. But the point, I guess, I would like to
20 make in having asked the questions in the first place
21 is that we are, again, embarking on an exercise that
22 will further confuse the voters. I know from having
23 listened to the four or so hours of the public hearing
24 that we had several examples of people who have gone to
25 their polling places, filled out their ballot, only to

1 find out that they didn't know who their congressperson
2 was. So they were surprised to see either one name or
3 another on their ballot. They thought that this person
4 was their Congressperson, but it turns out it was
5 somebody else. And I would just caution us that if
6 we're going to have to do this, there needs to be some
7 way, some efficient way, to educate the voters about
8 the changes that are being made. And try to make it
9 easier for them to do what is their right to do, which
10 is exercise their vote. So, I just felt it important
11 to make the body aware, or again aware, of how
12 difficult this whole thing is making it for the voters
13 in North Carolina. Thank you, Mr. Speaker.

14 SPEAKER MOORE: Members, I hope you'll join me
15 in welcoming, we have another school group with us
16 today. We have students from the Longleaf School of
17 the Arts here in Raleigh with us. If you all would
18 please stand and let us welcome you. Thank you for
19 being with us today.

20 For what purpose does the lady from Wilson,
21 Representative Farmer-Butterfield, arise?

22 REP. FARMER-BUTTERFIELD: To speak on the bill.

23 SPEAKER MOORE: The lady has the floor to
24 debate the bill.

25 REP. FARMER-BUTTERFIELD: Thank you,

1 Mr. Speaker. I feel compelled to speak on this as an
2 African American. If I think about redistricting for
3 me in my district, I went from Wilson and Edgecombe to
4 Wilson and Pitt. My constituents from Edgecombe and
5 Wilson were reluctant about the change in terms of
6 redistricting as it related to my having Pitt County.
7 But if I look back, I am happy with Pitt County and I
8 consider it a blessing that I was able to move from
9 Wilson, Edgecombe with experience and represent the
10 economic engine of the East in Pitt County.

11 So today in looking at the congressional
12 districts, I want to talk about the process. Public
13 hearings were convened before the release of draft maps
14 for the public to view. Was that really cost efficient
15 and necessary? Nothing was available for the public to
16 respond to. Why would we do that? Let's talk about
17 moving from one extreme to the other. In drawing the
18 initial maps, we went from African Americans exceeding
19 50 percent in those districts, the two key districts
20 that we're talking about that have been changed. Now,
21 we are looking at no consideration at all for race.
22 It's overreaching in that the maps guarantee election
23 of ten Republicans and three Democrats so is said.
24 Democrats are 43 percent of the voters in this state
25 and only given an opportunity for three districts for

1 Congress doesn't seem balanced at all. In fact, one of
2 the districts that was recently drawn, we were told
3 that it was leaning Republican. What about
4 legislators, are they required to protect minority
5 communities from racially polarized voting patterns?
6 Yes, they are. Voter discrimination matters. If,
7 indeed, public hearings mattered and the input of
8 African Americans had been taken into consideration,
9 perhaps we would not be in this position we are in
10 today. In fact, I know we would not be in the position
11 we are in today.

12 Finally, when the leadership was asked in
13 committee this morning if the map was drawn prior to
14 the public hearings held on Monday and prior to the
15 criterion being decided on Tuesday the response was, I
16 can't say. So given all of these factors I share with
17 you, I ask that you vote against these maps that have
18 been redrawn. Thank you.

19 SPEAKER MOORE: For what purpose does the
20 gentleman from Forsyth, Representative Hanes, arise?

21 REP. HANES: To ask the bill sponsor a question
22 and to speak on the bill.

23 SPEAKER MOORE: Does the gentleman from Harnett
24 yield to the gentleman from Forsyth?

25 REP. LEWIS: I yield.

1 SPEAKER MOORE: He yields.

2 REP. HANES: Representative Lewis, let's talk
3 about race for just a second, and some of the
4 representatives here know that I like this
5 conversation. And I fashion myself as a person who can
6 do it -- talk about race without getting racial. So I
7 want to ask you a question, and it is a little nuanced
8 from the questions that have been asked to you
9 regarding race this morning. Representative Lewis,
10 does race impact the maps that have been drawn? The
11 question is not did you consider race, but does race
12 impact the maps that have been drawn?

13 REP. LEWIS: Thank you for the question,
14 Representative. All I can tell you is that race was
15 not a consideration when the maps were drawn. I am
16 not, to be candid with you, sure I truly understand the
17 nature of the nuanced question.

18 REP. HANES: Okay. Okay. Thank you.
19 Mr. Speaker, to speak on the bill, please.

20 SPEAKER MOORE: The gentleman from Forsyth has
21 the floor to debate the bill.

22 REP. HANES: So, ladies and gentlemen, let's
23 have a brief conversation about race, and it goes all
24 of the way back to the beginning. So as you know, in
25 the beginning God created heaven and earth. He created

1 man and woman and said, this is good. And then he
2 created America, and he said, I like that too. And
3 then black folk and white folk got together in a most
4 disagreeable one-sided contract negotiation. And I can
5 assure you that both black folk and white folk got to
6 America on a boat. Okay? And over the years black
7 folk, my folks, continued to have disagreement about
8 this contract that we got brought into here. And over
9 the years we got our freedom. Representative Michaux
10 was elected to the House of Representatives, and here
11 we are today talking about race and elections.

12 The question I asked was, does race impact this
13 map? That is either directly or indirectly. And the
14 answer is, of course it does; of course it does. What
15 we have here is we have Democrats submerged in majority
16 Republican districts, ten of them, and Republicans
17 submerged in majority Democratic districts, three of
18 them. Of course, it matters. If you look at the
19 numbers for the state, there are 1.9 million
20 Republicans; 95 percent of them are white. The
21 2.6 million Democrats; 41 percent of them are black.
22 So saying in some way that we did not use race is
23 frankly just simple subterfuge toward achieving a
24 broader goal. And that is a goal that was admitted
25 during our committee, and that goal was the maintenance

1 of districts that disenfranchise Democrats. And in
2 many ways, whether that is intentional or not, those
3 districts silenced the voices of people who look like
4 me.

5 Two of the largest minority populations in this
6 state, Forsyth and Guilford County, have been silenced
7 with regard to congressional politics. We could have
8 gone nine to four, with a district there in the Triad
9 maintained Representative Alma Adams, and we could have
10 achieved this goal of eliminating the serpentine
11 districts, as we've called them, of the 12th district.
12 And we could have been gone away from here hours ago.
13 We chose not to do that, and we continue to think about
14 these maps as not impacting race.

