

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

BEVERLY CLARNO, GARY WILHELMS,
JAMES L. WILCOX, and LARRY
CAMPBELL,

Petitioners,

v.

SHEMIA FAGAN, in her official capacity as
Secretary of State of Oregon,

Respondent.

v.

JEANNE ATKINS, SUSAN CHURCH,
NADIA DAHAB, JANE SQUIRES,
JENNIFER LYNCH, and DAVID
GUTTERMAN,

Intervenors.

Case No. 21CV40180

**SPECIAL MASTER'S RECOMMENDED
FINDINGS OF FACT AND REPORT**

Procedural History

Petitioners have filed a petition challenging the validity of SB 881 (2021). Pursuant to SB 259 § 1(6), the Chief Justice of the Oregon Supreme Court appointed a Special Judicial Panel to hear the petition. CJO 21-045. The Special Judicial Panel, in turn and pursuant SB 259 § 1(7)(c), requested and received appointment of a Special Master, Hon. Henry Breithaupt, Senior Judge, to receive evidence and to prepare recommended findings of fact in 21CV40180. CJO 21-047. This report constitutes the Special Master's tentative recommended findings of fact subject to objections from the parties, and the Special Master's rulings on those objections.

This matter came before the Special Master for hearing on October 27-28, 2021. Petitioners, Respondent, and Intervenors appeared by and through their respective attorneys. The parties submitted direct examination (declarations and deposition testimony) in written form before the hearing, as well as other documentary and non-documentary evidence. Subsequent examination was heard by the Special Master at the hearing, including cross, redirect, and offers of proof.

The parties were asked to submit proposed findings of fact supported with citations to evidence in the record. The Special Master reviewed the proposals, selected relevant facts consistent with the evidence, and compiled the Special Master's Proposed Findings of Fact. Parties were invited to make objections to the proposed findings, as well as objections evidence offered by parties. The Special Master evaluated the objections submitted by all parties and has incorporated his rulings into this report, as further detailed below.

Burden and Standard of Proof

“A party has the burden of persuasion as to each fact the existence or nonexistence of which the law declares essential to the claim for relief or defense the party is asserting.” ORS 40.105. The standard of proof is preponderance of the evidence, and when there is contradictory evidence, the burden of proof is met when a party demonstrates that a fact or allegation is more likely true than not. ORS 10.095(5). If a party requested a finding that was not made, either the

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Special Master has determined that the party did not meet their burden of proof, or the finding was cumulative or unnecessary.

References to Congressional Districts

Unless otherwise noted, all references to congressional districts refer to those described in SB 881 (2021).

Evidentiary Rulings

1. Generally.

All parties (Petitioners, Respondent, and Intervenors) submitted their evidentiary objections to the Special Master's Tentative Findings of Fact filed November 1, 2021, and all objections were considered by the Special Master in issuing the Special Master's Recommended Findings of Fact and Report.

When reading the Special Master's Recommended Findings of Fact and Report, parties should consider the following:

- If an objection to a proposed finding of fact was made, but the final finding remains unchanged, the objection was overruled;
- If an objection to a proposed finding of fact was made, and the final finding was amended, the objection was sustained to the extent reflected by the final finding;
- All exhibits and testimony are admitted unless a particular objection has been made and sustained;
- Any objection the Special Master does not specifically address in this document is considered overruled;
- The explanations below explain some of the Special Master's rulings on evidentiary objections, as reflected in the final recommended findings.

2. Sustained Objections to Exhibits & Hearing Testimony.

- The Special Master has determined that Exhibit 1003 is inadmissible on legislative privilege grounds and is stricken. If the Special Judicial Panel ultimately overrules that determination, the Special Master opines that objections to ¶¶ 5-6, 10-16, 19-21,

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27-35, and 37, are sustained on the alternative grounds of hearsay, relevance, and foundation, as described in Respondent's and Intervenors' objections. Because Representative Daniel Bonham's testimony at the hearing on October 27, 2021, was limited to cross examination within the scope of the declaration, all hearing testimony of Representative Bonham is also stricken on grounds of legislative privilege. The declaration and testimony are not subject to the "state-of-mind" hearsay exception because the statements are offered to prove facts "underlying the declarant's state of mind." *See State v. Bement*, 363 Or 760, 765 (2018).

- Intervenors' and Respondent's objections to admission of Exhibit 1022 is sustained on hearsay grounds and that exhibit is deemed not admitted.
- Intervenors' and Respondent's objections to admission of Exhibit 1023 is sustained on hearsay grounds and that exhibit is deemed not admitted.

3. Petitioners' Objections to ORS 188.010(1) Findings in Light of Petitioners' Voluntary Dismissal of Fourth Claim for Relief are Overruled.

Petitioners object to findings of fact related to ORS 188.010(1) requirements, based on their argument that these findings are no longer relevant to the case after dismissal of Petitioners' fourth claim for relief (*see* Order Approving Motion to Dismiss Petitioners' Fourth Claim for Relief with Prejudice, dated signed November 1, 2021).

The Special Master understands Petitioners' argument to be that, if proposed findings related to ORS 188.010 requirements are made, Petitioners should now be allowed to seek alternative ORS 188.010(1) findings to those proposed by Respondent and Intervenors and adopted by the Special Master in Tentative Findings of Fact, with citations to places in the evidentiary record that they allege either contradict those Respondent's and Intervenors' proposed findings, or provide evidence of additional testimony that the legislature considered in enacting the map in SB 881 (2021).

Petitioners' objections and attempts to further supplement the factual findings at this stage are not well taken. The Special Master rejects Petitioners' attempts to question

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proposed findings on which they proposed no contrary factual findings, and offered no citation to evidence within the evidentiary record. Petitioners voluntarily dismissed their fourth claim and had notice that other parties would seek proposed findings on the requirements of 188.010(1) even in light of that dismissal. Petitioners could have proposed their requested additional findings in their submissions dated October 29, 2021 and chose not to do so.

The Special Master finds that proposed findings related to the ORS 188.010(1) remain relevant in light of Petitioners' first claim for relief pursuant to ORS 188.010(2), and declines to make the additional findings sought by Petitioners at this late stage. He leaves it to the Special Judicial Panel to consider whether and how to apply the factual findings related to ORS 188.010(1), as relevant to Petitioners' first claim for relief.

4. Objections to Representative Bonham's Testimonial Evidence are sustained.

Prior to the hearing held on October 27-28, 2021, Respondent and the Legislative Assembly moved to strike from the record the "contents of the Declaration of Daniel Bonham which purport to describe and/or characterize communications of other legislators during the course of their legislative duties" on grounds of legislative privilege. *See* Respondent's and Legislative Assembly's Motion to Strike, filed November 26, 2021, pp. 1, 6 ("This Court should strike the Bonham Declaration, including in particular paragraphs 16 and 31, because introducing them in this proceeding violates the Debate Clause.").

Respondent renewed objections to Bonham's testimony on grounds of legislative privilege at the hearing on October 27, 2021, *see* rough hearing testimony pp. 68-83 (explaining Respondent's objections to Bonham testimony on grounds of legislative privilege, and allowing Petitioners to proffer Bonham's testimony pending final decision on Respondent and Intervenors' objections), and in Respondent's Memorandum of Law in Support of Respondent's Objections to Petitioners' Evidentiary Submissions, filed November 2, 2021. Respondent's position is that Representative Daniel Bonham's testimony is covered by legislative privilege under Oregon's Constitutional Debate Clause, Art. IV, §9, and should be stricken from the

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record. Respondent also raises other objections specific to sections of Representative Bonham's testimony (e.g. for lack of foundation, hearsay, relevance, inadmissible lay opinion, and best evidence rule). *See* Respondent's Memorandum of Law in Support of Respondent's Objections to Petitioner's Evidentiary Submissions, filed November 2, 2021 pp. 2-8 (objections to Rep. Bonham's declaration) and pp. 12-17 (objections to Rep. Bonham's hearing testimony). The Special Master sustains all of Respondent's objections on grounds of legislative privilege. Respondent's related objections as to specific portions of Rep. Bonham's declaration or hearing testimony are also sustained and are addressed separately above. *See* "Sustained Objections to Exhibits and Hearing Testimony."

In an earlier portion of the proceeding, the Legislative Assembly moved to quash subpoenas of legislative members issued by Petitioners. The Special Master notes that the Presiding Judge of the Special Judicial Panel issued an Order quashing those subpoenas, and although the procedural posture of that order addressed a different stage of this proceeding (discovery vs. admissibility of evidence), the underpinnings of legislative privilege and *State v. Babson* remain relevant in the context of Respondent's objections here. However, the Order on the motion to quash subpoenas of legislative members did not explicitly address a situation where a member of the legislature attempted to waive legislative privilege by voluntarily submitting a declaration and hearing testimony, and therefore the Special Master must take this opportunity to expand on the Presiding Judge's earlier order. The Special Master considers the Presiding Judge's Order instructive, while viewing it within the context and limitations of the circumstances in which it was sought, mainly, that the Legislative Assembly sought to quash six particular subpoenas issued by Petitioners, which did not include a subpoena directed to Representative Bonham, and by doing so, the Legislative Assembly sought to assert the legislative privilege on behalf of those six legislators. *See* Presiding Panel Judge's Order on Legislative Assembly's Motion to Quash; Protective Order, signed October 20, 2021 at 2 ("Petitioners may not depose, seek testimony, or request documents from the Legislative Assembly or its members on matters subject to legislative privilege.") ("To the extent that the

Petitioners in this case seek information about the effects of proposed legislation considered during enactment of SB 881 (2021) or other legislation, those communications are also protected by the privilege.”) Presiding Judge’s Order on Legislative Assembly’s Motion to Quash; Protective Order, signed October 20, 2021 at 3.

a. The Special Master is guided by the dual purposes of the legislative privilege identified in *Babson*, but *Babson* does not resolve all issues presented here.

State v. Babson, 355 Or 383 (2014), is the controlling case on the Debate Clause of Article IV, section 9, of the Oregon Constitution. Article IV, §9 provides in full: Senators and Representatives in all cases, except for treason, felony, or breaches of the peace, shall be privileged from arrest during the session of the Legislative Assembly, and in going to and returning from the same; and shall not be subject to any civil process during the session of the Legislative Assembly, nor during the fifteen days next before the commencement thereof: **Nor shall a member for words uttered in debate in either house, be questioned in any other place.** (emphasis added).

In *Babson*, the Oregon Supreme Court identified two purposes of Article IV, §9. First, the provision allows legislators to perform their legislative functions without being interrupted or distracted by arrest, civil process, or other questioning. Second, it allows legislators to perform their legislative functions without fear of retribution in the form of ‘be[ing] questioned in any other place’ by either another branch of government or the public.” *Babson*, at 419 (2014).

“[T]he Debate Clause applies to communications that occur when ‘a collection of persons,’ that is, legislators, are ‘united in their legislative capacity.’ In other words, the privilege applies when legislators are communicating in carrying out their legislative functions.” *State v. Babson*, 355 Or 383, 418 (2014). In applying this touchstone, the court in *Babson* drew a distinction between communications regarding *enactment* of a measure and those involving *enforcement*, or another function outside of the legislative function. Communications regarding enactment fall within the scope of the Debate Clause privilege, while communications involving enactment do not.

The underlying facts in *Babson* were very different than the underlying facts of this case. In *Babson*, the legislature enacted a rule prohibiting overnight occupation of the Capital steps,

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and the communications at issue involved enforcement of the rule, which were held to be outside the scope of the legislative privilege. Although legislators Courtney and Hunt submitted declarations in *Babson*, those declarations involved enforcement, as opposed to enactment, and were therefore, at least presumed under the reasoning of *Babson*, outside the scope of the legislative privilege and not at issue on appeal (“... Senator Courtney and Representative Hunt each filed affidavits stating that they did not witness defendants' arrests or interactions with state police.”).

In this case, we are presented with a different question, which is whether an individual legislator may voluntarily waive legislative privilege when the communications at issue are otherwise clearly within the scope of the Debate Clause privilege, as they relate to enactment of a measure considered by the Legislative Assembly (SB 881 (2021)), and testimonial evidence regarding those communications could not be compelled by Petitioners. There is no question that the communications at issue here relate to legislators’ intent in *enacting* SB 881 (2021) as opposed to *enforcement* of SB 881 (2021), and Petitioners do not raise any such argument in their Response.

As a preliminary matter, the Special Master must determine whether the Debate Clause privilege is a privilege of the individual members, or an institutional privilege of the body as a whole. To resolve these questions, the court relies on the underpinnings and fundamental teaching of *Babson*, while looking to guidance from other state courts that have more squarely considered this question within the context of their own constitutional debate clauses.

b. The legislative privilege, in the present instance, is an institutional privilege of the Legislative Assembly and not a privilege of individual members.

Holmes v. Farmer, 475 A2d 976 (1984), examined evidentiary rulings in a trial court case where the trial justice excluded testimony of a Senator who allegedly waived her privilege under Rhode Island’s Constitutional Speech in Debate Clause. The evidence was “principally offered to show that the Reapportionment Commission used a \pm 2.5 percent target deviation in drawing district lines, that the commission members were politically motivated when they decided on

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district boundaries, and that the members were ignorant of applicable laws by which they were required to abide.” *Holmes v. Farmer*, at 980 (1984).

The wording of the Speech in Debate clause at issue in *Holmes* is very similar to the wording of Oregon’s Debate Clause, and the court in *Holmes* identified similar purposes for the privilege to those identified in *Babson*, “This freedom ensures the separation of powers among the coordinate branches of government. Further, the fact that the legislators can carry out their duties without being questioned “in any other place” allows the free flow of debate among legislators and the maximization of an effective and open exchange of ideas.” *Holmes v. Farmer*, at 982 (1984). The Special Master considers “debate” to include conversations between legislative members.

In analyzing the purposes for the legislative privilege, the court in *Holmes* concluded that:

To allow the privilege to be waived would be inconsistent with these purposes. The privilege is institutional in its protection of the Legislature, ensuring the separation of powers among the co-equal branches of government. To allow an individual legislator to waive the institution's privilege would be to allow one to act on behalf of the whole in waiving the protection of a significant bulwark of our constitutionally mandated system of government. We need not address the issue of whether an individual legislator can waive the privilege when he or she is being sued or prosecuted individually. That question is not before us.

Senator Sapinsley was allowed to testify concerning the process of formation of the reapportionment plan. No actions or statements on her part were being called into question. The privilege she purported to waive protects the Legislature as an institution from judicial interference. This “waiver” by Senator Sapinsley was incorrectly allowed, and the objection of defendants should have been sustained...

Holmes v. Farmer, at 985 (1984).

Montgomery County v. Schooley, 97 Md App 107 (1993) leads this Special Master to the same conclusion. In *Montgomery County*, a County filed a motion for a protective order seeking to quash a deposition subpoena on behalf of a county councilman on grounds of legislative privilege, and appellees contended that the County did not have standing to assert legislative privilege on behalf of the councilman.

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The court in *Montgomery County* addressed the institutional vs. personal nature of the legislative privilege. In some circumstances, the court concluded that the privilege was properly construed as personal:

When the legislator himself is the defendant or target, whether in a criminal prosecution or a civil action, the privilege is obviously a personal one that he may exercise. . . If the legislator chooses to testify, we see no reason why he should not be permitted to do so. The privilege is his alone because the consequence of not having or asserting it falls on him alone, and he can assert or waive it at his discretion.

However, the court determined that where the conduct of the entire body is at issue, the privilege is properly construed as institutional:

That principle, which fits so neatly in that context, becomes more tenuous when the attack is not just on the conduct of an individual legislator but rather on the legislative body as a whole or on some committee of that body, for it then calls into question the legislative conduct of more than one member. The privilege is personal to each member of the legislative body, and it therefore protects each from being called upon to explain his legislative conduct in another official forum. It is, indeed, the cumulative effect of these individual privileges that serves the broader purpose of the privilege—protecting the independence and integrity of the Legislature as an institution of republican government. The problem is a very practical one, but one that raises quite clearly the underlying Constitutional concern.

If the attack is on the legislative process itself or on the end product of that process, rather than on the conduct of an individual legislator, the motivation and legislative conduct of each member associated with the challenged process or product necessarily comes into question. If even one member is permitted to waive his individual privilege and testify in support of the attack, the other members will, perforce, be required either to respond or risk the consequence of an adverse judgment based, at least in part, on the unfavorable testimony of their colleague. When viewed in that context, the waiver by one legislator of his privilege may, in effect, dictate the waiver by other legislators of their privilege. One willing member could thus cripple the privilege of other members and be the instrument for dismantling the separation of powers pillar upon which the privilege is, in part, based.