15 Let me just make one more statement, and it is
16 from a op-ed I wrote in the Winston-Salem Chronicle
17 this week. And I want to read for you the last
18 paragraph of that statement as it regards to how we
19 need to think about and how race actually does matter,
20 you know, for us. I said, "Black people are, in fact,
21 people and should be counted in the whole! Our lives,
22 our voices, and our votes matter from Murphy to Manteo.
23 We are part of the fabric of North Carolina and have
24 earned our right to representation through
25 constitutionally consistent districts in every corner

1 of this state. We paid for that right by whip, through
2 blood, by protest, and through eventual freedom. It is
3 never the wrong time to do the right thing." Thank
4 you.

5 SPEAKER MOORE: For what purpose does the
6 gentleman from Rockingham, Representative Jones, arise?

7 REP. JONES: To debate the bill.

8 SPEAKER MOORE: The gentleman has the floor to
9 debate the bill.

10 REP. JONES: Thank you, Mr. Speaker. Ladies
11 and gentlemen of the House, I have to say that I have
12 been quite fascinated with so many aspects of this
13 debate, and discussion throughout the committee process
14 and today on the floor, and I just want to speak to
15 that a little bit. You know, as someone who has lived
16 in the state of North Carolina for all of my life and
17 has been kind of a student of election history over the
18 past few decades in particular, I continue to be quite
19 fascinated and have really enjoyed this conversation,
20 particularly when we have heard about gerrymandering.
21 And I think it behooves us a little bit to consider
22 maybe a little trip down memory lane when we think
23 about gerrymandering. Because, quite frankly, I'm not
24 sure that a lot of people knew that the word was
25 invented until Republicans took the majority in 2010.

1 I never really heard it reported on very much through
2 the media. I never heard it spoken about in the
3 General Assembly. I thought it was fascinating as we
4 were in committee this week as we saw the maps up on
5 the wall that went all the way back to 1992 at least.
6 I also happen to recall a time that the state
7 legislature looked very different than it does today.
8 And, you know, there was no stone unturned. We
9 remember a time of single-member districts and
10 two-member districts and three-member districts and
11 four-member districts. You know, whatever it took to
12 keep the majority in the time at the majority that
13 seemed to be fine. And so a lot of the voices that I
14 hear today representing the minority party that used to
15 be in the majority, I have to wonder, you know, where
16 were those voices in the Democratic Party for decades
17 and decades and decades?

18 You know, I've heard it also a lot of
19 complaining about the fact that there are ten
20 Republican congressman and three Democrats. That there
21 currently are and that these maps as, Representative
22 Lewis has been very candid and transparent and honest,
23 something that I for one greatly appreciate, and
24 would've greatly appreciated that conversation over the
25 decades. So thank you, Representative Lewis, for your

1 honesty and integrity and transparency in coming right
2 out and saying that, yes, I do believe as we adopted in
3 the committee that there was an attempt made at that
4 partisan advantage. And I keep hearing the complaints
5 from the other side that enjoyed that partisan
6 advantage because of gerrymandering for so many
7 decades.

8 I would just remind the members of this body
9 that if you look over the last 40 years and see how
10 North Carolinians have voted consistently in federal
11 races, I would remind you that in eight of the last
12 nine presidential elections, they have voted
13 Republican. That is 89 percent of the time. And I
14 would remind you that you may not know that in the last
15 16 United States Senate races in North Carolina, 13 of
16 those races went Republican. That was 81 percent of
17 the time. So to me, I don't see a problem in thinking
18 that if you have ten Republicans and three Democrats,
19 which is 77 percent, you might could make the argument
20 that Republicans are underrepresented. But the point
21 of the matter is these maps are not your problem. The
22 problem is that your national party has left the values
23 of the majority of the people in North Carolina. And I
24 would take you back to the 2010 election of the
25 legislature when this Republican majority gained its

1 majority by 16 votes. Those were under maps that the
2 Democrats drew. And fortunately, we had court cases
3 over the years that eliminated the two and three and
4 four-member districts, and we have the pod system now
5 where you can't just divide counties wherever. But I
6 would just remind the listeners and the voters and the
7 students from North Carolina to study your history and
8 to understand when you hear all these comments and all
9 these complaints about gerrymandering, well, we sat at
10 the master's feet for decades and perhaps some people
11 learned something. But I would suggest that they are
12 fair. Okay? I understand the Democrats don't like it.
13 The Republicans didn't like the map for decades, but
14 they are fair, they are legal, and they are by the
15 rules.

16 And finally, ladies and gentlemen, I would not
17 accept that Democrats cannot be elected in these
18 districts. If you look at the voting data before you,
19 for instance, we mentioned this in committee, the 2008
20 election for the Attorney General, the Democrat won 13
21 out of 13 of these congressional districts. You go
22 down the line, the State Auditor, the Democrat won 9 of
23 13 of these districts. I believe the Commissioner of
24 Insurance won a majority of these districts. And so,
25 ladies and gentlemen, I would submit that the people of

1 North Carolina are not robots. They have the perfect
2 opportunity to elect the candidate of their choice, and
3 they can and they do cross party lines whenever they
4 feel it necessary. They look at the candidates. And
5 so I would suggest that we trust the voters of North
6 Carolina to go out there and make their choice.
7 Recognize that we are putting forward fair and legal
8 maps based on what the courts have directed us to do,
9 and I commend, for one, the people who have worked
10 very, very hard. I want to mention once again the
11 staff that has worked hard, the people that have worked
12 hard to put this forward. We have been given a very
13 difficult task in a very short period of time, and I
14 think we should be proud of the process and the
15 results. Thank you, Mr. Speaker.

16 SPEAKER MOORE: For what purpose does the
17 gentleman from Cumberland, Representative Floyd, arise?

18 REP. FLOYD: Inquiry, with the Chair.

19 SPEAKER MOORE: The gentleman may state his
20 inquiry.

21 REP. FLOYD: It is a very simple inquiry, Mr.
22 Chair. Are we going to meet the 5:00 deadline?

23 SPEAKER MOORE: One way or another.

24 For what purpose does the gentleman from
25 Haywood, Representative Queen, arise?

1 REP. QUEEN: To speak on the bill.

2 SPEAKER MOORE: The gentleman has the floor to
3 debate the bill.

4 REP. QUEEN: You know, we have heard a lot of
5 good points being made, but whenever your criteria is
6 for political advantage, this General Assembly is
7 disenfranchising voters. Where politicians get to
8 select their voters versus voters selecting their
9 politicians, something is awry.