A number of courts, including this one, have made broad statements to the effect that “legislative immunity or privilege can only be asserted by the officer who possesses it, and not by others.” In a proper context, we adhere to that view. But in the current setting, application of that principle, for the reasons just noted, would serve not to protect the privilege but, effectively, to destroy it.

Montgomery Cty. v. Schooley, 97 Md. App. 107, 120–21 (1993)(internal citations omitted).

The Special Master concludes that in the present instance, the legislative privilege is a privilege of the Legislative Assembly as a whole, and allowing one member to waive privilege on behalf of the body would both undermine and dilute the purposes of the privilege identified in *Babson*. Additionally, allowing Representative Bonham's testimony would have a chilling effect on other legislators in the Legislative Assembly, would limit debate and conversation among legislators, especially those who may be in disagreement with each other, and would impair legislators' ability to carry out their legislative functions and duties.

Allowing one legislator to waive legislative privilege would have the effect of diluting or even destroying the privilege for others by opening the door to allegations that cannot be answered by the another legislator without that legislator waiving privilege. For instance, paragraph 31 of Representative Bonham's declaration seeks to restate the contents of an alleged conversation between Representative Bonham and Representative Marty Wilde. If Representative Wilde wanted to rebut any portion of Representative Bonham's statement, he would be left with a Hobson's choice of either waiving his own privilege, or allowing a potential misstatement to stand. This domino effect could quickly undermine the dual purposes of the legislative privilege identified in *Babson* and cannot be allowed to occur.

- c. All testimonial evidence offered by Representative Bonham is within the scope of the legislative privilege and is therefore stricken from the record, subject to final ruling by the Presiding Judge.**

The Special Master has concluded that in the present case, the legislative privilege is a privilege of the body and was properly asserted by the Legislative Assembly. For the reasons identified above, Representative Bonham cannot waive the Debate Clause privilege on behalf of the Legislative Assembly.

Petitioners sought to include the declaration and hearing testimony of Representative Daniel Bonham to prove the partisan intent of legislators with regard to enactment of SB 881 (2021). All of these statements, when introduced through Representative Bonham, are part of the legislative function and fall within the scope of the legislative privilege defined in *Babson*,

including seemingly innocuous factual statements about the composition of committees, dates and times of sessions, etc.

Petitioners assert that this result will render an unfairness, in that it will make it difficult to meet their burden of proving partisan intent more difficult, but this burden is no more unfair than any other situation in which a constitutional privilege applies to limit a party from introducing evidence that they would otherwise be entitled to elicit. To give an example, criminal defendants hold a fifth amendment privilege against self incrimination, yet criminal defendants are found guilty of crimes everyday, including crimes where intent is an element that must be proven “beyond a reasonable doubt,” a higher burden of proof than applies in this case. The Special Master does not agree that applying the Debate Clause privilege in itself creates an insurmountable barrier to Petitioners’ ability to prove their claims and meet their burden of proof. When direct evidence of intent is not available, intent can be proven through circumstantial evidence, as occurs in other cases where a constitutional privilege applies.

Out of an abundance of caution, and in recognition of the fact that it is the Presiding Judge of the Special Judicial Panel, and not the Special Master, who makes final evidentiary rulings (*See* SB 259), the Special Master allowed Petitioners to offer the Declaration of Daniel Bonham and the hearing testimony of Daniel Bonham during the cross examination hearing on October 27 – October 28, 2021 before the Special Master issued a final ruling on the legislative privilege and other objections raised by Respondent.

The Special Master’s final recommendation to the panel is to strike these submissions, based on the legislative privilege and the reasoning above. Special Master acknowledges that the Presiding Panel Judge may revisit these rulings, and if that were to occur, Special Master believes that all offers of evidence from Petitioners on this matter have been preserved.

5. Expert Testimony.

Petitioners object to the relevance of expert testimony that “relied upon social science measures that look at election results that are not reflective of Oregon’s current political landscape[.]” Petitioners argue the only relevant measure of partisan intent is the efficiency gap

and take issue with other measures of partisan intent, such as partisan symmetry and mean-median difference. Petitioners reason that if a voting outcome is unlikely, which in their opinion includes any voting outcome where Republicans receive a majority of votes statewide, any analysis including that “outcome is not relevant to either partisan intent or partisan effect.” *See e.g.* Petitioners’ objection to finding 276 from the Special Master’s Proposed Findings of Fact. The Special Master disagrees.

Firstly, what Petitioners now argue is only a view of a lawyer drafting the material submitted. There is no place in the record where any witness reached the conclusion, testified, or based any conclusion on the significance of “current political landscape.” The same is true with respect to a more pejorative statement by Petitioners’ counsel that the other parties’ experts’ conclusions do not reflect the real world. This statement makes “the real world” the standard for review of the enacted map. However, no fact or expert witness has told this court what “the real world” is.

Indeed, Dr. Brunell, Petitioners’ witness, when asked if he considered the current political landscape, testified that “people who draw maps” may consider such things, that is looking at how people will vote in the future, but he does not “draw maps.” Testimony of Brunell. Certified Transcript of October 27, 2021 at 212, 233. He also testified that “anything is possible” in elections, and he does not look at how likely it is that Republicans would win a disproportionate share of the vote in the futures. Testimony of Brunell, Certified Transcript of October 27, 2021, at 268. This was also the basis of the Special Master sustaining an objection by Petitioners that disallowed testimony by Dr. Brunell as to the “durability” of his results in future elections under the adopted map where vote outcomes might be different from the elections he analyzed. The court sustained the objection by Petitioners as the court was not allowing speculation about actual future election results. That being the case, it is inappropriate for the Petitioners to speculate, as they do in this argument, that the current political landscape will remain unchanged. Dr. Brunell repeatedly testified that the beauty of his metric, the

Efficiency Gap metric, is that you just look at one data set and use the relationship produced over the 10-year life of the map being analyzed.

The only other expert that discussed future elections was Dr. Caughey. However, Dr. Caughey's testimony was that his analytical method did not involve predictions based on data about the future but involved simulations necessary for his methodology to operate. The court has concluded that the methodology of Professor Caughey is reliable.

The objections made by Petitioners based on the failure of other experts to consider the current political landscape are not supported by expert opinion. They are therefore impermissible factual suggestions as they are based only on lay opinion and speculation.

Secondly, Petitioners did not raise, on cross examination of the expert witnesses of Respondent or Intervenors, their view that the testimony of such witnesses is critically weakened by failure to consider the "current political landscape." That failure prevented the redirect examination of those witnesses from eliciting, from those other experts, testimony about the irrelevance, or not, of Petitioners' views on "current political landscape" to the methodologies employed by those experts. The Special Master will not allow this.

Thirdly, Petitioners made no proffer of rebuttal evidence from their expert on the views of other experts on this point. All parties were provided that opportunity to deal with the problem of expert rebuttal of other experts, produced by the compressed schedule of the proceeding and the order of testimony and response. However, that was the only way in which criticism of other experts was allowed, with the only exception being two limited supplemental reports of Drs. Katz and Brunell. Having waived their opportunity to do so, Petitioners cannot now attempt to escape that waiver.

The Special Master also finds it appropriate, in light of the foregoing, to comment on what he finds to be the proper analysis of the reports and testimony of all the experts, the analysis that is the basis of the findings recommended to the Panel about the issues addressed by the experts and the reliability of the expert witnesses.

All of the experts face the task of analyzing whether the adopted plan involves improper considerations of partisan outcome (“gerrymandering”). Because of the court’s ruling on legislative privilege, no expert can support a conclusion on such intent directly, i.e. by interviewing those who drew the plan about their intent. Rather, as is most often the case in litigation, subjective intent of one or more persons must be based on permissible inferences from the objective facts available. In the case of electoral maps, a further difficulty arises because the objective facts that are available are limited to results of past elections and metrics that compare past outcomes with future possible results.

Some of those metrics, such as the Efficiency Gap metric used by Dr. Brunell, look only at past election results. Others, in particular the partisan symmetry metric employed by all of the other experts in this case, look at whether, if a current vote share changes significantly, will that shift be reflected in the seat share of the political parties. If no shift, or only an insignificant shift occurs, the partisan symmetry analysis indicates “gerrymandering.” The degree of “gerrymandering” is a function of the extent to which increasing vote share does not translate into a seat share shift in favor of that party. Said differently, the conclusion in such a case would be that the plan outcomes being analyzed are “wired” by the plan to always disproportionately favor those who produced the plan. This test must simulate future results because, of course, they have not yet occurred. That does not render the test unreliable. Indeed, the testimony shows that most experts consider the symmetry metric to be the most established standard. Petitioners attack the use by other experts of simulations by describing them as “counterfactual.” Those experts, however, use the word “counterfactual” not in a pejorative sense, but in a descriptive sense. That is: “expressing what has not happened but could, would, or might under differing conditions.” *Collins English Dictionary* (online edition, accessed November 5, 2021).

That said, the evidence shows that experts also agree that no one metric should be used without consideration of other tests, because while any one test may be acceptable, the reliability of the metric must be tested by consideration of other metrics. It is here that the greatest weakness of Dr. Brunell’s approach becomes apparent. He himself appeared to recognize the

importance of considering several metrics and does not challenge the validity of the metrics used by the other experts. Brunell, Certified Transcript for October 27, 2021 at 276, 278. He testified he did not do so solely because he did not have time to do so. *Ibid.* However, that explanation simply does not permit the court to accept a one metric analysis rather than the results of the other experts who used a several-metric methodology.

The conclusion reached by the court on this issue was also informed by the fact that, as recognized by all of the experts, the challenge of proper analysis is made especially difficult when a state has fewer than seven Congressional seats. The court's conclusion on reliability includes the view that more challenging factual situations require the use of more, rather than fewer, metrics.

Petitioners' objections to the reports and testimony of Respondent's and Intervenors' experts on these grounds are overruled.

The foregoing explanation of the reliability of the expert reports and testimony of Drs. Katz, Gronke, and Caughey, and Dr. Brunell's expert reports and testimony does not lead the Special Master to exclude Dr. Brunell's report or testimony under *State v. O'Key*, 321 Or 285 (1995). Dr. Brunell is a qualified expert, and his report and testimony are helpful. This does not, however, impact the court's finding of fact that his report and testimony are not reliable in the context of the other experts' reports and testimony.

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I. THE LEGISLATIVE PROCESS

A. U.S. Census 2020 – Oregon gains a seat.

1. Last year, the United States Census Bureau conducted a decennial census (the “2020 Census”) throughout the nation pursuant to Article I, section 2, of the United States Constitution. The Census Bureau, on or about April 26, 2021, announced and certified the actual enumeration of Oregon’s resident and apportionment populations. Oregon’s resident population is 4,237,256. Stipulation of Facts, dated October 25, 2021 ¶ 8.

2. Following the 2010 Census, Oregon was apportioned five congressional seats. Stipulation of Facts ¶ 2. Oregon’s apportionment population after the 2020 Census entitled it to an additional seat in the United States House of Representatives pursuant to Article I, section 2, of the United States Constitution and 2 USC section 2a. Accordingly, under 2 USC section 2c, Oregon was required to establish a sixth congressional district from which its sixth representative would be elected. Stipulation of Facts ¶ 15.

3. Population shifts since the 2010 Census resulted in unequal populations in Oregon’s five previous congressional districts. Oregon’s congressional districts ranged from a low of 823,608 residents in the then-Fourth Congressional District to a high of 864,052 in the then-First Congressional District. All districts were unequal in population size following the 2020 Census. Stipulation of Facts ¶¶ 9-14.

4. Based on the 2020 Census results, the target populations for Oregon’s six congressional districts are four districts with populations of 706,209 persons and two districts with populations of 706,210. Stipulation of Facts ¶ 16.

B. 2021 Oregon Legislative Redistricting Process.

5. Due to a delay in the Census Bureau’s dissemination of population data resulting from the ongoing pandemic, the Legislative Assembly postponed the process for congressional redistricting with the enactment of Senate Bill 259 (2021). If not for enactment of SB 259 (2021), the deadline for the Legislative Assembly to enact a Congressional redistricting plan would have been July 1, 2021. SB 259 (2021) moved that deadline to September 27, 2021. Other

existing deadlines for judicial review of a Congressional Redistricting plan in ORS 188.125 were also modified by SB 259 (2021).

6. The House Interim Committee On Redistricting, comprised of Co-Chairs Rep. Shelly Boshart Davis and Rep. Andrea Salinas, and Members Rep. Daniel Bonham, Rep. Wlnsvey Campos, House Republican Leader Christine Drazan, Representative Khanh Pham continued redistricting work after the 2021 regular session ended. Ex. 2009, House Interim Committee on Redistricting Overview, 2021-2022 Interim.

7. The House Interim Committee on Redistricting met fourteen times from August 18, 2021 through September 13, 2021. Ex. 2009. Draft congressional maps were released at an informational meeting on September 3, 2021.. Ex. 2013, House Interim Committee on Redistricting, 9/8/2021 8:00 AM Meeting Materials.

8. On September 3, 2021, Representative Andrea Salinas proposed a new congressional map referred to as “Plan A” and Representative Shelly Boshart Davis proposed a new congressional map referred to as “Plan B.” Stipulation of Facts ¶ 20.

9. After the maps were released, the House Interim Committee on Redistricting held a total of 12 public hearings. Ex. 2009. The committee received testimony from hundreds of Oregonians.

C. 2021 First Special Session.

10. On September 20, 2021, Senate President Peter Courtney introduced Plan A as Senate Bill 881(Introduced). Stipulation of Facts ¶ 21.

11. On September 20, 2021, the Oregon Senate passed SB 881(Introduced) by a vote of 18 ayes to 11 nays, with one member excused, with the votes as follows:

Aye: Beyer, Burdick, Courtney, Dembrow, Frederick, Gelser Blouin, Golden, Gorsek, Jama, Johnson, Lieber, Manning, Patterson, Prozanski, Riley, Steiner Hayward, Taylor, Wagner;

Nay: Anderson, Boquist, Findley, Girod, Hansell, Heard, Kennemer, Knopp, Linthicum, Robinson, Thatcher; and

Excused: Thomsen.

Stipulation of Facts ¶ 22.

12. SB 881(Introduced) and SB 882 (Introduced), which provided for redistricting of Oregon’s state legislative districts, were scheduled for a vote for September 25, 2021, in the Oregon House of Representatives. Stipulation of Facts ¶ 23.

13. When the House convened on September 25, 2021, the House lacked the quorum necessary to vote on SB 881(Introduced). Stipulation of Facts ¶ 24.

14. On September 27, 2021, the Oregon House of Representatives passed an amendment to SB 881, introduced by Senator Courtney, known as SB 881-A, by a vote of 33 ayes to 16 nays, with 11 members excused, with the votes as follows:

Aye: Alonso Leon, Bynum, Campos, Clem, Dexter, Evans, Fahey, Gomberg, Grayber, Holvey, Hudson, Kotek, Kropf, Lively, Marsh, McLain, Meek, Neron, Nosse, Pham, Power, Prusak, Rayfield, Reardon, Reynolds, Ruiz, Salinas, Sanchez, Sollman, Valderrama, Warner, Williams, Witt;

Nay: Breese-Iverson, Cate, Drazan, Goodwin, Hayden, Levy, Moore-Green, Noble, Owens, Reschke, Scharf, DB Smith, G Smith, Wallan, Weber, Zika; and

Excused: Bonham, Boshart Davis, Helm, Lewis, Morgan, Nathanson, Post, Schouten, Stark, Wilde, Wright.

Stipulation of Facts ¶ 25.

15. On September 27, 2021, the Oregon Senate passed SB 881-A by a vote of 18 ayes to 6 nays, with six members excused, with the votes as follows:

Aye: Beyer, Burdick, Courtney, Dembrow, Frederick, Gelser Blouin, Golden, Gorsek, Jama, Johnson, Lieber, Manning, Patterson, Prozanski, Riley, Steiner Hayward, Taylor, Wagner;

Nay: Anderson, Findley, Girod, Kennemer, Knopp, Thomsen; and

Excused: Boquist, Hansell, Heard, Linthicum, Robinson, Thatcher.

Stipulation of Facts ¶ 26.

16. On September 27, 2021, Governor Kate Brown signed SB 881-A—now referred to post-passage as SB 881(enrolled)(hereinafter “SB 881 (2021)”)—into law. Stipulation of Facts ¶ 27.

17. Under SB 881 (2021), Oregon’s First Congressional District has a population of 706,209; Oregon’s Second Congressional District has a population of 706,209; Oregon’s Third

Congressional District has a population of 706,209; Oregon’s Fourth Congressional District has a population of 706,208; Oregon’s Fifth Congressional District has a population of 706,209; and Oregon’s Sixth Congressional District has a population of 706,212. Stipulation of Facts ¶¶ 28-33.

18. Under SB 881 (2021), each of Oregon’s six congressional districts is contiguous. Stipulation of Facts ¶ 34.

19. The Redistricting Committees initially held ten public hearings during the 2021 Regular Session to solicit public input on the redistricting process. Ex 3018-G at 7:16–25 (statement of Sen. Taylor).

20. On August 12, 2021 the United States Census Bureau released the detailed 2020 census data used for redistricting. Stipulation of Facts ¶ 19.

21. In total, lawmakers held 22 hearings during which they listened to public testimony—more than double the ten public hearings required under ORS 188.016—and collected more than 1,400 pieces of testimony. Ex 3018-A at 20:14–24 (statement of Sen. Taylor) (describing public hearing and comment process); Ex 3018-C at 5:19–22 (statement of Rep. Salinas) (same); Hearing Tr (rough), Oct 27, 2021, at 140:13–16 (testimony of Rep. Bonham).

II. PETITIONERS

22. None of the four petitioners reside in District 3. *See* Pet. ¶¶ 13–16; Answer ¶¶ 13–16.

23. None of the four petitioners reside in District 6. *See* Pet. ¶¶ 13–16; Answer ¶¶ 13.

24. Petitioner Beverly Clarno is a United States Citizen and resident of the State of Oregon. Stipulation of Facts ¶ 35.

25. Petitioner Beverly Clarno resides in the Fifth Congressional District and is registered to vote in the State of Oregon. Stipulation of Facts ¶ 36.

26. Petitioner Gary Wilhelms is a United States Citizen and resident of the State of Oregon. Stipulation of Facts ¶ 37.

27. Petitioner Gary Wilhelms resides the First Congressional District and is registered to vote in the State of Oregon. Stipulation of Facts ¶ 38.

22 - SPECIAL MASTER’S RECOMMENDED FINDINGS OF FACT AND REPORT

28. Petitioner James L. Wilcox is a United States Citizen and resident of the State of Oregon. Stipulation of Facts ¶ 39.
29. Petitioner James L. Wilcox resides in the Second Congressional District and is registered to vote in the State of Oregon. Stipulation of Facts ¶ 40.
30. Petitioner Larry Campbell is a United States Citizen and resident of the State of Oregon. Stipulation of Facts ¶ 41.
31. Petitioner Larry Campbell resides in the Fourth Congressional District and is registered to vote in the State of Oregon. Stipulation of Facts ¶ 42.
32. All Petitioners are registered members of the Republican Party, support and vote for the Republican Party in both congressional and statewide races, and engage in campaign activities on behalf of those candidates. Stipulation of Facts ¶ 43.

III. LEGISLATIVE ASSEMBLY CONSIDERATION OF ORS 188.010(1) REDISTRICTING REQUIREMENTS

A. ORS 188.010(1)(a): Contiguity

33. Each of the six districts is contiguous. That is, there is no section of any district that is geographically disconnected from the rest of its district. Stipulation of Facts ¶ 34.

B. ORS 188.010(1)(b): Equal Population

34. Each district, as nearly as practicable, is of equal population. According to the 2020 Census data, the population of each district is between 706,208 and 706,212. *See* Ex 2572 (table listing the total population of each district and county based on 2020 Census data).

C. ORS 188.010(1)(c): Existing Geographic or Political Boundaries

35. Under SB 881 (2021), each district utilizes existing geographic or political boundaries. The districts utilize boundaries including county lines, city lines, state borders, highways rivers, shorelines, and the boundaries of the Warm Springs Reservation. Ex. 2001 (showing district lines utilizing county lines, rivers, state borders, and the Pacific coast); Ex 2507 (showing boundary between District 2 and District 5 utilizing the boundary of the Warm Springs Reservation).

36. Each district utilizes and builds upon the historic boundaries of Oregon's congressional districts. *See* Ex 3004-A (describing historic boundaries of First Congressional District); Exs 3013, 3014 (describing historic boundaries of Fifth Congressional District); Ex 3017-Q (mapping past five decades of Oregon's congressional districts).

1. District 1

37. District 1 utilizes existing geographic and political boundaries that include the Pacific Ocean, the Columbia River, the Willamette River, the Washington/Yamhill county line, the Tillamook/Yamhill county line, the Tillamook/Polk county line, and the Tillamook/Lincoln county line. *See* Ex. 2001 (showing those boundaries on the enacted map).

2. District 2

38. District 2 utilizes existing geographic and political boundaries that include the Hood River/Wasco county line, the Clackamas/Wasco county line, the boundary of the Warm Springs Indian Reservation, the Marion/Jefferson county line, the Linn/Jefferson county line, U.S. Route 20, the Jefferson/Deschutes county line, the Deschutes/Crook county line, the Bend city boundary, U.S. Route 97, the Lane/Deschutes county line, the Lane/Klamath county line, the Lane/Douglas county line, the North Umpqua River, the Coos/Douglas county line, the Curry/Douglas county line, and the Curry/Josephine county line. Ex. 2001 (showing the boundaries on the enacted map, following various county lines); Ex 2507 (showing the district line following county lines and the Warm Springs Reservation boundary); Ex 2506 (showing the district line utilizing the Bend city boundary, with the majority of the city in District 5 and one small section in District 2).

39. In some places, the border between District 2 and District 5 departs from the western borders of Wasco and Jefferson Counties, so that District 2 includes portions of Clackamas and Marion Counties. *See* Ex. 2001 (showing the district line departing from county lines in eastern Clackamas and Marion Counties). At those places, the district border follow the western boundary of the Warm Springs Indian Reservation where the Reservation extends into Clackamas and Marion Counties. *See* Ex 2507 . The district border's departure from the county

lines thus allows District 2 to contain the entire contiguous reservation, with the exception of a portion of the Whitewater Glacier on Mount Jefferson. *See* Ex. 2507, 2508.

40. The Redistricting Committees heard testimony in favor of keeping the Warm Springs Reservation in one district. The “splits” of Clackamas and Marion counties thus reflect the concerns expressed by residents about avoiding a split of the reservation, an important political, legal, and governmental boundary. Ex. 2067, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Heidi Casper). Ex. 2024, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 1:00 p.m. (statement of Craig Martell). Ex. 3018-J, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m., 70:1–70:2 (statement of Gina Minnis). Ex. 3018-N, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 8:00 a.m., 21:14–21:22 (statement of Tommy Alvarez).

3. District 3

41. District 3 utilizes existing geographic and political boundaries that include the Columbia River, the Hood River/Wasco county line, the Clackamas/Wasco county line, the Clackamas River, and the Willamette River. *See* Ex. 2001 (showing District 3 boundaries in the statewide map and in the “Portland and Northern Willamette Valley” inset).

4. District 4

42. District 4 utilizes existing geographic and political boundaries that include the Lincoln/Tillamook county line, the Lincoln/Polk county line, the Benton/Polk county line, the Benton/Linn county line, the Lane/Linn county line, the Lane/Deschutes county line, the Lane/Klamath county line, the Lane/Douglas county line, the North Umpqua River, Interstate 5, the Coos/Douglas county line, the Curry/Douglas county line, the Curry/Josephine county line, the Oregon/California border, and the Pacific Ocean. *See* Ex. 2001 (showing those boundaries); Ex. 2004 (noting that the district utilizes county lines).

5. District 5

43. District 5 utilizes existing geographic and political boundaries that include the Clackamas River, the Clackamas/Wasco county line, the boundary of the Warm Springs Indian Reservation, the Marion/Jefferson county line, the Linn/Jefferson county line, U.S. Route 20, the Deschutes/Jefferson county line, the Deschutes/Crook County line, the Bend city boundary, the Deschutes/Lane county line, the Linn/Lane county line, the Linn/Benton county line, the Linn/Polk county line, the Linn/Marion county line, Oregon Route 22, Cordon Road in Salem, the Salem city boundary, the Woodburn city boundary, the Marion/Clackamas county line, the Washington/Clackamas county line, the Washington/Multnomah county line, and Interstate 5. *See* Ex. 2001 (showing an overview of the boundaries of District 5); Exs. 2507, 2542 (showing where the boundary utilizes the Reservation boundary); Ex. 2543 (showing where the boundary utilizes U.S. Route 20); Ex. 2506 (showing where the boundary utilizes the Bend city boundary); Exs. 2545–2546 (showing where the boundary utilizes Cordon Road in Salem); Ex. 2550 (showing where the boundary utilizes the city boundaries of Salem and Woodburn); Ex. 2541 (showing where the boundary utilizes Interstate 5).

6. District 6

44. District 6 utilizes existing geographic and political boundaries that include the Washington/Multnomah county line, the Washington/Clackamas county line, the Marion/Clackamas county line, the city boundaries of Woodburn and Salem, Cordon Road in Salem, Oregon Route 22, the Marion/Linn county line, the Polk/Linn county line, the Polk/Benton county line, the Polk/Lincoln county line, the Polk/Tillamook county line, the Yamhill/Tillamook county line, and the Yamhill/Washington county line. *See* Ex 2001 (showing those boundaries on the enacted map).

45. The Redistricting Committees heard testimony from Salem area residents that supports the logic of utilizing the eastern boundaries of Salem and Woodburn as part of a district boundary, thus keeping Salem and Woodburn within the same district, as well as utilizing Cordon Road on the eastern edge of Salem in particular. Ex. 2040, Testimony, Senate Interim

Committee on Redistricting, SB 881 Sept 9, 2021, 1:00 p.m. (statement of Debbie Cabrales). Ex. 2059, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m (statement of Caryn Connolly). Ex. 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 14:1–14:12 (statement of Cynthia Ramirez). Exhibit 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 34:8– 34:14 (statement of Michael Powers).

7. County Splits

46. One example of an existing political boundary is a county line. Every district utilizes county lines to some extent. *See* Ex. 2001 (showing district lines following various county lines). Some district lines depart from county lines, so that a county straddles two or more districts. *See, e.g.*, Ex. 2543 (showing the boundary between District 5 and District 2 in Deschutes County).

47. Whether a county is “split” across two or more districts can be determined from the text of the redistricting statute itself. *See* Ex. 2002 (the text of SB 881(2021)). SB 881 (2021) contains six subsections, each of which lists the “counties or parts thereof” that fall within a particular district. *See* Ex. 2002 at 10 (“The State of Oregon is portioned into six congressional districts, composed, respectively, of the following counties or parts thereof:”). For example, subsection (1), describing the “First District,” lists “Clatsop County,” “Columbia County,” and “Tillamook County,” indicating that those counties are entirely contained within District 1, as well as a “portion of Multnomah County” and a “portion of Washington County,” indicating that those counties are split between two or more districts. Ex. 2002 at 9. When a district includes a “portion” of a county, the statute lists the specific census tracts and blocks within a county that fall within a particular district. *See, e.g.*, Ex. 2002 at 19 (subsection (4), for District 4, listing “that portion of Polk County lying within blocks 2092 and 2141 of census tract 20400”). Blocks can be extremely small areas of land that are barely visible even on close-up maps. *See* Ex. 2540 at 2 (2020 Census Block Map of Polk County, with blocks 2092 and 2141 visible as small semicircles along the Polk/Lincoln county line).

48. According to the statutory references to “portion[s]” of counties, there are 11 counties that fall within two or more districts. *See* Ex. 2002. Benton County falls within Districts 4 and 5. *See* Ex. 2002 at 16, 19; Ex. 2001 (split not visible on map). Clackamas County falls within Districts 3, 5, and 6. *See* Ex. 2002 at 11, 14, 19; Ex. 2001 (northern portion in District 3, southern portion in District 5, and easternmost edges in District 2). Curry County falls within Districts 2 and 4. *See* Ex. 2002 at 11, 17; Ex. 2001 (split not visible on map). Deschutes County falls within Districts 2 and 5. *See* Ex. 2002 at 11, 20; Ex. 2001 (northwestern portion in District 5 and southeastern portion in District 2). Douglas County falls within Districts 2 and 4. *See* Ex. 2002 at 12, 18; Ex. 2001 (western portion in District 4 and eastern portion in District 2). Jefferson County falls within Districts 2 and 5. *See* Ex. 2002 at 14, 21; Ex. 2001 (southwestern corner in District 5 and remainder in District 2). Linn County falls within Districts 4, 5, and 6. *See* Ex. 2002 at 19, 21, 25; Ex. 2001 (western edge in District 4 and majority in District 5; portion in District 6 not visible on map). Marion County falls within Districts 2, 5, and 6. *See* Ex. 2002 at 14, 23, 25; Ex. 2001 (western portion in District 6, central/eastern portion in District 5, and easternmost edges in District 2). Multnomah County falls within Districts 1, 3, and 5. *See* Ex. 2002 at 10, 15, 24; Ex. 2001 (western/northwestern portion in District 1, southern portion in District 5, and eastern portion in District 3). Polk County falls within Districts 4 and 6. *See* Ex. 2002 at 19, 27; Ex. 2001 (split not visible on large-scale map); Ex. 2554 (split barely visible on close-up map). Washington County falls within Districts 1 and 6. *See* Ex. 2002 at 10, 28; Ex. 2001 (southeastern corner in District 6 and remainder in District 1). Some of those departures from county lines, or “county splits,” are so small as to be invisible on a large-scale map. For example, the line between District 4 and District 6 makes two incursions of less than 160 feet into Polk County, so that those two areas are included in District 4, while the overwhelming majority of Polk County is contained within District 6. *See* Ex. 2002 at 19 (including within District 4 “that portion of Polk County within blocks 2092 and 2141 of census tract 20400”); Ex. 2540 at 2 (showing blocks 2092 and 2141 as barely visible on a close-up Census map); *compare* Ex. 2001 (showing the southwestern boundary of District 6 appearing to

follow the Lincoln-Polk county line) *with* Ex. 2554 (showing two barely visible departures from the county line); Ex 2556 (showing the district line intruding less than 65 feet into Polk County); Ex 2558 (showing the district line intruding less than 160 feet into Polk County).

49. Some of these county splits affect only uninhabited areas, so that no residents of either county are affected. A table prepared by Dr. Ethan Sharygin, Director of Portland State University's Population Research Center, illustrates this. *See* Ex 2570 (Declaration of Dr. Ethan Sharygin); Ex 2571 (curriculum vitae of Dr. Sharygin); Ex 2572 (table showing "Population by County and Congressional Districts"). Dr. Sharygin used data from the 2020 Census to create a table that shows the total population of each county, the total population of each district, and how the population of each county is distributed between districts. For example, the first row of the table shows that all 16,668 residents of Baker County reside within District 2, while the third row shows that residents of Clackamas County reside within Districts 3, 5, and 6. *See* Ex 2572. The row that lists the population of Polk County shows that the entire population of that county is contained within District 6, and therefore the two above-mentioned splits of that county do not affect any voters. *See* Ex 2572; *see also* Ex 2554 (showing the splits of Polk County as barely visible on a close-up map). The population table shows that among Oregon's 36 counties, only eight counties are divided in a way that affects the district affiliation of any residents. *See* Ex. 2572 (showing that the populations of Clackamas, Deschutes, Douglas, Jefferson, Linn, Marion, Multnomah, and Washington Counties reside within two or more districts). Some of these divisions affect substantial numbers of people, such as in Multnomah County, whose population is too large to fit within one district with a population equal to that of the other five districts. *See* Ex. 2572 (showing Multnomah County residents in Districts 1, 3, and 5; showing total Multnomah County population of 815,428; showing district populations from 706,8208 to 706,212). In contrast, the split of Jefferson County between Districts 2 and 5 affects 20 people. *See* Ex. 2572 (showing 24,482 Jefferson County residents in District 2 and 20 residents in District 5).

50. Further, some district lines depart from county lines in order to follow other existing geographic or political boundaries. ORS 188.010(1)(c) does not specify the types of boundaries that qualify as “geographic or political,” nor does ORS 188.010(1) prioritize county lines over other types of boundaries. For instance, the line between District 4 and District 6 follows a road that briefly crosses the Lincoln/Polk county line at two points. *See* Ex. 2554 (showing an overview of the area); Ex 2555 (showing the district line following Murphy Road into Polk County); Ex. 2557 (same). The line between District 5 and District 2 departs from county lines in order to accommodate the western boundary of the Warm Springs Indian Reservation. *See* Ex. 2542 (showing the district line departing from county lines at certain points in order to follow the reservation boundary); Ex. 2507 (showing a closer view of the same).