10 Now, Representative Jones was talking about
11 history and the 2010 election was a historic one
12 because it was the first election since Citizens United
13 was passed, and there was about \$20 million that was
14 never in our elections that swung a lot of them. I was
15 in that election, and I experienced that tsunami of
16 outside money. So things have historically affected
17 races, but for this body to work on a bill that
18 basically empowers the politicians, not the citizens,
19 for the vote when the absolute foundation of our system
20 is one vote per citizen and every vote is equal. I
21 think if there was a -- or I will just -- I'll say, how
22 does -- whenever you do that, whenever you gerrymander
23 in a manner that we are speaking and in the manner it
24 was done after the last census by this body, how does
25 that affect the voters' trust in the system? Will

1 their vote count equally or have they been
2 disenfranchised by the drawing of the district that
3 they live in where their vote really won't count in
4 that particular district? And one of the things that
5 I'll use as a data point on that is registered voters
6 self-identify themselves in this state, over
7 2.76 million Democrats and 2.01 million Republicans.
8 The democrats self-identify, but they are
9 disenfranchised in many of their districts by the
10 gerrymandering that has gone on. If we want to make
11 voting a truthful one vote per person, we need to
12 recognize every vote should count equally. I don't
13 think we're doing that here. I think it is clearly the
14 criteria that has been stated, been stated quite
15 clearly that that's not what we're doing, but that is
16 what we should be doing. So that's that point. The
17 second one is, in my region I would contend the
18 criteria that should be in addition to one vote per
19 citizen and every vote counts equally, that should be
20 certainly the criteria, the first one. The second one
21 is communities of interest should be contained in this
22 compactness. And I live in the mountains, as you all
23 know, and we have one urban core, one city, Asheville,
24 a wonderful city, that has been the center of our
25 mountain region since our state was founded. It has

1 grown to be a fabulous center. Well, the
2 gerrymandering last time that the courts have thrown
3 out -- or -- has taken our urban core away from our
4 region. So our congressman does not have the city of
5 his region in his district. So whether he's a Charles
6 Taylor or Heath Shuler, he's Democrat or Republican,
7 because you know the 11th district has flipped back and
8 forth for decades, but we always had a unified district
9 with our urban core in it. But for complete political
10 advantage, our congressional district has been neutered
11 from its urban core, and we all know that the urban
12 cores drive the economics of regions. So for these two
13 reasons I think this is a very unfortunate bill because
14 neither of these important issues, communities of
15 interest and one vote per citizen, are embodied in the
16 criteria that have been used to draw it. Thank you.

17 REP. STAM: Mr. Speaker.

18 SPEAKER MOORE: For what purpose does the
19 gentleman from Wake, Representative Stam, arise?

20 REP. STAM: Would Representative Queen yield
21 for one question?

22 SPEAKER MOORE: Does the gentleman from Haywood
23 yield to the gentleman from Wake?

24 REP. QUEEN: I will.

25 SPEAKER MOORE: He yields.

1 REP. STAM: Representative Queen, I chaired our
2 State Platform Committee for a few years; it's
3 available. Have you ever thought of maybe changing the
4 policies and platform of your party so that you would
5 attract voters?

6 REP. QUEEN: I try to speak to the needs of the
7 citizens in this state every day, Representative Stam.

8 SPEAKER MOORE: For what purpose does the
9 gentleman from Wake, Representative Martin, arise?

10 REP. MARTIN: Mr. Speaker, I think to speak a
11 second time.

12 SPEAKER MOORE: The gentleman is recognized to
13 speak on the bill a second time.

14 REP. MARTIN: Thank you very much, Mr. Speaker.
15 Members, I'll leave the gentleman from Harnett alone
16 now. He was good to indulge me in a long series of
17 questions. But I do want to respond to a couple of
18 statements that were made both in the course of this
19 debate and throughout the committee debate and also to
20 the press.

21 There has been a contention made somehow that
22 Democrats failed to participate in this process, that
23 we offered no alternatives, and nothing could be
24 further from the truth. We offered several
25 amendments -- which I think I'm correct in saying that

1 the record will show were opposed by every single
2 Republican member of the committees. In those
3 committees the Democratic members of the committee told
4 you that you needed to draw districts that gave
5 minority voters the opportunity to elect candidates of
6 their choice, that you have said that you refuse to
7 even consider that data. The Democratic members of
8 these committees told you that they thought it was
9 important to keep Representative Alma Adams, a highly
10 capable minority member of the North Carolina
11 Congressional Delegation, a district in which she has a
12 hope of getting reelected, but you declined to
13 incorporate that request. We told you that it is
14 important to consider one of the basic principles of
15 redistricting, communities of interest, which you heard
16 the gentleman from Bladen, Representative Brisson, I
17 think elude to in his comments and also the gentleman
18 from Forsyth, Representative Hanes, talk about also.
19 But you declined to incorporate that input. And
20 without a doubt, we told you that we did not want to
21 see a partisan gerrymander. Yet you shamelessly and
22 proudly got up and proclaimed that that was exactly
23 what you were going to do. We participated in full;
24 you just chose to ignore our participation. Anyone who
25 says differently is selling something.

1 The gentleman from Rockingham, Representative
2 Jones, also talked about the importance of history, and
3 any Democrat that gets up and tells you that Democrats
4 have not participated in partisan gerrymandering
5 doesn't know what they're talking about and is paying
6 no attention to history. But that's a very 20th
7 Century way of looking at things, and it is not what
8 the public in North Carolina in the 21st Century wants
9 to hear. Folks, people are turning away from your
10 party and mine.

11 Representative Stam's comment about platforms
12 and so forth was from out of nowhere. Democrats have
13 had success in elections as much as Republicans. I
14 think the statistics show and the consensus is we are a
15 purple state now, but in the end, we are a state that
16 is losing a partisan flavor because voters are turning
17 away in droves from you and us. The leading candidate
18 right now for your presidential nomination is a guy who
19 gave significant amounts of money to Hillary Clinton,
20 the leading candidate for my party's nomination. The
21 other leading candidate for my party's nomination is a
22 senator who was unaffiliated until 2015. That should
23 tell both of our parties something. We ignore what the
24 voters are telling us at our peril. They do not want
25 to see partisan gerrymanderers like what the Democrats

1 used to do and what the Republicans are doing now.

2 Now, I was not here the last time Democrats
3 drew statewide districts, but I was here and
4 participated significantly in drawing the Pender and
5 New Hanover districts, which were ordered by the
6 courts. That district came into my committee with a
7 two to one Republican advantage, and it left with a two
8 to one Republican advantage. There was probably no way
9 for us to screw with the partisan mixture of that, but
10 we didn't. And it left -- I think it is safe to say,
11 with the two Republican members from those counties
12 very satisfied with the result. So don't try to lay
13 the guilt of the Democratic party's past on me. I can
14 say that I never have and never will support partisan
15 gerrymandering, and I think it is safe to say that a
16 good number of my colleagues on the other side of the
17 aisle joined me in that also.

18 So folks, let's join together and at least
19 acknowledge that the public does not think that the
20 definition of fair is the childish statement, you did
21 it first. These districts are going to pass just like
22 the gerrymandered districts that Democrats did in the
23 past passed also. I'm under no illusions that we have
24 the ability to stop it. But next time we have the
25 chance to do this, let's find a better way.

1 SPEAKER MOORE: For what purpose does the
2 gentleman from Durham, Representative Michaux, arise?

3 REP. MICHAUX: To ask Representative Lewis a
4 question.

5 SPEAKER MOORE: Does the gentleman from Harnett
6 yield to the gentleman from Durham?

7 REP. LEWIS: I yield.

8 SPEAKER MOORE: He yields.

9 REP. MICHAUX: And, David, honestly, this will
10 be my last question to you. In drawing the maps, was
11 anything made or said or asked to what extent we must
12 preserve the existing minority percentages in order to
13 maintain the minority's present ability to elect its
14 candidate of choice?

15 REP. LEWIS: Representative, thank you for the
16 question. It is my understanding of the Harris
17 decision that they did not find the tests were met that
18 racially polarized voting existed and, as such, we did
19 not consider race in any way when we drew these
20 districts.

21 REP. MICHAUX: Thank you.

22 SPEAKER MOORE: For what purpose does the
23 gentleman from Cumberland, Representative Lucas, arise?

24 REP. LUCAS: To speak briefly on the bill.

25 SPEAKER MOORE: The gentleman has the floor to

1 debate the bill.

2 REP. LUCAS: Thank you, Mr. Speaker. Ladies
3 and gentlemen, I have sat here very attentively as I
4 have contemplated what we are about to do. And that
5 is, we are about to sanction maps that will identify
6 folk who will represent us in the United States
7 Congress. And I would have to say that we should live
8 in a democracy. We do live in a democracy. And when
9 you live in a democracy, our personal feelings and
10 doubts ought to be superseded by what is best for our
11 people. And I'm not so sure that I'm getting that.
12 I've heard some snide snickering. I've heard some
13 snide remarks about, well, you all gerrymandered, so
14 therefore, we're going to do it. Well, if it was wrong
15 then, it is wrong now. Let's do what's right by the
16 people of this great state of North Carolina. They
17 deserve better than this. It is not about partisan
18 bickering. I am saddened to see that we're turning it
19 into that. It should be about who can best do the job
20 for the people of this great state. And people who
21 live in this state, many of them are now saying I don't
22 care whether you are identified as a Democrat or as a
23 Republican. They want to be identified as a citizen,
24 an independent. And they want to have good
25 representation. And that model is trending more and

1 more, and the more we sit here and bicker, the more
2 we're going to see that trend grow.

3 We, last session, I thought were on the right
4 track here in the House when we voted to have an
5 independent commission draw boundary lines, and I
6 thought that was great. I wish that we could get the
7 Senate on board to do the very same thing. That is the
8 most honest and the fairest way to get what we want to
9 have done accomplished. Let's get serious about this;
10 let's stop this partisan bickering; let's move on for
11 the state of North Carolina. Thank you.

12 SPEAKER MOORE: For what purpose does the
13 gentleman from Durham, Representative Hall, arise?

14 REP. L. HALL: To speak on the bill.

15 SPEAKER MOORE: The gentleman has the floor to
16 debate the bill.

17 REP. L. HALL: Thank you, Mr. Speaker. And I
18 want to certainly give thanks to all of those who
19 worked on these maps and have made what I will take to
20 be an effort to satisfy some different interests.

21 I referenced it yesterday when we talked about
22 what we were going to do for voting, and I want to
23 reference it again today because I think we may be
24 missing the boat on this. And I think because you
25 occupy this leadership position and the Court has told

1 you to back and draw these districts, they really
2 weren't saying come back and draw the districts for
3 yourself or to perpetuate your party's power. They
4 were under the impression, and if they didn't
5 explicitly say it, I think they meant to say it, and
6 thought you understood it, that these districts should
7 be drawn for the people of the state of North Carolina.
8 Now we've already heard people talk about the
9 statistics and whether or not there is a certain number
10 of Democrats, a certain number of Republicans and
11 almost a equal number of unaffiliated as there are
12 Republicans, certainly a much larger number of
13 registered Democrats. So we know factually,
14 statistically that is the case. Now that would be
15 turned on the head by the 10-3 districts that we've
16 drawn here now. That is a fact. We can't get around
17 it. And Representative Lewis did say that was his
18 intention, so that has been achieved. So the partisan
19 advantage has been maintained, but not really in
20 compliance with the registered voters of North
21 Carolina.

22 I heard in response to the question about
23 expert map drawers that there was some confusion that
24 maybe the Democrats had authorized or entered into a
25 contract for the person who drew these maps to be paid

1 from the \$25,000 that the committee indicated could be
2 used by Democrats. We did not do that. I hope there
3 is no accounting problem, that someone gets confused
4 and thinks that the \$25,000 that was supposed to be
5 authorized by the committee to Democrats had been
6 waived and authorized to be paid to the person who drew
7 these maps who we don't know how much he charged for
8 them. But we certainly did not -- and under the terms
9 of the committee, I think it says they have to be
10 authorized and released by us. We did not do that, and
11 I just want to make sure that is clear on the record
12 because I heard it stated otherwise.

13 Now, we've ended up with a difference without a
14 distinction here, 10-3, that was our intent to keep it
15 the way it was, and so we understand that. Not maps
16 for the citizens, maps to keep the partisan advantage.
17 And much has been made and I understand it, that the
18 intent was to maintain this partisan advantage. I
19 appreciate those who in this House, and that is one
20 thing we did agree on, at least the majority of us,
21 that we need a Redistricting Committee. A lot of
22 people signed onto that bill that went out of here and
23 voted for it because we recognized we need a
24 Redistricting Committee.

25 We could have tried to do work in the spirit of

1 a redistricting committee, try to draw fair districts
2 for the citizens of North Carolina, try to have
3 communities of interest together so they can be
4 represented effectively and efficiently, and not make a
5 partisan advantage or make an incumbency advantage the
6 priority. We didn't do that.

7 I want to make sure that it is clear on the
8 record as well, and there has been some reference to
9 it, I think Representative Martin who was at the
10 committee meetings when the criteria was adopted. Now,
11 Representative Hager said that they were working on the
12 maps for two weeks before we came to Raleigh, and that
13 was his statement in the committee. That was before
14 the maps were even issued. So if there was some
15 question of someone saying we can't comment as to
16 whether these maps were drawn before the criteria was
17 established, go back and check the record. That was a
18 statement from Representative Hager, and I believe him
19 to be an honest Representative.

20 The question now is, what happened in the
21 committee? When we adopted the criteria for the maps
22 that were already being drawn or worked on for two
23 weeks. So you wonder, does the criteria come first, or
24 do the maps come first? But at any rate, on the
25 timeline when we went to adopt the criteria, I think

1 Representative Martin already referenced it, and you
2 can go back and check the record. That every
3 Democratic criteria that was put forward was voted down
4 along party lines, every one. Certainly you had a
5 two-thirds one-third majority on the committee, and
6 every one was voted down. I think it is important to
7 note that one of those criteria specifically stated
8 division of counties shall only be made for reasons of
9 equalizing population, preserving communities defined
10 by actual shared interests. That shared interest has
11 been addressed by people already, and some of you I'm
12 sure have districts but are not satisfied because
13 communities of shared interest were not respected. And
14 Representative Brisson was certainly right to bring
15 that forward and ask that question, how did you violate
16 that principle? Well, the answer, again, was, when
17 that request was put forward in committee, it was voted
18 down. And so I take people at their word in what
19 they're saying, but we also can't live in an alternate
20 reality.