51. Finally, the criterion that districts utilize existing geographic or political boundaries “as nearly as practicable” contemplates the likely necessity of departing from such boundaries when necessary to satisfy other criteria, such as that the districts be of equal population, not divide communities of common interest, and be connected by transportation links. *See* ORS 188.010(b), (c)–(e). In any event, the vast majority of the lines that SB 881 (2021) draws across Oregon follow existing geographic or political boundaries.

D. ORS 188.010(1)(d): Communities of Common Interest.

52. Another criterion under ORS 188.010(1) is that each district, as nearly as practicable, shall not “divide communities of common interest.” ORS 188.010(1)(d). The statute does not define “communities of common interest.” However, as part of the redistricting process, the House Interim Committee on Redistricting held public hearings where residents of all parts of the state could give oral or written testimony about how different proposed or possible Congressional and state redistricting plans would impact their communities. *See supra* Section I.B (describing committee process); Ex. 2009 (House Interim Committee on Redistricting Overview); Exs. 2013, 2020, 2025, 2030, 2038, 2042, 2045, 2049, 2054, 2058, 2061, 2092 (Meeting Materials listing written testimony received during 12 public hearings). *See, e.g.*, Ex.

3018-I, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (transcript of oral testimony).

53. Dozens of residents expressed their opinions on how their homes and communities should be grouped into districts, often referring to commonalities and differences between cities and regions. *See, e.g.*, Ex. 2023, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 1:00 p.m. (statement of Fritz & LeAnn Ellett) (residents of The Dalles expressing their wish to share a district with Jefferson County, which has “attitudes and lifestyles more similar to us” than Hood River).

54. Some of the residents’ testimony at those hearings specifically referred to two proposed Congressional District plans that ultimately were not enacted, referred to as “Plan A” and “Plan B.” *See* Ex. 2010 (Plan A map); Ex. 2011 (Plan B map). Other testimony referred to district plans for the Oregon House of Representatives and the Oregon Senate. *See, e.g.*, Ex. 3018-I, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m., 7:12–7:23 (statement of Julie Fitzgerald) (expressing support for “Congress Plan B,” “House Plan A,” and “Senate Plan A”).

55. Regardless, the content of those residents’ statements regarding their communities and how they should be represented is relevant to determining whether SB 881 (2021) unnecessarily divides those communities. The testimony shows that the legislature was aware of and could have considered various residents’ wishes and concerns regarding how district lines would affect their communities. The final enacted map, reflecting many of those wishes and concerns, shows that SB 881 (2021) did not unnecessarily divide communities of common interest.

56. The following subsections consist mostly of excerpts from the testimony of residents of various regions of Oregon, organized according to Congressional Districts under SB 881(2021). Also included are citations to images of the enacted map, showing how the map reflects various residents’ statements about their communities.

1. District 1

57. District 1 includes all of Clatsop, Columbia, and Tillamook Counties, as well as areas of Washington and Multnomah Counties. *See* Ex. 2001; Ex. 2002; Ex. 2004. The Redistricting Committees heard testimony that communities within District 1 share common interests.

58. Naomi Strait, a resident of Southwest Beaverton (Washington County), expressed opposition to “pack[ing] Washington County’s rapidly growing and diverse communities into one Congressional District despite the fact that Washington County is connected to neighboring counties to the west and is likely to continue growing at a rapid pace over the next ten years.” Ex. 2044, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 5:30 p.m. (statement of Naomi Strait).

59. Peter Huhtala, a resident of Tigard (Washington County) and a former 15-year resident of Astoria (Clatsop County), a former member of the Clatsop County Board of Commissioners, and a former board member of the Columbia Pacific Economic Development District (Col-Pac), testified that “[b]ringing Tillamook County into the northwest Oregon Congressional District 1 with its neighboring counties makes a lot of sense, particularly regarding sustainable forestry, seafood, recreation, tourism, resilience, and carbon-free energy.” Ex. 2043, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 5:30 p.m. (statement of Peter Huhtala). He further testified that members of Col-Pac, which serves Clatsop, Columbia, and Tillamook Counties, as well as western Washington County, “have found much in common.” *Id.* He also stated that “[i]t makes sense to honor the natural relationships of rural and coastal communities with Oregon’s largest city.” *Id.*; *see* Ex. 2001 (showing District 1 containing all of Clatsop, Columbia, and Tillamook Counties, as well as western Washington County).

60. Hillsboro resident Tori Algee testified, “Washington county is a rapidly changing and growing county. The communities here are diverse, and we are extremely interconnected with other parts of the state. To the North and the East, many agricultural and logging communities exist with many connections with neighboring counties. Washington County has shared interests with our neighboring counties through forestry and the timber industry—we share the beautiful

Tillamook Forest with neighboring Tillamook, Yamhill, and Clatsop Counties as well. I like that Plan A acknowledges that, and I don't like that Plan B leaves us boxed in and treats us like we aren't a part of a broader Oregon." Ex. 2062, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Tori Algee).

61. Sol Mora Cendejas, a resident of Portland, testified that CD 1 connects the parts of Washington County that have grown to Multnomah County and uses logical boundaries like the Tillamook and the Yamhill County border to define its boundaries. Ex. 2050, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 1:00 p.m. (statement of Sol Mora Cendejas); *see* Ex. 2001 (showing District 1 connecting Washington and Multnomah Counties and following the Washington/Yamhill county line).

62. Southwest Portland resident and former 1st District Congressman Les AuCoin testified about the importance of keeping District 1 intact: "My former Congressional District is a diverse district in NW Oregon, home to both urban and rural communities. In the two previous redistricting efforts ten and twenty years ago, some questioned the utility and responsiveness of a district in which a US House member residing, say, in an urban or suburban location could faithfully represent the interests of, say, commercial fishermen and their families on the Oregon coast. They were wrong. History demonstrates that in fact one who faithfully represents all residents of one's district can do so without being pigeonholed as 'that coastal congressperson.' ... I firmly believe, and history shows, that elected leaders can effectively represent both Urban and Rural communities." Ex. 2093, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 pm. (statement of Les AuCoin).

63. Clatskanie resident and former mayor of Clatskanie Diane L. Pohl testified that during her twelve years as mayor, she "was very active in various State and Federal issues, committees and activities that encompassed Columbia County, Clatsop County and Tillamook County. These included economic development, law enforcement, and other County, State and Federal issues. There has been a definite collaborative value in having the three counties in the same Congressional District." Ex. 2084, Testimony, Senate Interim Committee on Redistricting, SB

881, Sept 13, 2021, 1:00 p.m. (statement of Diane L. Pohl); *see* Ex. 2001 (showing District 1 containing all of Columbia, Clatsop, and Tillamook Counties).

64. Seaside resident Laura Allen testified, “We are a coastal community at the mouth of the Columbia River. That means the Port of Portland is central to our economy. Our fishing, timber, recreation, and tourism based economy connects us most directly to the Coastal Range and part of Washington County and the North Willamette Valley and across Columbia County to the metro area and Lower Columbia region. . . . Many North Coast residents are originally from Portland and many consider the metro area residents our neighbors; they own and operate businesses here, have homes on the North Coast, and participate in our activities and local governments. Many of our neighbors in Columbia County work at Nike or Intel in the Metro area. We are interconnected as a region.” Ex. 2063, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Laura Allen); *see* Ex. 2001 (showing District 1 following the Columbia River from Portland to the North Coast, and uniting Columbia County with a large area of Washington County).

65. Tillamook resident Justin Aufdermauer, of the Tillamook Area Chamber of Commerce, testified about strong ties between Tillamook and Clatsop Counties, while distinguishing Lincoln County: “Tillamook County has worked with Clatsop County’s communities for decades. As coastal communities, we have strong relationships and partnerships. We share legislative representation, and we rely on the same representation to advocate for our region and they do a good job. I’m asking you not to ruin that. Through this pandemic, the relationship has been forged tight and our communities would not be the same had it not been for these existing partnerships. Many of these existing partnerships are all built around the state structure. Business Oregon Region 1, Regional Solutions North Coast, Health and Security Preparedness and Response to COVID Region 1, Columbia Pacific Economic Development District. And our local systems are no different. Our transportation system, our food systems, agriculture, fishing, forestry, all tied to Tillamook and Clatsop County. Map C puts us in with Lincoln County, which we have basically nothing in common with. . . . Our north coast counties elected our

legislators together through our common interests and we'd like to keep it that way.” Ex. 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 35:11–36:24 (statement of Justin Aufdermauer); *see* Ex. 2001 (showing District 1 uniting Tillamook and Clatsop Counties and ending at the Tillamook/Lincoln county line).

66. Tillamook County resident April Bailey testified, “During the last districting, my south county area was put in with Lincoln County. I’m sorry to say, I don’t really feel like we got good representation as a result of that redistricting. Lincoln County has very different needs than Tillamook County. Economically and politically, we’re not represented well at all.” Ex. 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 46:1–46:8 (statement of April Bailey); *see* Ex. 2001 (showing District 1 ending at the Tillamook/Lincoln county line).

67. Southwest Portland resident Marianne Fitzgerald requested that her neighborhood be included in District 1, emphasized the “urban” nature of her community, and distinguished her neighborhood from nearby Tigard and Lake Oswego: “[P]lease keep our home and neighborhood in CD 1. . . . [W]e have very little common interests with Clackamas, Marion and Linn Counties. We were in CD 5 from 2001-2011 and the various representatives in CD 5 seem to have a more rural and suburban focus than our more urban SW Portland community. . . . We have been in CD 1 from the time we moved here in 1979 to the present time (with the one exception) and the various representatives in CD 1 seem to better understand the needs of our more urban, high-tech focused communities. Regarding the proposed boundaries for the Oregon House of Representatives, I support House Plan A. These boundaries put our home in HD 36 by combining much of SW Portland with eastern Washington County. The boundary uses I-5 as a logical break which has worked well for our neighborhood boundaries for many years. House Plan B keeps us in Tigard using very weird boundaries that don't make sense, and for the last 20 years that we have been in HD 35/Tigard, the various representatives have been more focused on City of Tigard issues and pay less attention to SW City of Portland issues. House Plan C cuts us off from most of SW Portland and eastern Washington County also using weird boundaries, and

puts us in a district with Riverdale and Lake Oswego that are a very different demographic than the working middle class families in our SW Portland neighborhood.” Ex. 2072, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Marianne Fitzgerald); *see* Ex. 2541 (showing the intersection of Districts 1, 5, and 6 in Southwest Portland, utilizing the Tigard city limit and I-5 as boundary lines, so that Tigard lies within District 6 and Lake Oswego in District 5).

68. The First Congressional District maintains the communities of common interest described in the legislative record. Maintaining these and other communities of common interest is a reason for constituting the district in its current form. *See* Exs 3003, 3004-A, 3005, 3006 (describing First Congressional District’s communities of common interest).

2. District 2

69. District 2 includes all of Malheur, Harney, Lake, Klamath, Jackson, Josephine, Baker, Grant, Crook, Wallowa, Union, Umatilla, Morrow, Gilliam, Sherman, and Wasco Counties, as well as areas of Douglas, Jefferson, Deschutes County, Marion, and Clackamas Counties. *See* Ex. 2001; Ex. 2002; Ex. 2004. The Redistricting Committees heard testimony that communities within District 2 share common interests.

70. Craig Martell, from Baker City, testified that “Wasco and Jefferson counties, by the way, must be in the same district so as to avoid splitting the reservation.” Ex. 2024, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 1:00 p.m. (statement of Craig Martell); *see* Ex. 2507 (showing Warm Springs Indian Reservation spanning Wasco and Jefferson Counties in District 2).

71. Prineville resident Rodney Tomberson testified, “It’s said that they want to include Prineville or parts of it in with parts of Bend and Redmond. And, as I see it, it violates the rules of redistricting because the people of Crook County and Prineville are just not the same as the people of Bend. There really two different subcultures within the state. Over here in Prineville, we tend to be more rural-minded. We tend to see our environment and our location as our life, our work, and providing for our families and a place to live. People continue to come to Bend

for the recreation. They tend to see the great outdoors as the recreational theater a little bit. That's a generalization, I realize, but we are two different cultures. If you put Prineville in with Bend and Redmond, Prineville will simply have no representation in Salem or in Washington, DC.” Ex. 3018-S, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 1:00 p.m., 64:25–65:18 (statement of Rodney Tomberson); *see* Ex 2543 (showing that District 2 includes Prineville but excludes Redmond and Bend).

72. The Dalles residents Fritz & LeAnn Ellett stated “It is critical that we be grouped with communities of common interest In our case it means not being grouped with Hood River, but rather with communities to the south and east of us. Reaching south into Jefferson county would make sense as they have attitudes and lifestyles more similar to us.” Ex. 2023, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 1:00 p.m. (statement of Fritz & LeAnn Ellett); *see* Ex. 2542 (showing The Dalles in District 2 and Hood River in District 3, and showing District 2 reaching south from The Dalles into Jefferson County).

73. The Dalles resident Jessica DeVlaeminck stated: “Please do not group The Dalles with Hood River, Portland and Bend; we do not have anything in common with those counties.” Ex. 2096, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Jessica DeVlaeminck); *see* Ex. 2542 (showing The Dalles in District 2 and Hood River and East Portland in District 3) Ex. 2543 (showing Bend in District 5).

74. Ashland resident Lauri Hoagland testified about the importance of keeping “Jackson and Josephine counties together” due to the “[m]any social and medical providers collaborate in these two counties and I think it is important to keep them together to protect the integrity of current care for residents in these communities.” Ex. 2047, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 8:00 a.m. (statement of Lauri Hoagland); *see* Ex. 2001 (showing District 2 containing all of Jackson and Josephine Counties).

75. Ashland resident Cole Daneman testified: “I strongly encourage you to pursue maps that keep the entirety of Jackson County together. Ideally, Jackson County and Josephine County

may be paired together in a district that would acknowledge the extensive connections between these two counties. The Rogue Valley’s population centers are located along the Rogue River and Bear Creek (which feeds into the Rogue River). Interstate 5, and to an extent Highway 99, follow Bear Creek between Ashland and Gold Hill. Interstate 5 and Highway 99 then follow the Rogue River between Gold Hill and Grants Pass.” Ex. 2095, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Cole Daneman), *see* Ex. 2001 (showing District 2 containing all of Jackson and Josephine Counties).

76. Ashland resident Rebecca Pearson testified, “The proposed district lines take into account major transportation links such as I-5 and HWY99, that connect the community centers in the Rogue Valley to rural surrounding areas that makeup this unique portion of the state. These transportation links are also cr[i]tical to preserving communities of interest such as the Muslim and Jewish communities in southern Oregon, who rely on the Mosque located in Talent and the three Synagogues located in Ashland -- the only houses of worship for Muslim and Jewish community members between Roseburg and Redding, CA -- to practice their faith. It is vital that these communities, who have historically and contemporarily faced immense discrimination and acts of violence, to have access to spaces to practice their faith and be in community.” Ex. 2083, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Rebecca Pearson); *see* Ex. 2001 (showing District 2 containing a long stretch of I-5 connecting Ashland to areas of southern Oregon and northern California); Ex. 2505 (showing Talent near Ashland on I-5).

77. Medford resident Terrie Martin testified, “Jackson County is a diverse community, but we are a community with shared challenges, goals and funding. When the wildfires wiped out so much of Phoenix and Talent, people across the county responded and worked together to come up with solutions and plans for rebuilding. The proposal marked Congress - Plan B would cut our most populated area -- Medford and Central Point -- out of our district and assign it to a different Congressional representative. This makes no sense. It would divide us as a county and a community.” Ex. 2082, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept

13, 2021, 1:00 p.m. (statement of Terrie Martin); *see* Ex. 2001 (showing District 2 containing all of Jackson County); Ex. 2505 (showing Jackson County communities of Phoenix, Talent, Medford, and Central Point).

78. The Dalles resident “Columbia Son” testified “The electorate of The Dalles has little in common with the electorate of Portland. Our economies are different, our attitudes are different. Portland is decidedly urban and woke, The Dalles and similar communities in Wasco County are rural and conservative. We have little in common, and absolutely should not share a political representative. . . . Similarly, any map that groups The Dalles with Hood River should be discounted. We are nearer to each other, and we used to be sister cities. But Hood River has become a bedroom community for many Portlanders, and the character of that town has become the antithesis to our own.” Ex. 2102, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Columbia Son); Ex. 2542 (showing The Dalles in District 2 and Hood River and East Portland in District 3).

79. Ashland resident Becky Snow testified, “My concern is that Jackson County not be split between districts. As the heart of the Rogue Valley and the provider of most services and resources here, it needs to be represented by a person who sees the area as a unified whole. We have very little in common with the longitudinally comparable part of the Coast and do not have easy access to it.” Ex. 2089, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Becky Snow); *see* Ex. 2001 (showing District 2 containing all of Jackson County and not including the southern Oregon coast).