21 Race is on the ground in North Carolina based
22 on where we live, based on hundreds of years of
23 history, and Jim Crow laws and slavery and
24 discrimination and redlining. It's there. We see it
25 every day when we drive through communities on our way

1 to Raleigh. We live it every day when we're back home,
2 and it is still there. We talk about it in our
3 university system and other places when we do
4 budgeting. So we see it, and we know it. So to draw
5 this plan and say we don't recognize race in North
6 Carolina, and we recognize the racial impact of the
7 plan. But we won't say the word. We're going to do
8 enough in theory to get by the court order, but we're
9 not going to do enough to do good service to the
10 citizens of North Carolina and respect them I think is
11 a short coming that we could do better. So I hope, as
12 someone has already said, that we'll make sure we get a
13 redistricting commission. We shouldn't have to have
14 this discussion. We should be able to recognize what
15 the composition of the voters of North Carolina is,
16 what they would express, and not hold them back from
17 being able to work together and be effectively
18 represented.

19 I heard, finally, a lot of times throughout the
20 committee discussions sitting there -- and one of the
21 responses continued to be, well, when you were in
22 charge, you did it. Now, I don't remember how many of
23 you remember Sherman and Mr. Peabody when they used to
24 get in the time machine, and they would go back in
25 history and visit all of these different places. Well,

1 the people of North Carolina are trying to go forward,
2 and we continue to talk about rebranding this state and
3 looking at the future. Hopefully, as Representative
4 Jones said, you learn not what to do going forward by
5 the failings of Democratic redistricting efforts. You
6 should have learned what not to do going forward in
7 redistricting. And so, the canority (ph) of saying,
8 well you did it so I can do it, and there should not be
9 any response is not enough. We should be trying to get
10 better. That is what redistricting commission is
11 about. And so again, I hope that we will leave that
12 behind, leave it behind with the Model T, leave it
13 behind with the horse and buggy, leave it behind with
14 the flip phone. We're not going back. Unaffiliated
15 voters are about to eclipse registered Republican
16 voters in North Carolina. Let's go forward. Let's not
17 continue to use the mistakes of the past as
18 justification for making mistakes now that will affect
19 our future. So I hope you'll vote against this bill.
20 Put us to the test to do better. Let's free ourselves
21 from the mistakes of the past. Let's pursue a better
22 future for the citizens of North Carolina. Let's draw
23 a map that lets them be full participants in their
24 government. Thank you.

25 SPEAKER MOORE: For what purpose does the

1 gentleman from Rutherford, Representative Hager, arise?

2 REP. HAGER: To speak on the bill.

3 SPEAKER MOORE: The gentleman has the floor to
4 debate the bill.

5 REP. HAGER: Thank you, Mr. Speaker. You know,
6 we've said this several times. I've said it in
7 committee and to everyone that would listen,
8 Representative Stam accused me of practicing law
9 without a license, but I think I'm okay on the floor
10 just as long as I don't do it outside of here.

11 Representative Michaux and I have talked about
12 this, you know, page 53 of the statement from the
13 three-judge court says, "A failure to establish any
14 (one) of the Gingles factors is fatal to the
15 defendants' claim." Now, there is three thresholds we
16 talked about to meet, and I'm going to go over them
17 real quick because I've got other stuff we need to talk
18 about. Vote dilution must meet all three of these
19 thresholds. This report said that the vote dilution
20 has to -- as a failure of it has shown because there is
21 no voting prioritization in there. It shows it time
22 and time again in this. Representative Jones contends
23 that we are in violation of the Voter Rights Act of
24 Section 2, and he made the statement that sometimes
25 whites vote as a bloc. Well, that's not one of the

1 criteria. The criteria says they regularly vote as a
2 bloc, not sometimes. Sometimes is not the requirement.
3 It's regularly.

4 Now, again, and I would like to talk a little
5 bit of what Representative Hall talked about. I did
6 not say in committee that we had been working on the
7 those for two -- I said, you guys had the same
8 opportunity as we did to work on those. That is what I
9 said. You can check the record. And you would think
10 that most folks in this body would say, well, my
11 district is a gerrymandered district because I won by
12 32 percent my first election. Let me read you a little
13 statistics from the first election I had. In
14 Rutherford County, there's 22,000 Democrats, 12,000
15 Republicans, and 8,000 Independents. I agree with what
16 Representative Jones says. People aren't dumb.
17 They're going to vote where their philosophy is.
18 They're going to vote where their values are; 22,000
19 Democrats, 12,000 Republicans, and I won by 32 percent.
20 The voters know what is going on. They will vote with
21 their values. The voters of the Democrats did not
22 leave the party; the party left them.

23 SPEAKER MOORE: For what purpose does the
24 gentleman from Rockingham, Representative Jones, arise?

25 REP. JONES: To debate the bill a second time.

1 SPEAKER MOORE: The gentleman is recognized to
2 debate the bill a second time.

3 REP. JONES: Thank you, Mr. Speaker. I realize
4 the hour is late, and I will try to make a few brief
5 points. I would just suggest that the minority side
6 has used the vast majority of the time in debate today.
7 So there are a few points that I think deserve to be
8 made just simply for the record.

9 First of all, briefly I would just humbly
10 suggest that we do not live in a democracy. We live in
11 a constitutional republic. And there is quite a change
12 about that, you know, democracy is like two lions and a
13 lamb deciding what to have for dinner. And I would say
14 that things would look very different in our country
15 and if we were really a democracy. But this is the out
16 workings of a system -- of a constitutional republic,
17 and that is why we are here today as representatives of
18 the people to do the work of the people.

19 Secondly, I would just say that with all due
20 respect, there is a degree of hypocrisy to stand up and
21 just suggest that this is no more than partisan
22 bickering. Nobody is saying that, well, you know, it
23 is just great that one side is doing it because the
24 other side used to do it. But I would suggest that
25 everyone in this room, every representative in this

1 room, benefited from the system whether you are in the
2 General Assembly or not, and I was not in the general
3 assembly in the past decade. But in the past decade
4 and some of you in the decades before that benefited
5 from this system quite well, and I never heard a
6 complaint. I never heard a suggestion that we need to
7 change the process. We need to do something
8 differently.

9 Thirdly, I just want to reiterate, just
10 remember these three numbers, 89 percent in the last 40
11 years, the people of North Carolina have voted for the
12 Republican candidate for president 89 percent of the
13 time; 81 percent in the last 16 U.S. Senate races in
14 the last 40 years the people of North Carolina have
15 voted for the Republican candidate 81 percent of the
16 time. And then 77 percent, 77 percent is ten
17 Republicans out of 13 congressional districts. So I
18 would suggest that all of the stuff that we've heard
19 today that, in fact, that is not overrepresentation,
20 that these maps are not overrepresenting. The people
21 of North Carolina have clearly stated that on the
22 federal level, they are identifying more with the
23 Republican Party and that -- you can't gerrymander a
24 statewide election, okay? So when you --

25 REP. HAMILTON: Mr. Speaker.

1 SPEAKER MOORE: For what purpose does the lady
2 from New Hanover, Representative Hamilton, arise?

3 REP. HAMILTON: To see if the gentleman would
4 yield for a question.

5 SPEAKER MOORE: Does the gentleman from
6 Rockingham yield to the lady from New Hanover?

7 REP. JONES: I will gladly yield when I
8 conclude my remarks.

9 SPEAKER MOORE: He doesn't yield at this time.
10 The lady will be recognized if she would like to ask a
11 question later.

12 The gentleman from Rockingham has the floor to
13 continue debating the bill.

14 REP. JONES: Thank you, Mr. Speaker. So, the
15 point that I'm making is that I believe it is wrong to
16 suggest that a split of the three Democrats and ten
17 Republicans is somehow very unfairly wrong. This is a
18 federal election, and when you look at the federal
19 elections that we have conducted over the past 40 years
20 for the U.S. Senate and for the President of the United
21 States, it is very clear that even in a greater
22 percentage of the time, the people have voted for the
23 Republican nominee.

24 Finally, I would like to also talk about voter
25 registration. We keep hearing voter registration, and

1 I think Representative Lewis has very aptly said that
2 we believe that voting history, voting result is a
3 better indicator than voter registration. And the
4 other side continues to point out that we have more
5 registered Democrats than we do registered Republicans
6 in this state, and that is true. And it is also true
7 that we have a rising number of unaffiliated voters.
8 And quite frankly, we incentivize that with the laws in
9 this state because we allow unaffiliated voters to vote
10 in the primary of their choice. It is very easy for
11 people to go back and forth or whatever. But we
12 incentivize people often times to be unaffiliated. I
13 would simply suggest to you that if every registered
14 Democrat goes out and votes Democrat and the registered
15 Republicans vote Republican, and you can split
16 unaffiliateds down the middle, I think Democrats would
17 do very well under these maps. It is very clear that
18 Democratic candidates can win in these districts as
19 we've pointed out. It has been done in other races
20 before.

21 And, finally, my last point, we keep hearing
22 this call for a somehow independent redistricting
23 committee and this idea that maybe we will put on two
24 Democrats and two Republicans, and then we're going to
25 have this one individual that has the great wisdom of

1 King Solomon that has absolutely no partisan
2 affiliation, has no bias whatsoever. Somehow there's
3 this one perfect individual out there that is going to
4 have no bias and is going to have the wisdom of Solomon
5 and we're going to have these perfect maps. And,
6 ladies and gentlemen, I would conclude that that is not
7 going to happen because it is not possible to find that
8 individual. So, again, we thank you for the debate.

9 And, Mr. Speaker, if the lady has her question,
10 I would be happy to yield.

11 SPEAKER MOORE: Does the lady from New Hanover
12 wish to propound a question to the gentleman from
13 Rockingham?

14 REP. HAMILTON: I do, sir.

15 SPEAKER MOORE: She is recognized, and the
16 gentleman has indicated he would yield. The lady has
17 the floor to state her question.

18 REP. HAMILTON: Thank you, Representative
19 Jones. Just curious, over the last 40 years how many
20 state elections that are also run statewide, for
21 instance Governor, Attorney General, et cetera, how
22 many of those positions have elected Republican versus
23 Democrat?

24 REP. JONES: Thank you to the lady for that
25 question; I appreciate that. The point I was making is

1 that this is a federal election. And I don't have the
2 statistics in front of me; perhaps you do. My point is
3 that I think it's irrelevant because we're talking
4 about a federal election, and we all know that there
5 are people in this state that might vote one way on the
6 local election or even the state election but they see
7 the national parties in a very different way. And the
8 minority here can respectfully disagree, but there are
9 many people that feel that on the national level that
10 your party has moved quite a bit to the left and away
11 from the majority of the voters in this state. And
12 that is reflected in the fact that they have voted
13 89 percent of the time for the Republican candidate for
14 president, 81 percent of the time for the Republican
15 candidate for the U.S. Senate. And they might do that,
16 and they might still vote Democrat on a local or state
17 level.

18 REP. HAMILTON: Thank you.

19 SPEAKER MOORE: For what purpose does the
20 gentleman from Harnett, Representative Lewis, arise?

21 REP. LEWIS: I wanted to ask a series of
22 questions to Representative Michaux. No, Mr. Speaker,
23 I would like to speak a second time.

24 SPEAKER MOORE: The gentleman is recognized to
25 debate the bill a final and second time.

1 REP. LEWIS: Thank you, Mr. Speaker. Mr.
2 Speaker and members, I want to thank all of you for
3 your patience today, for the dignity that has been
4 shown in this chamber. Obviously, this is an issue
5 that all of us care very much about in our attempt to
6 best comply with the court ruling. I did want to state
7 a couple of last thoughts for the record and prior to
8 the vote if I could.

9 First of, with all due respect, the Harris
10 opinion does not find racially polarized voting, nor
11 has any member of the body submitted any kind of
12 document showing that there is racially polarized
13 voting in the state. Further, I realize the time has
14 been short, but we've even had members of the minority
15 stand up and speak about possible ways that districts
16 could have been drawn. Yet despite the fact that
17 central staff and even special staff was made available
18 to them, nobody has submitted a map showing how they
19 think the districts should be drawn.

20 I also want to say that these plans in no way
21 guarantee the election of ten Republicans. If you will
22 look at -- I know the lady from New Hanover asked about
23 statewide election results; they're actually -- most of
24 them are on our desk. And you will see that in all 13
25 of these districts, for instance, Attorney General

1 Cooper won them. I think -- I'm not going to go into
2 what some has been said before, but I think it has a
3 great deal to do with the quality of the candidate and
4 the message that they have in trying to elect -- or
5 trying to offer themselves.

6 The final thing that I would like to say is
7 while it has been talked about much throughout the
8 committee and through today's hearing, we did adopt in
9 an open forum what the criteria for these maps would
10 be. We did say that all of the criteria would be
11 considered together, and we would make every effort to
12 harmonize them. I believe the map that you have before
13 you addresses the concerns of the Harris opinion. I
14 believe it provides a way for us to move forward and to
15 move on and comply with the order of the Court, and I
16 would respectfully ask for your support in voting "aye"
17 on adopting these maps. Thank you, Mr. Speaker, and
18 thank you, members of the House.