80. Dufur (Wasco County) residents Darrell and Darlien France testified, “We want to be with like minded peoples and we are agricultural. We need to be included with eastern counties. I do not want to be included with Hood River in any district. We associate with Sherman and Gilliam Counties. . . . Please change the division of Wasco County and include us with Eastern Oregon.” Ex. 2074, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Darrell and Darlien France); *see* Ex. 2542 (showing Dufur in Wasco County in District 2); Ex. 2001 (showing District 2 extending from Eastern Oregon

westward through Gilliam, Sherman, and Wasco Counties, ending at the Hood River County line).

81. Warm Springs resident Gonzalo Arthur testified, “I live and work in Warm Springs, and I have many friends and family members who live and work in both Warm Springs and Madras.” Ex. 2064, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Gonzalo Arthur). He further testified, “I have three children attending Madras High School, and 2 children at Warm Springs K-8. We spend much of our free time in Madras, enjoying sports events and other activities that the children enjoy. We also take part in traditional activities in Warm Springs, such as Name-Giving ceremonies, and other cultural activities of the Warm Springs tribes.” *Id.*; see Ex. 2507 (showing Warm Springs and Madras in District 2).

82. Warm Springs resident Heidi Casper testified, “One very important aspect of drawing these maps is to keep the Sovereign Nation of Warm Springs whole. . . . Madras and Warm Springs are sister communities. Students in Warm Springs are part of Jefferson County School District and attend Madras High School.” Ex. 2067, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Heidi Casper). She testified that it did not make sense to have Hood River in the same district as Warm Springs and Madras, because Hood River “is in the geographic area of the Gorge, not Central Oregon.” *Id.*; see Ex. 2542 (showing Madras and Warm Springs in District 2 and Hood River in District 3).

83. Dalles resident Mike Courtney testified, “I live in The Dalles. We have nothing in common with Portland, or the Lower Willamette Valley, and would not be well represented by being tied to that part of the state.” Ex. 2070, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept. 13, 2021, 1:00 p.m. (statement of Mike Courtney); see Ex. 2542 (showing District 2 containing The Dalles and not containing any part of Portland or the Willamette Valley).

84. Madras resident Tommy Alvarez, Sr., testified, “Most of my family are enrolled in the Confederated Tribes of Warm Springs, Oregon. We consider our community of interest to be the

entire reservation from the Cascade Mountains to the Deschutes River and Madras, Oregon, up to Terrebonne, where my two cousins live. We also consider the tribe's 10 million acres we ceded to the United States to be part of our homeland since time in memorial. . . . In our free time, my family and I participate in cultural celebrations, tribal traditional teachings. We exercise our rights to fish hunt, gather foods off of our ceded lands as well as on our reservation tribal lands. Our children are in school sports, both in Warm Springs and Madras and in multiple grades in multiple sports. My family fishes the Deschutes River. All my family have caught their first fish and learned how to fish on this river.” Ex. 3018-N, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 8:00 a.m., 21:4–23:1 (statement of Tommy Alvarez); *see* Ex. 2507 (showing District 2 extending into Clackamas and Marion Counties to preserve cohesion of Warm Springs Reservation).

85. Dalles resident Nicole Chaisson testified, “Wasco County has nothing in common with any locations the west of us nor the Bend area. Please keep in your mind the Wasco County is a rural agricultural County. There is enough landmarks and transportation hubs to include the East of us. We already share a public health district with Sherman County and many wheat farms are in both counties. . . . [S]plitting us away from Eastern Oregon and adding us to metro area will silence our voices.” Ex. 2068, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Nicole Chaisson); *see* Ex. 2001 (showing District 2 containing Wasco and Sherman Counties and excluding Bend and the Portland metropolitan area).

86. Malheur County resident Sarah Ray testified, “In Map A, Congressional District 2 communities are linked by many features - they have similar and shared industries pertaining to land and natural resources; they have smaller, close-knit towns and communities; and they have amazing natural features that are a local treasure and drive a booming tourism and recreation industry, and we have robust agricultural economies as well. I’d like to editorialize a bit and say as person who lives in the Mountain Time Zone - Bend is not that similar to Eastern Oregon. Bend Residents share much more in common with places like Hood River and Portland than with

places like Ontario and Burns. And Map A reflects that distinction. I don't know exactly how to move the six Congressional districts around but we over here will not lose sleep with Bend/Deschutes County in another District.” Ex. 2086, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Sarah Ray); *see* Ex. 2001 (showing District 2 containing Eastern Oregon and District 5 containing Bend and areas of Portland).

87. The Second Congressional District maintains the communities of common interest described in the legislative record. Maintaining these and other communities of common interest is a reason for constituting the district in its current form. *See* Exs 3008, 3010 (describing differing interests of Hood River and communities in Second Congressional District); Ex 3012 (describing differing interests of Bend and communities in Second Congressional District).

3. District 3

88. District 3 includes all of Hood River County and areas of Multnomah and Clackamas Counties. *See* Ex. 2001; Ex. 2002; Ex. 2004. The Redistricting Committees heard testimony that communities within District 3 share common interests.

a. Multnomah County

89. The Redistricting Committees heard testimony that areas of District 3 in Multnomah County share a community of common interest.

90. Portland resident Orion Raphael Dlugonski testified, “We must prioritize keeping together BIPOC communities and historically marginalized communities who have been intentionally shut out from the political process for too long. Our vibrant and diverse communities, like the Jade District and Albina, must be kept together.” Ex. 2085, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Orion Raphael Dlugonski).

91. Portland resident Sabrina Wilson testified that “Outer East Portland,” falling largely between 82nd Avenue and 190th Avenue, “is one of the most diverse areas in the state, with 28.3% of neighbors identifying as foreign-born, 22.7% Latinx, and 8.9% Black/African

American. There is a high percentage of renters, and in the last 10 years, the area has experienced a significant growth in population. . . . In our neighborhood, community members are passionate about having quality affordable housing, open green space to play, more public transportation options, quality education including early childhood education, access to jobs and job training. We must ensure that these communities of interest defined in our maps are not divided up by district lines, and have a chance to make their voices heard to elected officials who are responsive to these needs.” Ex. 2091, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Sabrina Wilson).

92. Portland resident Barbara Casey testified that residents of the “the ‘Eastside’—outer East [Multnomah] County all along the I 84 and I 205 corridor,” “live, work, shop and go to school and retire in these neighborhoods, we play in the parks and when we can enjoy the Columbia Gorge in all its beauty.” Ex. 2014, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 8:00 a.m. (statement of Barbara Casey); *see* Ex. 2542 (showing East Multnomah county and much of the Columbia River Gorge included in District 3).

93. Portland resident Mercedes Morales testified: “I often drive to the Gorge, and Mt. Hood, on I-84. These places feel like part of the great SE Portland available locations for travel, and exploration. A common sense adjustment after 10 years of big changes in our state. In Congressional proposal B, it seems like Portland is confined into one small district that doesn’t even reach Mt. Hood. This does not make sense to me if we have had 10 years of growth, and it seems like it doesn’t understand that folks in Portland are well connected and similar to other parts of the state.” Ex. 2028, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 5:30 p.m. (statement of Mercedes Morales); *see* Ex. 2542 (showing District 3 linking Southeast Portland, the Columbia River Gorge, and Mount Hood).

94. Portland resident Tula Sabes stated: “I would also like to voice my support for the congressional Map ‘A’. 15th and Prescott is a logical place for the line between Congressional District 1 and Congressional District 3. By placing the line here, we are not splitting the historically black neighborhoods and it keeps all of North Portland together in a single district.”

Ex. 2029, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 5:30 p.m. (statement of Tula Sabes).

95. Portland resident Adriana Voss-Andreae testified that “importantly, the line between CD 1 and CD 3 at 15th and Prescott is a logical place to ensure that the legislature does not split up the historically Black neighborhoods in North Portland. As someone who used to work at a local non-profit dedicated to providing affordable housing to those displaced by gentrification in N Portland, it’s critical that this community of interest finally be meaningfully considered after generations of racism and abuse.” Ex. 2053, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 1:00 p.m. (statement of Adriana Voss-Andreae).

96. Portland resident Alex Riedlinger testified about the importance of “that the commission maintain the inclusion of North Portland and East Portland in Congressional District 3, ensuring that our diverse and often marginalized members of North Portland, East Portland, and East County are well represented by lawmakers with local ties and shared interests. In my vision, these communities will receive as much support and economic opportunities as any other region in the greater Portland area. These diverse regions must remain in the same congressional district as the rest of Portland. This will ensure Black, Indigenous, people of color, immigrant, and refugee residents are not marginalized as voters, and that they hold power and agency over their congressional representation.” Ex. 2100, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Alex Riedlinger); *see* Ex. 2542 (showing District 3 linking North Portland, East Portland, and East Multnomah County).

b. Clackamas County (including Sandy & Government Camp)

97. Sandy resident Dave Kaechele testified “The communities along Hwy 26 use Sandy for their major needs.... Bringing in the Dalles makes no sense. They are different people with their needs compared to Sandy residents. Mountain needs are not the same as plains needs.”

Ex. 2027, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 5:30 p.m. (statement of Dave Kaechele); *see* Ex. 2542 (showing Sandy in District 3 and The Dalles in District 2).

98. Sandy resident Deborah Kaechele testified, “The Dalles has no connection to our district and should NOT be incorporated into District 3. The mountain communities and Sandy should stay together in District 3!!” Ex. 2078, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Deborah Kaechele); *see* Ex. 2542 (showing Sandy in District 3 and The Dalles in District 2).

99. Sandy resident Karinna French testified that Sandy and its “Mountain neighbors up the road (Hwy 26) . . . share community resources and are bound together by common roads and services.” Ex. 2075, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Karinna French). She testified that “The Dalles and Mosier . . . do not share Mountain community resources and are in a different county entirely.” *Id.*; *see* Ex. 2542 (showing Sandy in District 3 and The Dalles and Mosier in District 2).

100. Sandy resident Susan H. Gates testified residents of “the mountain communities (Brightwood to Govt. Camp) . . . use Sandy medical, social service, parks and recreation, grocery stores and schools as their resource center. We are neighbors and should not be split by an imaginary line.” Ex. 2077, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Susan H. Gates). She testified that Mosier and The Dalles in Mosier County “have no connection with us.” *Id.*; *see* Ex. 2542 (showing Sandy in District 3 and The Dalles and Mosier in District 2).

101. Alder Creek, Clackamas County resident Steve Smithsted testified that “the unparalleled growth the Portland Area has seen over the past decade -- a trend we can expect to continue in the future . . . has led Sandy to become more of a ‘bedroom community’, populated by folks who have been priced out of the Portland housing market but still commute toward Portland for work. This makes Sandy more of a Portland suburb as opposed to a rural or mountain community, or a community that relies on tourism like the small towns along the Mountain and Gorge do. I liken Sandy to Hillsboro or Happy Valley, which only a few decades ago were vast expanses of agricultural land and now are suburban and are incorporated into the Portland Metro Area. . . . I would also like to highlight my strong support for Congressional Map A, which places me in

the 3rd Congressional District. I appreciate that it connects communities along the mountain, gorge, and central Oregon to Portland because these communities share a number of similarities including a wealth of natural splendor and tourism economies. They are also connected via transportation links like the Columbia Area Transit Bus, the Sandy Area Metro Bus, and major roads like I-84, HWY26, and HWY 35. Congressional Map A provides a balanced mix of urban, suburban, and rural communities; giving us the opportunity to work together with the Portland Metropolitan Area to bring forward policies at the federal level that are representative of Oregon as a whole.” Ex. 2052, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 1:00 p.m. (statement of Steve Smithsted); *see* Ex. 2542 (showing District 3 linking Portland, Sandy, the Columbia River Gorge, and Mount Hood).

102. Welches resident Cristina Saldivar testified, “I am in favor of Congressional Map A because it is made up of communities that are heavy on outdoor recreation, tourism, environmental conservation; and that have transformed immensely over the last decade. This includes the Gorge, the Mountain, and Bend, which have begun to face many of the concerns that come with a rapidly growing, increasingly interconnected and suburban area. Though some may argue that it doesn’t make sense to connect Portland to these communities, the reality is that the communities in HD52 are a short drive from Portland and that they are all connected by major roads such as I-84 and HWY-26. These communities are also connected to Bend via roads such as HWY-35, and HWY-197.” *See* Ex. 2051, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 1:00 p.m. (statement of Cristina Saldivar); *see* Ex. 2542 (showing District 3 linking Portland with the Columbia River Gorge and Mount Hood).

c. Hood River County

103. The Redistricting Committees heard testimony that Hood River County shares a community of common interest with other areas of District 3. Specifically, residents testified in support of extending the former District 3 eastward to encompass Hood River County because of Hood River’s closer ties to its western neighbors than to counties further to the east. *Compare* Ex. 2564 (showing Oregon’s former Congressional Districts as of January 2021, with District 3

extending eastward from Portland but ending at the Hood River County line) *with* Ex. 2001 (showing new District 3 encompassing Hood River County).

104. Joanne Mina, who did not specify an area of residence, testified, “Nearly 14 percent of Oregonians identify as Hispanic or Latino, and that went up 11 percent, Nationally, Latinos are roughly 62 million and went up 23 percent. . . . However, redistricting has been used to exclude communities of political power in the past. And unfortunately, some of the plans -- or all of the plans proposed do that to some extent by dividing our communities. . . . And on Plan A on the Congressional District 3, I agree that Redmond should not be excluded and that the Latino community should be kept [whole] throughout central Oregon. I see that Latinos are a growing, thriving community and the connection to Hood River and the outskirts of Portland on . . . the east side makes sense, but it does not make sense to exclude Redmond and the Highway 97 corridor.” Ex. 3018-S, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept. 8, 2021, 1:00 p.m., 15:10–16:13 (statement of Joanne Mina); *see* Ex. 2001 (showing District 3 as including both Hood River and eastern Portland).

105. Hood River resident Beth Flake testified, “One of the big reasons why I support Congressional map A is because it takes part of our state's enormous second congressional district that has transformed immensely over the last decade and unifies it into a third congressional district. How can a single elected official possibly represent communities from 18 different counties? The needs and values of people in Harney County do not represent those of people in Hood River County. Not even close. . . . The communities along the gorge, the mountain and Bend deserve so much better than to be paired with communities in eastern Oregon with whom we share almost nothing.” Ex. 3018-J, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept. 13, 2021, 1:00 p.m., 16:3-22 (statement of Beth Flake); *see* Ex. 2001 (showing District 3 as including Hood River County as its easternmost area).

106. Debra Dobbs, a Hood River resident, commented that communities including “Mt. Hood, Portland, and Bend . . . are all connected via shared values, a reliance on the tourism economy

and a great love for outdoor recreation.” Ex. 2046, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 8:00 a.m. (statement of Debra Dobbs).

107. The Third Congressional District maintains the communities of common interest described in the legislative record. Maintaining these and other communities of common interest is a reason for constituting the district in its current form. *See* Exs 3003, 3008, 3009, 3010 (describing Third Congressional District’s communities of common interest).

4. District 4

108. District 4 includes all of Curry, Coos, Lane, Lincoln, and Benton Counties, as well as areas of Linn, Douglas, and Polk Counties. Ex. 2001; Ex. 2002; Ex. 2004. The Restricting Committees heard testimony that communities within District 4 share common interests.

109. Michael Broili, a resident of South Beach, Newport (Lincoln County), testified that “keep[ing] all of Lincoln and Benton Counties together in the same congressional district,” which “means Corvallis and Newport are in the same district, . . . makes sense due to our proximity, and the fact that Corvallis is the nearest city to us with a major hospital.” Ex. 2039, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 1:00 p.m. (statement of Michael Broili). He also testified that “Oregon State University and University of Oregon each have satellite campuses in Newport and Coos Bay (respectively), so it makes sense to have those four cities in the same district.” *Id.* He further testified, “I do a lot of volunteer work with folks in Newport, Waldport, Toledo, and Yachats regarding our shared watershed and environmental conservation concerns, so it’s important to me that we remain in the same district to give us the best chance to elect a leader who shares and will represent our values in D.C.” *Id.*; *see* Ex. 2001 (showing District 4 linking Corvallis and Eugene with the coast).

110. Bill Kucha, a resident of Depoe Bay (Lincoln County), testified that “keep[ing] all of Lincoln and Benton counties together in the same district pairing Corvallis and Eugene with the Central Coast . . . makes sense because of the connection we have together in terms of our shared HWY 20, satellite campus connections between Oregon State and OCCC as well the need for us to have access to their major hospitals.” Ex. 2060, Testimony, Senate Interim Committee on

Redistricting, SB 881, Sept 13, 2021, 8:00 a.m. (statement of Bill Kucha); *see* Ex. 2001 (showing District 4 linking Corvallis and Eugene with the Central Coast).