19 SPEAKER MOORE: Further discussion, further
20 debate. If not, the question before the House is the
21 passage of Senate Bill 2 on its second reading. Those
22 in favor will vote "aye;" those opposed will vote "no."
23 The clerk will open the vote.

24 The clerk will lock the machine and record the
25 vote; 65 having voted in the affirmative and 43 in the

1 negative. Senate Bill 2 passes its second reading and
2 will be read a third time.

3 Further discussion, further debate?

4 For what purpose does the gentleman from
5 Cumberland, Representative Floyd, arise?

6 Further discussion, further debate? If not the
7 question before the House is the passage of Senate Bill
8 2 on it's third reading. Those in favor will say
9 "aye."

10 (Voice vote.)

11 SPEAKER MOORE: Those opposed "no."

12 (Voice vote.)

13 SPEAKER MOORE: In the opinion of the Chair,
14 the ayes have it. The ayes do have it. Senate Bill
15 2 passes its third reading. The bill is ordered
16 enrolled.

17 Special message from the Senate, the clerk will
18 read.

19 CLERK: House Bill 2, Senate Committee
20 Substitute, third edition. A bill to be entitled An
21 Act to Revise Procedures for the Conduct of the 2016
22 Primary Election to Comply with the Court Order in
23 Harris v. McCrory.

24 SPEAKER MOORE: The bill is ordered calendared
25 for immediate consideration. The clerk will read.

1 REP. FLOYD: Mr. Speaker.

2 SPEAKER MOORE: Just a moment. The clerk will
3 read the bill.

4 CLERK: Representative Jones and Hardister,
5 House Bill 2. A bill to be entitled An Act to Revise
6 Procedures for the Conduct of the 2016 Primary Election
7 to Comply with the Court Order in Harris v. McCrory.
8 The General Assembly of North Carolina enacts.

9 SPEAKER MOORE: For what purpose does the
10 gentleman from Cumberland, Representative Floyd, arise?

11 REP. FLOYD: Inquiry, Mr. Speaker.

12 SPEAKER MOORE: The gentleman may state his
13 inquiry.

14 REP. FLOYD: I know my light came on but I also
15 thought I pushed the red button for the last vote.

16 SPEAKER MOORE: How does the gentleman wish to
17 be recorded on the passage of the previous bill on the
18 vote?

19 REP. FLOYD: No.

20 SPEAKER MOORE: The gentleman was recorded as a
21 "no" vote on the prior bill. If the gentleman would
22 like to change it to a yes the Chair will be glad to do
23 that.

24 For what purpose does the gentleman from
25 Rockingham, Representative Jones, arise?

1 REP. JONES: To debate the bill.

2 SPEAKER MOORE: The gentleman has the floor to
3 debate the bill.

4 And again, members, we would ask that the
5 conversations could be held down. We still have our
6 court reporter here recording the proceedings.

7 The gentleman has the floor.

8 REP. JONES: Thank you, Mr. Speaker. Ladies
9 and gentlemen of the House, House Bill 2 that we passed
10 yesterday the Senate has amended and we are in support
11 of the Senate Committee Substitute. The difference is
12 that section 3 of that bill is taken out. We discussed
13 yesterday that section 3 has to do with the
14 presidential election, the electors to the electoral
15 college. And what we voted to do yesterday was to
16 adopt the old or existing congressional primary -- I'm
17 sorry. Congressional maps for the parties to use to
18 submit their presidential electors. That was done by
19 request with both political parties. However, they've
20 changed their mind on that, they would rather go with
21 the new districts if there are new districts and so
22 this section has been taken out. And so what that
23 simply means is that if this plan goes forth and there
24 is a congressional primary on June 7 and we adopt these
25 congressional maps or any congressional maps, whatever

1 congressional districts we end up using to elect our
2 congressmen, we will use those same districts to select
3 the presidential electors. So that is the change, and
4 I would ask for a green vote that we support the Senate
5 Committee Substitute to House Bill 2.

6 SPEAKER MOORE: So, does the gentleman wish to
7 make a motion to concur with the Senate Committee
8 Substitute for House Bill 2?

9 REP. JONES: Yes, sir. I make a motion to
10 concur.

11 SPEAKER MOORE: The gentleman has made that
12 motion and has debated the motion. Further discussion,
13 further debate on the motion to concur? If not, the
14 question before the House is the motion to concur with
15 the Senate Committee Substitute to House Bill 2. Those
16 in favor will vote "aye" those opposed will vote "no."
17 The clerk will open the vote.

18 Do the following members wish to record on this
19 vote: Representatives Cleveland, Steinburg, Whitmire,
20 and Blust?

21 The clerk will lock the machine and record the
22 vote; 75 having voted in the affirmative and 30 in the
23 negative. The motion to concur with the Senate
24 Committee Substitute to House Bill 2 is adopted. The
25 bill is ordered enrolled and sent to the Governor by a

1 special messenger.

2 The House will be at ease.

3 (At ease.)

4 SPEAKER MOORE: The House will come back to
5 order. Members, the House is about to go into recess
6 until 3:00. However, I want the members to know at
7 3:00 there will be no votes. The only purpose for the
8 3:00 session is for ratification. We are going to wait
9 on ratification for awhile until we hear some news
10 perhaps from Washington. So for those members who
11 would like to be back at 3:00, you're welcome to do so,
12 but the Chair does not anticipate any votes at that
13 time.

14 Notices and announcements?

15 For what purpose does the lady from Yancey,
16 Representative Presnell, arise?

17 REP. PRESNELL: For a moment of personal
18 privilege.

19 SPEAKER MOORE: The lady has the floor to speak
20 to a point of personal privilege.

21 The house will come to order.

22 REP. PRESNELL: I just wanted to wish my seat
23 mate, Representative Turner, a Happy Birthday.

24 SPEAKER MOORE: Further notices and
25 announcements? If not, the House will stand in recess

1 until 3:00 p.m.

2 (THE PROCEEDINGS IN THIS MATTER ADJOURNED AT 1:34 P.M.)

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STATE OF NORTH CAROLINA

COUNTY OF WAKE

CERTIFICATE

I, Rachel L. Hammond, a Notary Public in and for the State of North Carolina duly commissioned and authorized to administer oaths and to take and certify hearings, do hereby certify that on February 19, 2016, this hearing was held before me at the time and place aforesaid, that all parties were present as represented, and that the record as set forth in the preceding 86 pages represents a true and accurate transcript of the proceedings to the best of my ability and understanding.

IN WITNESS WHEREOF, I have hereto set my hand, this the 25th day of February, 2016.


Notary Public

Rachel L. Hammond
Notary Number
201126500152

NORTH CAROLINA GENERAL ASSEMBLY
NORTH CAROLINA HOUSE OF REPRESENTATIVES

TRANSCRIPT OF THE PROCEEDINGS
FLOOR SESSION TWO (3:00 P.M.)