111. Lincoln City residents Joanne Daschel and Ren Jacob testified, “Because our smaller communities necessitate that we are part of a district with a larger population, the areas containing Corvallis and Eugene seem most logical, given the development of ocean science and education as a growing part of our economy and employment in Lincoln County. Looking ahead, climate issues, the nearshore energy sector and fisheries management are all areas of interest that align with these inland communities’ future in scientific research.” Ex. 2071, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Joanne Daschel and Ren Jacob); *see* Ex. 2001 (showing District 4 linking Lincoln County with Corvallis and Eugene).

112. Eugene resident Philip N. Barnhart testified, “Congressional District 4 should include the major universities of Oregon, UO and Oregon State University. . . . [T]he upper Willamette Valley where those two major institutions are located together with the central and South Coast form a major tourist and economic area with major common economic interests. The railroad running from Coos Bay to the Eugene rail yard is a critical transportation link for current wood products and will become even more important if the container port planned for Coos Bay becomes a reality. Eugene is also a major tourist hub for south western Oregon. Combining the South and Central Coast with the education hub of Oregon through its two world class universities makes a compact and economically and culturally coherent Congressional District.” Ex. 2065, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Philip N. Barnhart); *see* Ex. 2001 (showing District 4 linking Eugene and Corvallis with the South and Central Coast).

113. Eugene resident Oliver Mintz-Lowe testified, “I like the way plan C is built around I5 and the 58, because it reflects how I, and many people, move around our communities every day. The way maps A and C follow the 99 all the way up to Junction City makes perfect sense, because this is a heavily trafficked route that many people use to commute between their homes

and work. For example as a state worker I know a number of people who work for OHA, at the State Hospital in Junction City, who make this commute daily. . . . In terms of the congressional plan, I prefer Plan A as it keeps the western parts of Lane County, including the coastal communities connected to the Eugene/Springfield areas. People regularly travel between these two communities for recreation and shopping and keeping them together works better in my view.” Ex. 2057, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 5:30 p.m. (statement of Oliver Mintz-Lowe); *see* Ex. 2001 (showing District 4 containing Lane County, including Eugene, Springfield, Junction City, and coastal areas).

114. Lane County resident Patricia Hine testified, “Pertaining to the federal redistricting, I urge you to keep Corvallis and Eugene in the same district as we share common regional interests, such as our landscapes, like farms, mountains, forests and the coast. We also share many values of sustainability, inclusion and mutual support.” Ex. 2055, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 5:30 p.m. (statement of Patricia Hine).

115. Eugene resident Allen Hancock testified, “I support Congressional Map A because It keeps Lane County together – particularly west on HWY 126 towards the coast.” Ex. 2033, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m. (statement of Allen Hancock); *see* Ex. 2001 (showing District 4 containing all of Lane County).

116. Eugene resident Carleen Reilly testified, “People in Florence often come to Eugene/Springfield for health care and other services. Plan A would keep the ties between Florence and Eugene/Springfield strong.” Ex. 2035, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m. (statement of Carleen Reilly).

117. Eugene resident Thomas Dodd testified, “As for the Congressional district proposed maps, I think 'Congress - Plan A' is much better than the alternative. This plans keeps the community of interest of mid-to-south Oregon coast intact, while at the same time does the same for such communities in southern and eastern Oregon.” Ex. 2031, Testimony, Senate Interim

Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m. (statement of Thomas Dodd); *see* Ex. 2001 (showing District 4 containing linking the mid-to-south Oregon coast).

118. North Benton County resident Catherine Stearns testified, “[M]y neighbors and I have more in common with Corvallis than we do with Monmouth or Dallas. We travel south on Hwy 99W to Corvallis for the majority of our business, medical and recreational activities. This part of Benton County is served by bus transportation out of Adair Village to the Corvallis Transit Depot where we make connections to travel to many other places including most major local employers, Linn-Benton Community College and even to the coast. There are no such connections to places north of us. There are many retired folks in our area who appreciate being a short drive to Corvallis for medical appointments, groceries, and many cultural or recreational activities a college town offers. Local children attend Corvallis School District schools by taking the school buses originating in Corvallis. As the community I reside in considers itself ‘Corvallis’, we want to be in Congressional District 4 as do most of our co-workers, associates and friends. AND, we want state representatives who know our community as part of Benton County and NOT an extension of south Polk County.” Ex. 2036, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m. (statement of Catherine Stearns); *see* Ex. 2001 (showing District 4 containing Corvallis and North Benton County).

119. South Benton County resident Quintin Kreth testified, “South Benton County is closely tied to the Corvallis and Eugene communities and has intergovernmental connections to the central coast through bodies like Linn-Benton-Lincoln ESD.” Ex. 2034, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m. (statement of Quintin Kreth); *see* Ex. 2001 (showing District 4 containing Corvallis, Eugene, and South Benton County).

120. Lane County resident Lisa Fragala testified, “I want to express my support for proposed Congressional Map A and the manner in which it is an effective redistricting for Lane County. This map keeps all of Lane County intact and much of the central and south coast. Lane Community College has campuses in Eugene, Cottage Grove, and Florence and this map makes

sense for the communities the college serves and the transportation links that our students utilize.” Ex. 2032, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m. (statement of Lisa Fragala); *see* Ex. 2001 (showing District 4 containing all of Lane County and linking it with the Central and South Coast).

121. The Fourth Congressional District maintains the communities of common interest described in the legislative record. Maintaining these and other communities of common interest is a reason for constituting the district in its current form. *See* Ex 3011 (describing Fourth Congressional District’s communities of common interest).

5. District 5

122. District 5 includes areas of Clackamas, Multnomah, Marion, Linn, Jefferson, and Deschutes Counties. *See* Ex. 2001; Ex. 2002; Ex. 2004. The Redistricting Committees heard testimony that communities within District 5 share common interests.

a. Deschutes County

123. Bend resident Kavi Chokshi testified in support of including Bend in a district that includes “Redmond, Redmond Airport, and other similar parts of Deschutes County. I believe Redmond Airport is the primary airport used by most Bend residents.” Ex. 2069, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Kavi Chokshi) *see* Ex. 2543 (showing District 5 containing Bend and Redmond).

124. Bend resident Tia Hatton testified that “Bend is an urban town. I love Eastern Oregon - but the people in Bend overall, have different values, ethics, and economies than those in Eastern Oregon and its congressional district plan B does not respect that...it makes a lot of sense for the growing community of Bend to be linked to more urban areas such as Hood River and outskirts of Portland - such as Sandy and the outskirts of Gresham.” Ex. 2097, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Tia M. Hatton).

125. Sisters resident Tara Redfield testified, “In my opinion, Bend in particular has become more of an urban community and therefore has different needs than those of its neighbor,

Redmond and Eastern Oregon as a whole, which remains rural and agriculturally minded. As a Sisters resident, I believe, Sisters falls in a more neutral zone, but is more aligned with the population of Bend in terms of overall needs and goals. Sisters residents like myself, commute to Bend from HWY 20 which connects to HWY 97. We make good use of the easy access to shopping resources in Northern Bend such as Food 4 Less, Target and Trader Joe's. In terms of the division of Bend for these maps, I believe that dividing Bend by the West side, to also include Northern Bend and the East side makes the most sense." Ex. 2087, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Tara Redfield).

126. Bend resident Dave Paulson testified, "[A]ttaching us to Portland and, North Hood River definitely reflects the commercial centers that we have with Bend. When we don't have something in Bend, we look to Portland. We look for medical work. We look for educational and commercial interests. Our economy is supported by the people of Portland and the tourism that comes from there. Our transportation links to Portland through [Highway] 97 and over Mount Hood and to Santiam make us part of the Portland commercial area. Eastern Oregon doesn't really want Bend except to boost its population in CD 2. We're currently the redheaded stepchild. We're neglected, unwanted, and mistreated. U.S. representatives for many years would not come to Bend because they would cater to others in CD 2. They would hold town halls in Burns, Ontario and would never come to Bend. A lot of eastern Oregon wants to become part of Idaho. But every Greater Idaho map that I've seen conspicuously excludes Bend in its population. They don't like us. They think we're too much like Portland." Ex. 3018-N, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 8:00 a.m., 62:24–63:22 (statement of Dave Paulson); *see* Ex. 2001 (showing Bend as part of District 5 with part of Portland).

127. Bend resident Kina Condit-Chadwick testified, "The current map divides neighbors from one another, and ignores the many points of connection between central and downtown Bend, and the other parts of our city. Splitting Bend with a donut hole was not the answer 10 years ago

and is still not the answer. It unfairly separates communities, and transportation links....The old formula for Bend made Bend the sun, with the rest of Bend and surrounding areas the universe. That doesn't work for us anymore. Bend needs lines drawn that recognize we've grown from being a small town to a full metro area, as shown by the census data. Our points of connection come through businesses, transportation, faith based communities, and more -- and they need to be recognized by the legislative maps that represent our region." *See* Ex. 2021, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 1:00 p.m. (statement of Kina Condit-Chadwick).

128. Hood River resident Bonnie New testified: "The city of Bend has more similarities to areas like Portland and Hood River than it does with the rest of eastern Oregon." Ex. 2048, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 8:00 a.m. (statement of Bonnie New).

129. Bend resident Amy Sabbadini testified that "Cities like Bend are more and more distinct from towns to the east of us. Congress Plan B – does not make sense for Central Oregon. Parts of our region are very distinct from Eastern Oregon and should not be attached to these distinct communities....Bend is culturally and economically distinct from the towns east of it. The people in Eastern Oregon would not want my city to be part of their district." Ex. 2101, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Amy Sabbadini).

130. Bend resident Patrick Kennedy testified: "I live in Bend now (for the past 6 years.) Prior to that I lived in Gresham and I feel that I have much more in common with Gresham and Portland than I do with Eastern Oregon and I would like to be in a congressional district with likeminded people." Ex. 2079, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Patrick Kennedy).

131. Michael Funke from Bend testified in favor of a map that "puts Bend in the same district as Hood River and the outskirts of Portland, which makes sense to me given Bend's growth. *See*

Ex. 2076, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Michael Funke).

132. Bend resident Nancy Boever testified: “It makes sense that Bend is part of a district that represents Hood River and parts of Portland. Bend’s tourism and developing high tech economies and the interests and priorities of our community is much more similar to those communities than that of the extractive industries of eastern Oregon. We are communities that rely on outdoor tourism for our livelihood and it is where most of us spend our time. Travel and tourism, outdoor recreation, clean air and water and a focus on healthy environmental ecosystems are what we value.” Ex. 2066, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Nancy Boever).

133. Bend resident Samuel Lewis testified, “With Bend being a big economy and a growing city, its values, economy, ethics, and lifestyle is vastly different than many in Eastern Oregon. Thus, it doesn’t make much sense to combine Bend in with all of Eastern Oregon, as proper congressional representation would be harder to come by.” Ex. 2081, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Samuel Lewis),.

b. Clackamas County

134. Milwaukie resident Brad Reed testified in support of “group[ing] my community in Clackamas together with our neighbors mostly East of the river in the Willamette Valley, Marion and Linn counties. Many times I’ve traveled I-5 and 99E to visit the wonderful communities in our three counties with their farmers’ markets, breweries, beautiful natural areas, and you-pick farms for berries, pumpkins, and Christmas Trees.” Ex. 2041, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 1:00 p.m. (statement of Brad Reed); *see* Ex. 2001 (showing District 5 linking Milwaukie with eastern Marion County and Linn County).

c. Linn County and Marion County

135. Halsey resident Arwen McGilvra testified, “[T]he proposal ‘A’ for House districts from your committee keeps our rural Linn County area together as it should be. The proposal ‘C’ for Senate districts also accomplishes this. As does Congressional plan ‘A’. This proposals also

satisfy the quality of utilizing existing geographic or political boundaries (Linn county border and the Willamette river.)” Ex. 2056, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 5:30 p.m. (statement of Arwen McGilvra); *see* Ex. 2001 (showing District 5 containing the majority of Linn County).

136. Halsey resident Liz VanLeeuwen testified, “Our ‘centers of interest’ are not in Eugene and Springfield and it’s baffling how we ever got placed in a district with them during the previous redistricting.” Ex. 2090, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Liz VanLeeuwen); *see* Ex. 2001 (showing the majority of Linn County in District 5 and Eugene and Springfield in District 6).

137. Millersburg resident Kevin Kreitman testified about the connections between Millersburg, Albany, and Tangent, while distinguishing Salem: “The communities of Albany, Millersburg, and Tangent have always had joint interests from an educational, economic, and business relationship standpoint. Students from all three communities are part of the Greater Albany Public School District with students from Millersburg and Tangent graduating from high schools located in Albany. The three communities are also part of the Albany Metropolitan Planning Organization, or AMPO, which was established in 2013 to facilitate and address regional transportation planning for the greater Albany area. . . . It’s hard to see any value in excluding the Tangent area, including south Salem into an area of a redrawn district, which would have no impact on issues important to and affecting the greater Albany area. . . . Albany and Millersburg have historically had a strong joint relationship, and part of that includes joint ownership of our water and wastewater facilities and through an intergovernment agreement, Albany provides operation and maintenance of our Millersburg-owned water and sewer infrastructure. Given our large industrial base, the city of Millersburg also relies on the greater Albany area for employment resources. We also contract with the city of Albany for fire services for which Albany Fire Department provides staffing out of Millersburg-owned facilities. And finally, Millersburg addressing is based on Albany’s 97321 ZIP code. In fact, our address for our city hall is an Albany, Oregon address.” Ex. 3018-Q, Testimony, Senate Interim

Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m., 48:10–50:6 (statement of Kevin Kreitman); *see* Ex. 2505 (showing Albany, Millersburg, and Tangent in Linn County); Ex. 2001 (showing those areas of Linn County included in District 5).

138. Albany resident Eric Aguinaga testified, “The I-5 corridor that runs through House District 15 is a farming community, is a growing historic community, and a fun community to be in. It’s hard to tell the difference when you are driving through Millersburg, Albany, and Tangent to see what city you are actually in. Little roads like Santiam Boulevard, Seven Mile Lane mean a lot to us, and we have become a very strong community working together. . . . And the speaker for the city of Millersburg was very correct. I work in title and escrow. On your deed, if you live in Millersburg, your deed actually says city of Albany. We are a very close community[.]” Ex. 3018-Q, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m., 52:16–53:9 (statement of Eric Aguinaga); *see* Ex. 2505 (showing Albany, Millersburg, and Tangent in Linn County); Ex. 2001 (showing those areas of Linn County included in District 5).

139. Stayton resident Tricia Hafner testified about the connections between communities in the Santiam Canyon, while distinguishing Salem: “With House and Senate plan C, the Santiam Canyon will be split in half. Our community has come together so much this past year after the Beachie Creek fire devastated so many of my neighbors friends and family. . . . Splitting it up straight down Highway 22 would put many of these small towns in two districts. This map just does not feel like my rural community that has gone through so much was taken into consideration, and all they went with was an easy transportation route to draw, rather than caring about the people that it would affect. . . . The needs of people living along Cordon Road in Salem are vastly different tha[n] those who live up by Breitenbush—sorry.” Exhibit 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 25:22–26:23 (statement of Tricia Hafner); *See* Exs. 2549–2550 (showing Stayton and cities along Highway 22 contained within District 5 and Salem contained within District 6); Ex. 2545 (showing district line following Cordon Road in Salem).

140. The Fifth Congressional District maintains the communities of common interest described in the legislative record. Maintaining these and other communities of common interest is a reason for constituting the district in its current form. *See* Exs 3003, 3012, 3013, 3014 (describing Fifth Congressional District’s communities of common interest).

6. District 6

141. District 6 includes all of Yamhill County, as well as areas of Polk, Marion, Clackamas, and Washington Counties. *See* Ex. 2001; Ex. 2002; Ex. 2004. The Redistricting Committees heard testimony that communities within District 6 share common interests.

142. Tigard resident Miles Palacios testified that including Tigard “within Oregon’s *new* 6th Congressional District, along with other very residential communities such as Tual[a]tin and Salem who have also seen a lot of growth in the past decade, and whose residents have become increasingly diverse,” “makes a great deal of sense” and “shows more respect for keeping communities of interest intact.” Ex. 2017, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 8:00 a.m. (statement of Miles Palacios); *see* Ex. 2001 (showing Tigard within District 6, in the “Portland and Northern Willamette Valley” inset).