In Raleigh, North Carolina
Friday, February 19, 2016
Reported by Rachel L. Hammond, CVR-M

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

1 (Reporter's note: Proceedings in this matter
2 began at 3:00 p.m. on February 19, 2016.)

3 SPEAKER MOORE: The House will come back to
4 order. Ratification of bills and resolutions. The
5 clerk will read.

6 CLERK: The Enrolling Clerk reports the
7 following: Bills duly ratified, properly enrolled, and
8 prepared for presentation to the office of the
9 Secretary of State: Senate Bill 2, An Act to Realign
10 the Congressional Districts, As Recommended by the
11 Joint Select Committee on Congressional Redistricting,
12 and Comply to the Court Order in Harris v. McCrory.

13 The enrolling clerk reports the following bills
14 duly ratified for presentation to the Governor: House
15 Bill 2, An Act to Revise Procedures for the Conduct of
16 the 2016 Primary Election to Comply with the Court
17 Order in Harris v. McCrory.

18 The enrolling clerk reports the following
19 resolution duly ratified, properly enrolled, and
20 prepared for the presentation to the office of the
21 Secretary of State: House Joint Resolution 3, A Joint
22 Resolution Providing for Adjournment Sine Die of the
23 2016 Extra Session.

24 SPEAKER MOORE: Notices and announcements?
25 The gentleman from Gaston, Representative

1 Torbett, is recognized for a motion.

2 REP. TORBETT: Thank you, Mr. Speaker. Mr.
3 Speaker, I move that the 2016 Extra House of
4 Representatives Session do now adjourn sine die.

5 SPEAKER MOORE: Representative Torbett moves
6 seconded by Representative Langdon, that the 2016
7 Special Session of the House of Representatives do now
8 adjourn sine die.

9 Those in favor will say "aye."

10 (Voice vote.)

11 SPEAKER MOORE: Those opposed "no." The ayes
12 have it.

13 It is ordered that a message be sent to the
14 Senate informing that honorable body that the House has
15 concluded the public business and now stands ready to
16 adjourn.

17 Message from the Senate. The clerk will read.

18 CLERK: Mr. Speaker: The Senate has concluded
19 the business of the 2016 Extra Session of the 2015
20 General Assembly and is adjourning sine die, pursuant
21 to House Joint Resolution 3, A Joint Resolution
22 Providing for Adjournment Sine Die of the 2016 Extra
23 Session. Respectfully, Sarah Lang, Principal Clerk.

24 SPEAKER MOORE: Noted. I now declare this
25 House of the 2016 General Assembly Extra Session

1 adjourned sine die.

2 (THE PROCEEDINGS IN THIS MATTER ADJOURNED AT 3:11 P.M.)

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EXHIBIT C

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
19 CVS 012667

REBECCA HARPER, *et al.*
Plaintiffs,

v.

Representative DAVID R. LEWIS,
in his official capacity as Senior
Chairman of the House Standing
Committee on Redistricting, *et al.*,
Defendants.

ORDER

Plaintiffs in this litigation challenge the congressional districts established by an act of the North Carolina General Assembly in 2016, N.C. Sess. Laws 2016-1 (hereinafter S.L. 2016-1), claiming the districts violate the rights of Plaintiffs and all Democratic voters in North Carolina under the North Carolina Constitution.

On October 28, 2019, this Court granted Plaintiffs’ motion for a preliminary injunction, enjoining Legislative Defendants and State Defendants from preparing for or administering the 2020 primary and general elections for Congressional Representatives under the 2016 congressional districts established by S.L. 2016-1. Plaintiffs seek to permanently enjoin the future use of the 2016 congressional districts and have filed a motion for summary judgment, scheduled to be heard on December 2, 2019.

In this Court's October 28, 2019, Order granting the preliminary injunction, the Court noted that summary judgment or trial may not be needed in the event the General Assembly, on its own initiative, acted immediately and with all due haste to enact new

congressional districts. The Court suggested the General Assembly proceed in a manner that ensured full transparency and allowed for bipartisan participation and consensus that would result in congressional districts more likely to achieve the constitutional objective of allowing for those elections to be conducted more freely and honestly to ascertain, fairly and truthfully, the will of the people. On November 15, 2019, new congressional districts were established by an act of the General Assembly. N.C. Sess. Laws 2019-249 (hereinafter S.L. 2019-249). Shortly thereafter on November 15, 2019, Legislative Defendants filed a motion for summary judgment arguing Plaintiffs' present action—challenging the constitutionality of S.L. 2016-1—is moot, and Plaintiffs filed a response and motion for expedited review of the newly-enacted congressional districts.

Section 163-106.2 of our General Statutes provides that “[c]andidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board no earlier than 12:00 noon on the first Monday in December and no later than 12:00 noon on the third Friday in December preceding the primary: . . . Members of the House of Representatives of the United States.” N.C.G.S. § 163-106.2(a). In the Court’s October 28, 2019, Order, the Court retained jurisdiction to adjust the State’s 2020 congressional primary elections should doing so become necessary to provide effective relief in this case. In light of the recent developments in this litigation, including the enactment of S.L. 2019-249, Legislative Defendants’ motion for summary judgment, and Plaintiffs’ motion for the Court’s review of S.L. 2019-249, and to allow the Court sufficient opportunity to fully consider the significant issues presented by the parties, the Court will enjoin the filing period for the 2020 congressional primary elections in North Carolina until further order of the Court.

Accordingly, the Court, in its discretion and pursuant to its inherent authority,
hereby ORDERS that:

1. On the Court's own motion, the filing period provided by N.C.G.S. § 163-106.2(a) is hereby enjoined for only the 2020 congressional primary elections, and the North Carolina State Board of Elections shall not accept for filing any notices of candidacy from candidates seeking party primary nominations for the House of Representatives of the United States until further order of the Court.
2. Any party to this action may respond to Plaintiffs' motion for review of the newly-enacted congressional districts, S.L. 2019-249, by submitting a response brief to the Court by 11:59 p.m. on November 22, 2019, in the manner set forth in the Case Management Order. Plaintiffs shall have until 11:59 p.m. on November 26, 2019, to submit a reply to any response brief in the manner set forth in the Case Management Order.
3. The Court's November 1, 2019, Order establishing a briefing schedule for summary judgment motions remains in effect.
4. The following will be heard by the Court at 9:00 a.m. on December 2, 2019:
 - a. Plaintiffs' motion for summary judgment;
 - b. Legislative Defendants' motion for summary judgment; and,
 - c. Plaintiffs' motion for review of S.L. 2019-249.

SO ORDERED, this the 20th day of November, 2019.

/s/ Paul C. Ridgeway

Paul C. Ridgeway, Superior Court Judge

/s/ Joseph N. Crosswhite

Joseph N. Crosswhite, Superior Court Judge

/s/ Alma L. Hinton

Alma L. Hinton, Superior Court Judge