143. Woodburn resident Debbie Cabrales testified about the ties between Woodburn and Salem, “two areas that are so connected that folks travel in between them every single day.” Ex. 2040, Testimony, Senate Interim Committee on Redistricting, SB 881 Sept 9, 2021, 1:00 p.m. (statement of Debbie Cabrales). She testified, “Although we have been able to grow as a community, we depend on some services in Salem, this is easy to do via I-5. Salem and Woodburn are only 15-20 minutes away. I also have family in Brooks which is along the I-5.” *Id.* She also testified about the “deeply interconnected” “Latinx community, business, and families” in Woodburn and Salem: “Beyond just basic services that are provided, Northeast Salem is another replica of the community building that we have done in Woodburn. The people who live in both of these communities are the same, sharing similar interests and needs and are able to advocate together.” *Id.*; *see* Ex. 2550 (showing Salem and Woodburn in District 6).

144. Caryn Connolly, a resident of Salem (Marion County), testified that “Cordon Road is a good dividing line for a district—communities on each side are different.” Ex. 2059, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m (statement of Caryn Connolly); *see* Ex. 2545 (showing the district boundary following Cordon Road on the eastern edge of Salem).

145. Salem resident Cynthia Martinez testified, “I now work in Woodburn and drive about 20 minutes to get to work. . . . Redistricting allows communities of interest to stay together, and the Woodburn and northeast Salem communities have been one House district because of the commonalities we share. . . . Lancaster Road is also important transportation link because you can find everything you need there, from a Starbucks, to a pan[a]d[e]ria, to gas stations, grocery stores, and even some fun recreational things to do, in almost—an almost anything else you can think of. Before, Lancaster Road was seen as a marker between urban and rural areas. And so many people have moved to the east of Lancaster Road, so it would make sense to have Cordon Road be an indicator of where the district should stop. I would like to advocate for House plan C, as it’s the most—it’s the one that makes the most sense and keeps the Latinx community the most together. It keeps northeast Salem and Woodburn together, and also Hayesville down to Four Corners as well.” Ex. 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 12:10–14:12 (statement of Cynthia Martinez); *see* Ex. 2546 (showing Lancaster Drive and Cordon Road in East Salem, with the district line following Cordon Road).

146. Salem resident Michael Powers testified, “I think the communities of north Salem and Woodburn have many common interests and cultural connections, and so it makes sense to keep them together for the near future. I would also work to keep the area along Lancaster Road together as well, perhaps using Cordon Road as a boundary.” Ex. 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 34:8– 34:14 (statement of Michael Powers).

147. Sherwood resident John Meissinger testified that “Sherwood needs to be together with McMinnville, Newberg, and Wilsonville. All three of these communities are fast growing and share a lot of similar interests. One interest is that these communities continue to see massive population increases. These towns are also seeing more businesses set up shop.” Ex. 2016, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 8:00 a.m. (statement of John Meissinger); *see* Exs. 2001, 2550 (showing Sherwood, Wilsonville, Newberg, and McMinnville in District 6).

148. Keizer resident Elizabeth Heredia testified, “Historically, the Salem-Keizer border seems one in the same, where folks who reside on either side of Salem Parkway highway easily merge north to access basic needs. General goods from the grocery store, medical service, or shopping stores. The community who resides in these areas have similar shopping habits, speak the same language, practice the same religion. . . . While I appreciate some of the areas of the map proposed, House plan B raises many concerns, specifically in the Hayesville, Middle Grove and Four Corners area. House plan B splits these communities right through the middle, not respecting the communities of interest that live there parallel in those cities.” Exhibit 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 7:20–8:17 (statement of Elizabeth Heredia); *see* Ex. 2550 (showing Salem and Keizer in District 6).

149. Salem resident Ira Martinez testified about connections between Southeast and Northeast Salem, as well as adjacent communities: “I want to specifically focus on Lancaster Drive, as it is a very important transportation link for us. Along this road you can find the local flea market, Mirandes Bakery, El Toritos Meat Market, Courthouse Club Fitness, La Tapatia Market, among many other businesses. House proposal B does not take into consideration the significance that this road has in our communities and proposes to split the area into three distinct districts. Senate proposal C keeps communities in Salem that are along Lancaster Drive and communities that are adjacent to Salem, but who frequently travel into parts of southeast and northeast Salem together in one Senate district. Senate proposal B isolates these communities, who frequently travel into Salem for grocery shopping or to go to doctors' appointments, from parts of the region

that they are closely connected to. I call on the legislators to revisit this proposed maps and make certain that the communities who make up northeast and southeast Salem are able to remain unified.” Exhibit 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 10:14–11:10 (statement of Ira Martinez); *see* Ex. 2546 (showing Lancaster Drive in Salem in District 6); Ex. 2550 (showing Salem and adjacent communities in District 6).

150. Janet Lorenzen, from Salem, testified: “I work at Willamette University, about half of our faculty and staff members live in Portland or Wilsonville and commute to Salem. And several faculty members live in Salem and travel to Portland to teach classes. It’s also my understanding that homes in North-West Salem are often used as a bedroom community for travel to Wilsonville and Portland. I think of the I-5 corridor between Portland and Salem as deeply interconnected in terms of home-life and work-life. Therefore, (1) I think pairing Marion County with the Southern Portland Suburbs makes sense. The district would be compact and contiguous. (2) Second, pairing NW Salem with rural areas, as in Plan B, doesn’t make sense. Salem should stay together as one community of interest. And people of color in North-West Salem should not be separated from people of color in East Salem.” Ex. 2099, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Janet Lorenzen); *see* Ex. 2001 (showing District 6 containing Salem, Wilsonville, and the southwest Portland metropolitan area).

151. Salem resident Maria Hinojos Pressey testified about the importance of keeping Latinx communities in Salem and Woodburn together, “I wanted to share my appreciation for the maps that keep the Woodburn and Salem corridor together. Although I live in Salem, I work in Woodburn and commute there via I-5 which takes me about 20 minutes depending on traffic.... the Salem area is home to a thriving and vibrant Latinx community, and many of us who live in North East Salem, travel up to Woodburn where you can find Lucero’s shop, to pick up platos de barro, and Luis’s Taqueria, to get authentic food or buy a piñata for a family birthday party. I also like that these maps follow the I-5 and would like to highlight that the farming communities

along it are central to this area and I appreciate that this map respects that. If you drive through this highway, after leaving Woodburn and entering NE Salem, it is as if you never left either city. I urge this committee to not separate these communities as it would be devastating to further disenfranchised communities who have worked endlessly to achieve accurate representation on all levels of government.” Ex. 2098, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Maria Hinojos Pressey); *see* Ex. 2550 (showing Salem in District 6).

152. Woodburn resident Jaime Rodriguez testified, “I stand in support of Congressional Map A. I believe it does a great job at pairing some of the southwestern Portland Metro towns who have more suburban concerns that Portland proper and who have grown exponentially over the last decade with communities like Salem, Woodburn, McMinnville, and Dallas—who are also largely suburban and growing in their own right. Centered in the mid-Willamette valley, this map also encompasses all of Oregon’s wine country, which gives winemakers and the field workers who harvest their grapes an opportunity to be represented by someone who can balance the changing needs of these growing communities with their need to protect land that is used to create world-class wine that Oregon is famous for.” Ex. 2088, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Jaime Rodriguez); *see* Exs. 2001, 2550 (showing District 6 containing Salem, Woodburn, McMinnville, Dallas, and the southwest Portland metropolitan area).

153. Milwaukie resident Joseph Lechuga testified, “I do think that the legislature has done a good job of connecting communities of interest in the new 6th congressional district. Map proposal A is generally a move in the right direction for our state and I think it reflects the changes that our state has gone through for the last ten years. In proposal A, the 6th Congressional District keeps agricultural communities together from Willamette wine growers to Latinx farm workers in Salem.” Ex. 3018-I, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m., 40:20–41:5; *see* Ex. 2001 (showing District 6 as including areas of the Willamette Valley and Salem).

154. Milwaukie Mayor Mark Gamba similarly testified, “The new [District] 6 would represent a largely agricultural community, and the 5th becomes more concentrated, whereas before it was kind of all over the ballpark.” Ex. 3018-J, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m., 11:11-14 (statement of Mayor Gamba).

155. Levi Lopez, from the Four Corners area of east Salem, testified, “We love our Marion County neighbors in Silverton and Mount Angel, but as another guest mentioned earlier, we do have different priorities, different realities. And so putting us together in one district doesn’t make a lot of sense.” Exhibit 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 43:14–43:18 (statement of Levi Lopez); *see* Ex. 2550 (showing Salem in District 6 and Silverton and Mount Angel in District 5).

156. General testimony about communities of interest Some residents offered testimony commenting on communities of interest in general, and the types of communities who should be grouped together in districts. Some residents expressed support for creating districts with a broad range of urban, suburban, and rural communities.

157. Portland resident Lisa Gilham-Luginbill testified, “We have heard plenty about an urban-rural divide in our state’s politics, and I believe that [Congressional Plan B] only makes this worse by splitting us into Congressional Districts rigidly based on whether its respective community is urban or rural as opposed to giving us the opportunity to bridge this gap and come together as Oregonians.” Ex. 2026, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 5:30 p.m. (statement of Lisa Gilham-Luginbill).

158. Eugene resident Carleen Reilly testified, “[D]istricts containing urban, suburban, and rural areas depict the broad spectrum of Oregonians’ needs. Representatives from these districts would propose legislation that would serve the overall needs of our state and help heal the rural-urban divide. Broadband internet is an example of services that must reach across all boundaries.” Ex. 2035, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m. (statement of Carleen Reilly).

159. Springfield resident Chris Wig testified, “I think the Legislature should prioritize maintaining the voting strength of communities who have been historically marginalized and including the totality of a city in a single house district when the city is the approximate size of a house district (i.e. Springfield). After these two considerations, I think it is important that as many districts as possible contain areas that are urban, suburban, and rural within the same district. I learned from your retired colleague Rep. Phil Barnhart how providing constituent services to a broad array of constituents enhances the proficiency of the legislator. I would go a step farther and say this could be one of the most effective ways to bridge the urban-rural divide - at least a[s] it manifests in our politics.” Ex. 2037, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m. (statement of Chris Wig).

160. Southwest Portland resident and former 1st District Congressman Les AuCoin testified, “My former Congressional District is a diverse district in NW Oregon, home to both urban and rural communities. In the two previous redistricting efforts ten and twenty years ago, some questioned the utility and responsiveness of a district in which a US House member residing, say, in an urban or suburban location could faithfully represent the interests of, say, commercial fishermen and their families on the Oregon coast. They were wrong. History demonstrates that in fact one who faithfully represents all residents of one’s district can do so without being pigeonholed as ‘that coastal congressperson.’.... I firmly believe, and history shows, that elected leaders can effectively represent both Urban and Rural communities.” Ex. 2093, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 pm. (statement of Les AuCoin).

161. The Sixth Congressional District maintains the communities of common interest described in the legislative record. Maintaining these and other communities of common interest is a reason for constituting the district in its current form. *See* Exs 3003, 3013, 3015, 3016 (describing Sixth Congressional District’s communities of common interest).

E. ORS 188.010(1)(e): Transportation Links

162. The final criterion under ORS 188.010(1) is that each district, as nearly as practicable, shall “[b]e connected by transportation links.” ORS 188.010(1)(e). Each district is connected by transportation links.

163. The following subsections list some of the transportation links that connect residents and communities within each district, along with testimony from residents about the importance of those transportation links.

1. District 1

164. District 1 includes all of Clatsop, Columbia, and Tillamook Counties, as well as areas of Washington and Multnomah counties. *See* Ex. 2001; Ex. 2002; Ex. 2004. Transportation links connecting those areas include US-26, US-30, I-5, US-101, I-5, I-405, OR-6, OR-217, OR-8, and OR-47. *See* Exs. 2001, 2505 (maps showing transportation links).

165. Vernonia resident Erika Paleck testified that “75% of Columbia County residents commute to Portland and the tech corridor in Washington County.” Ex. 2019, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 8:00 a.m. (statement of Erika Paleck).

166. Hillsboro resident Ivette Pantoja testified that “HWY 26 is a major transportation link that connects the North Coast to Washington County and vice versa, leading us to have similar transportation needs.” Ex. 2018, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 8:00 a.m. (statement of Ivette Pantoja); *see* Ex. 2001 (showing Highway 26 within District 1).

167. Kimberly Culbertson, a resident of Hillsboro (Washington County), submitted written testimony to the Redistricting Committees that “Washington County is connected to the coastal districts through key transit areas, not only the Columbia River Channel and Willamette River but also, HWY 101.” Ex. 2015, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 8:00 a.m. (statement of Kimberly Culbertson); *see* Ex. 2505 (showing Highway 26 and Highway 6 connecting to Highway 101, which links cities along the North Coast).

168. Seaside resident Laura Allen testified, “[T]wo of our three major—and only—highways . . . lead directly to the metro area, Hwy 26 thru the Coastal Range into part of Washington County and the N. Willamette Valley, and Hwy 30, a major commercial route thru Columbia County to the metro area and Lower Columbia region.” Ex. 2063, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Laura Allen); *see* Ex. 2505 (showing Highway 26 and Highway 30 connecting the Portland area to Seaside).

169. The First Congressional District is organized around critical transportation links. Maintaining these links is a reason for constituting the district in its current form. *See* Exs 3003, 3004-A, 3005, 3006 (describing First Congressional District’s transportation links).

2. District 2

170. District 2 includes all of Malheur, Harney, Lake, Klamath, Jackson, Josephine, Baker, Grant, Crook, Wallowa, Union, Umatilla, Morrow, Gilliam, Sherman, and Wasco counties, as well as areas of Douglas, Jefferson, Deschutes County, Marion, and Clackamas Counties. *See* Ex. 2001; Ex. 2002; Ex. 2004. Transportation links connecting those areas include I-84, I-5, US-20, US-26, US-395, OR-140, US-97, and US-197. *See* Ex. 2001; Ex. 2004.

171. Ashland resident Cole Daneman testified: “The Rogue Valley’s population centers are located along the Rogue River and Bear Creek (which feeds into the Rogue River). Interstate 5, and to an extent Highway 99, follow Bear Creek between Ashland and Gold Hill. Interstate 5 and Highway 99 then follow the Rogue River between Gold Hill and Grants Pass.” Ex. 2095, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Cole Daneman); *see* Ex. 2505 (showing Highway 99 and Interstate 5 linking communities in Josephine and Jackson Counties); Ex. 2001 (showing Josephine and Jackson Counties in District 2).

172. Ashland resident Rebecca Pearson testified, “The proposed district lines take into account major transportation links such as I-5 and HWY99, that connect the community centers in the Rogue Valley to rural surrounding areas that makeup this unique portion of the state. These transportation links are also cr[i]tical to preserving communities of interest such as the Muslim

and Jewish communities in southern Oregon, who rely on the Mosque located in Talent and the three Synagogues located in Ashland -- the only houses of worship for Muslim and Jewish community members between Roseburg and Redding, CA -- to practice their faith.” Ex. 2083, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Rebecca Pearson); *see* Exs. 2001, 2505 (showing Highway 99 and Interstate 5 connecting Ashland and Talent to communities to the north and south).

173. Redmond resident Josephina Riggs testified, “Redmond is very connected to Ben[d] and Madras, and we go there for business[,] worshiping, shopping, entertain[ment], sport, and [to] enjoy outdoor activities. The community college also connected Ben[d] to Redmond and Madras as well, with the Oregon State University, Cascade Campus. Redmond, Madras and Ben[d] share the Highway 97, which links us all. We [were] sad[ened] when the St. Charles Health System closed down the Family Birth Center in Redmond in July 13, 2019. The only option for pregnant families [is] the St. Charles Main facility in Ben[d] and St. Charles facility in Madras. This is important to the [redistricting] to get people in Redmond together” Ex 3018-N, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 24:13–25:24 (statement of Josephina Riggs); *see* Ex. 2543 (showing District 5 as including both Redmond and Bend).

3. District 3

174. District 3 includes all of Hood River County and areas of Multnomah and Clackamas Counties. *See* Ex. 2001; Ex. 2002; Ex. 2004. Transportation links connecting those areas include US-26, I-84, and OR-35. *See* Ex. 2001; Ex. 2004.

175. Portland resident Barbara Casey testified, “My work with DHS Child Welfare brought me to many homes, families, and communities throughout the 3 metropolitan counties, most often the ‘Eastside’—outer East County all along the I 84 and I 205 corridor. . . . Daily we take MAX and ride the bus lines.” Ex. 2014, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 8:00 a.m. (statement of Barbara Casey); *see* Exs. 2001, 2505 (showing I-84 and I-205 linking East Multnomah County to the Columbia River Gorge).

176. Portland resident Mercedes Morales testified: “I often drive to the Gorge, and Mt. Hood, on I-84.” Ex. 2028, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 5:30 p.m. (statement of Mercedes Morales); *see* Exs. 2001, 2505 (showing I-84 linking Portland to the Columbia River Gorge and Mount Hood).

177. Sandy resident Jan Lee testified that Highway 26 connects Sandy with the nearby “mountain communities” from “Brightwood to Government Camp,” and that the “Sandy/Mt. Hood Transit system bus route provides a loop including Sandy, mountain communities, and Hood river and return.” Ex. 2080, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Jan Lee).

178. Sandy resident Dave Kaechele testified “The communities along Hwy 26 use Sandy for their major needs.” Ex. 2027, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 8, 2021, 5:30 p.m. (statement of Dave Kaechele).

179. Sandy resident Karinna French testified that Sandy and its “Mountain neighbors up the road (Hwy 26) . . . share community resources and are bound together by common roads and services.” Ex. 2075, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Karinna French).

180. Alder Creek, Clackamas County resident Steve Smithsted testified that “communities along the mountain, gorge, and central Oregon . . . are also connected via transportation links like the Columbia Area Transit Bus, the Sandy Area Metro Bus, and major roads like I-84, HWY26, and HWY 35.” Ex. 2052, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 1:00 p.m. (statement of Steve Smithsted).

181. Welches resident Cristina Saldivar testified, “Though some may argue that it doesn’t make sense to connect Portland to [the Columbia Gorge, Mount Hood, and Bend], the reality is that the communities in HD52 [which covers east Multnomah County, northeast Clackamas County, and Hood River County] are a short drive from Portland and that they are all connected by major roads such as I-84 and HWY-26.” Ex. 2051, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 1:00 p.m. (statement of Cristina Saldivar).

182. The Third Congressional District is organized around critical transportation links. Maintaining these links is a reason for constituting the district in its current form. *See* Exs 3003, 3008, 3010 (describing Third Congressional District’s transportation links).

4. District 4

183. District 4 includes all of Curry, Coos, Lane, Lincoln, and Benton Counties, as well as areas of Linn, Douglas, and Polk Counties. Ex. 2001; Ex. 2002; Ex. 2004. Transportation links connecting those areas include I-5, US-101, OR-126, US-20, OR-58, and OR-99W. *See* Ex. 2001; Ex. 2004.

184. Bill Kucha, a resident of Depoe Bay (Lincoln County), testified that “keep[ing] all of Lincoln and Benton counties together in the same district pairing Corvallis and Eugene with the Central Coast . . . makes sense because of the connection we have together in terms of our shared HWY 20, satellite campus connections between Oregon State and OCCC as well the need for us to have access to their major hospitals.” Ex. 2060, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m. (statement of Bill Kucha).

185. Eugene resident Philip N. Barnhart testified, “The railroad running from Coos Bay to the Eugene rail yard is a critical transportation link for current wood products and will become even more important if the container port planned for Coos Bay becomes a reality.” Ex. 2065, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Philip N. Barnhart).

186. Eugene resident Oliver Mintz-Lowe testified, “I like the way plan C is built around I5 and the 58, because it reflects how I, and many people, move around our communities every day. The way maps A and C follow the 99 all the way up to Junction City makes perfect sense, because this is a heavily trafficked route that many people use to commute between their homes and work. For example as a state worker I know a number of people who work for OHA, at the State Hospital in Junction City, who make this commute daily.” Ex. 2057, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 5:30 p.m. (statement of Oliver Mintz-Lowe).

187. Eugene resident Allen Hancock testified, “I support Congressional Map A because It keeps Lane County together - particularly west on HWY 126 towards the coast.” Ex. 2033, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m. (statement of Allen Hancock).

188. North Benton County resident Catherine Stearns testified, “[M]y neighbors and I . . . travel south on Hwy 99W to Corvallis for the majority of our business, medical and recreational activities. This part of Benton County is served by bus transportation out of Adair Village to the Corvallis Transit Depot where we make connections to travel to many other places including most major local employers, Linn-Benton Community College and even to the coast. There are no such connections to places north of us. There are many retired folks in our area who appreciate being a short drive to Corvallis for medical appointments, groceries, and many cultural or recreational activities a college town offers. Local children attend Corvallis School District schools by taking the school buses originating in Corvallis.” Ex. 2036, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m. (statement of Catherine Stearns).

189. The Fourth Congressional District is organized around critical transportation links. Maintaining these links is a reason for constituting the district in its current form. *See* Ex 3011 (describing Fourth Congressional District’s transportation links).

5. District 5

190. District 5 includes areas of Clackamas, Multnomah, Marion, Linn, Jefferson, and Deschutes Counties. *See* Ex. 2001; Ex. 2002; Ex. 2004. Transportation links connecting those areas include I-5, I-205, US-26, OR-22, OR-226, US-20, OR-99E, OR-213, OR-224, OR-43, OR-212, OR-126, and US-97. *See* Ex. 2001; Ex. 2004; Ex. 2581.

191. The Oregon Department of Transportation (“ODOT”) does not generally close state highways for weather-related reasons. Ex. 2582, ODOT Winter Levels of Service, Region 1 Map, October 2021, Ex. B to Moore Decl., Ex. 2583, ODOT Winter Levels of Service, Region 2 Map, October 2021, Ex. C to Moore Decl., 2584, ODOT Winter Levels of Service, Region 4

Map, October 2021, Ex. D to Moore Decl. (all describing state highway winter roadway treatment levels; “[h]ighway closures should generally not occur for routine winter storms on highways” with levels of service A and B; for level of service C, “[s]hort term highway closures may occur during a storm” but are “limited in duration and highways are reopened as soon as possible.”); *see* Ex. 2580, Declaration of Lucinda Moore (declaration of ODOT State Maintenance and Operations Engineer regarding exhibits 2581, 2582, 2583, 2884); Ex. 2581, ODOT Winter Levels of Service, Statewide Map, October 2021, Ex. A to Moore Decl.¹

192. ODOT’s policy during inclement weather is to maintain highways according to the designated service level and require motorists to use traction devices such as snow tires and/or chains in order to ensure safe travel on the road in winter conditions. Exs. 2581-2584.

193. The major highway routes between Bend and Portland are maintained at a high level of service in the winter, keeping transportation links within District 5 intact year round. *See* Exs. 2581, 2582, and 2584 (OR-26 to OR-97 route); Exs. 2581, 2582, and 2584 (I-5 to OR-22 to US-20); Exs. 2581, 2582, 2584 (I-84 to US-197 to US-97).

194. Petitioner Clarno testified that during the years that she served as Secretary of State, she drove back and forth between Salem and Redmond every week. She spent the week in Salem and returned home to Redmond during the weekends, traveling on the Santiam Pass State Highway (OR-22) throughout the year, including during winter conditions. Ex. 2400 at 5, 1:23, Clarno Depo. Trans.; *see* Ex. 2500, Oregon Blue Book, *Oregon Officials*, at 4 (Petitioner Clarno served as Secretary of State from March 31, 2019–Jan. 2, 2021).

195. Therefore, based on paragraphs 178-181 above, Petitioners’ allegation that District 5 stretches across “mountains that can be impassible during winter conditions,” Pet. ¶¶ 52 & 101, is false.

¹ The only exceptions are that the west side of McKenzie Pass Highway, OR 242, closes for the winter season, depending on weather conditions, as does a short stretch of Highway 413, between Halfway and Cornucopia, in Baker County. Exs. 2583 and 2584 (Legends: Level of Service E description; Exs. 2581, 2583, 2584, Maps: Highway 242 between Sisters and Highway 126 near Blue River indicating level of service E; Ex. 2581, Map: Highway 413 between Halfway and Cornucopia in Baker County).

a. Deschutes County

196. Bend resident Kavi Chokshi testified in support of including Bend in a district that includes “Redmond, Redmond Airport, and other similar parts of Deschutes County. I believe Redmond Airport is the primary airport used by most Bend residents.” Ex. 2069, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Kavi Chokshi)..

197. Redmond resident Josephina Riggs testified, “Redmond is very connected to Ben[d] and Madras, and we go there for business[,] worshiping, shopping, entertain[ment], sport, and [to] enjoy outdoor activities. The community college also connected Ben[d] to Redmond and Madras as well, with the Oregon State University, Cascade Campus. Redmond, Madras and Ben[d] share the Highway 97, which links us all. We [were] sad[ened] when the St. Charles Health System closed down the Family Birth Center in Redmond in July 13, 2019. The only option for pregnant families [is] the St. Charles Main facility in Ben[d] and St. Charles facility in Madras. This is important to the [redistricting] to get people in Redmond together” Ex. 3018-N, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 8:00 a.m., 24:13–25:24 (statement of Josephina Riggs); *see* Ex 2543 (showing District 5 as including both Redmond and Bend).

198. Sisters resident Tara Redfield testified, “Sisters residents like myself, commute to Bend from HWY 20 which connects to HWY 97.” Ex. 2087, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 1:00 p.m. (statement of Tara Redfield).

199. Bend resident Dave Paulson testified, “[A]ttaching us to Portland and, North Hood River definitely reflects the commercial centers that we have with Bend. When we don't have something in Bend, we look to Portland. We look for medical work. We look for educational and commercial interests. Our economy is supported by the people of Portland and the tourism that comes from there. Our transportation links to Portland through [Highway] 97 and over Mount Hood and to Santiam make us part of the Portland commercial area. Ex. 3018-N, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 10, 2021, 8:00 a.m.,

62:24–63:22 (statement of Dave Paulson); *see* Ex. 2001 (showing Bend as part of District 5 with part of Portland).

b. Clackamas County

200. Milwaukie resident Brad Reed testified in support of “group[ing] my community in Clackamas together with our neighbors mostly East of the river in the Willamette Valley, Marion and Linn counties. Many times I’ve traveled I-5 and 99E to visit the wonderful communities in our three counties with their farmers’ markets, breweries, beautiful natural areas, and you-pick farms for berries, pumpkins, and Christmas Trees.” Ex. 2040, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 1:00 p.m. (statement of Brad Reed).

201. Albany resident Eric Aguinaga testified, “The I-5 corridor that runs through House District 15 is a farming community, is a growing historic community, and a fun community to be in. It’s hard to tell the difference when you are driving through Millersburg, Albany, and Tangent to see what city you are actually in. Little roads like Santiam Boulevard, Seven Mile Lane mean a lot to us, and we have become a very strong community working together.” Exhibit 3018-Q, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 9, 2021, 8:00 a.m., 52:16–52:24 (statement of Eric Aguinaga).

202. The Fifth Congressional District is organized around critical transportation links. Maintaining these links is a reason for constituting the district in its current form. *See* Exs 3003, 3012, 3013, 3014 (describing Fifth Congressional District’s transportation links).

6. District 6

203. District 6 includes all of Yamhill County, as well as areas of Polk, Marion, Clackamas, and Washington Counties. *See* Ex. 2001; Ex. 2002; Ex. 2004. Transportation links connecting those areas include I-5, OR-99W, OR-217, OR-210, OR-47, and OR-219. *See* Ex. 2001; Ex. 2004.

204. Woodburn resident Debbie Cabrales testified, “Although we have been able to grow as a community, we depend on some services in Salem, this is easy to do via I-5. Salem and

Woodburn are only 15-20 minutes away.” Ex. 2040, Testimony, Senate Interim Committee on Redistricting, SB 881 Sept 9, 2021, 1:00 p.m. (statement of Debbie Cabrales).

205. Salem resident Maria Hinojos Pressey testified, “Although I live in Salem, I work in Woodburn and commute there via I-5 which takes me about 20 minutes depending on traffic. . . . [T]he Salem area is home to a thriving and vibrant Latinx community, and many of us who live in North East Salem, travel up to Woodburn where you can find Lucero’s shop, to pick up platos de barro, and Luis’s Taqueria, to get authentic food or buy a piñata for a family birthday party. I also like that these maps follow the I-5 and would like to highlight that the farming communities along it are central to this area and I appreciate that this map respects that. If you drive through this highway, after leaving Woodburn and entering NE Salem, it is as if you never left either city.” Ex. 2098, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Maria Hinojos Pressey).

206. Salem resident Cynthia Martinez testified, “Lancaster Road is also important transportation link because you can find everything you need there, from a Starbucks, to a pan[a]d[e]ria, to gas stations, grocery stores, and even some fun recreational things to do, in almost—an almost anything else you can think of. Before, Lancaster Road was seen as a marker between urban and rural areas. And so many people have moved to the east of Lancaster Road, so it would make sense to have Cordon Road be an indicator where the district could stop.” Exhibit 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 13:21–14:6 (statement of Cynthia Martinez).

207. Salem resident Ira Martinez testified about connections between Southeast and Northeast Salem, as well as adjacent communities: “I want to specifically focus on Lancaster Drive, as it is a very important transportation link for us. Along this road you can find the local flea market, Mirandes Bakery, El Toritos Meat Market, Courthouse Club Fitness, La Tapatia Market, among many other businesses. House proposal B does not take into consideration the significance that this road has in our communities and proposes to split the area into three distinct districts.”

Exhibit 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 10:14–10:22 (statement of Ira Martinez).

208. Salem resident Michael Powers testified, “I would also work to keep the area along Lancaster Road together as well, perhaps using Cordon Road as a boundary.” Exhibit 3018-K, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 8:00 a.m., 34:12– 34:14 (statement of Michael Powers).

209. Janet Lorenzen, from Salem, testified, “I work at Willamette University, about half of our faculty and staff members live in Portland or Wilsonville and commute to Salem. And several faculty members live in Salem and travel to Portland to teach classes. It’s also my understanding that homes in North-West Salem are often used as a bedroom community for travel to Wilsonville and Portland. I think of the I-5 corridor between Portland and Salem as deeply interconnected in terms of home-life and work-life.” Ex. 2099, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Janet Lorenzen).

210. The Sixth Congressional District is organized around critical transportation links. Maintaining these links is a reason for constituting the district in its current form. *See* Exs 3003, 3015, 3016 (describing Sixth Congressional District’s transportation links).

F. The Legislative Assembly Considered Each Criterion of ORS 188.010(1)

211. SB 881 comports with each of the criteria listed under ORS 188.010(1). Each district is contiguous. *See* ORS 188.010(1)(a). Each district is of almost exactly equal population. *See* ORS 188.010(1)(b). The boundaries of each district follow various geographic or political boundaries, including county lines, city boundaries, reservation boundaries, rivers, and shorelines. *See* ORS 188.010(c). Communities within each district are connected by transportation links, including U.S. Route 20 linking Deschutes County to the Willamette Valley in District 5. *See* ORS 188.010(1)(e); Ex. 2543.

212. As for the criterion that a district shall, as nearly as practicable, “[n]ot divide communities of common interest,” the nebulous, overlapping, and interconnected nature of “communities” makes it difficult to objectively determine the extent to which communities have

been divided. *See* ORS 188.010(d). However, the Redistricting Committees held extensive public hearings at which they received oral and written testimony from dozens of Oregonians concerning how their communities should be organized into districts so as to give each community a voice. The district plan that the legislature finally enacted reflected many of the wishes expressed by residents at those hearings, indicating that the legislature considered and responded to the needs of the communities within each district.

213. The dissatisfaction of some Oregonians with the district plan is not strong evidence that the plan fails to comport with ORS 188.010(1)(d). The Redistricting Committees heard testimony expressing a variety of views, and it was not possible to satisfy them all. *See, e.g.*, Ex. 3018-I, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m., 87:12–87:19 (statement of Sarah Ballenson) (Hood River resident stating that Hood River and The Dalles are “closely tied”); Ex. 2096, Testimony, Senate Interim Committee on Redistricting, SB 881, Sept 13, 2021, 5:30 p.m. (statement of Jessica DeVlaeminck) (The Dalles resident stating that The Dalles “do[es] not have anything in common with” Hood River).

214. SB 881 strikes a balance between the expressed wishes of various Oregonians and the objective criteria of contiguousness, equal population, geographic and political boundaries, and transportation links. SB 881 thus comports with Oregon’s traditional redistricting criteria under ORS 188.010(1).

F. Compactness

215. Compactness is not a statutory criterion for redistricting under Oregon law. ORS 188.010(1). Compactness is not a useful redistricting criterion. 10/27/2021 Hrg. Trans. (Rough vol. 1) at 189:8-13 (Brunell) (“[C]ompactness is rarely -- is rarely a reason for a map to get thrown out. So oftentimes there will be really funny districts but a judge or judges will let the map stand, so that’s what I was trying to say. There’s been a lot of really non-compact districts that judges have said these are fine.”); 2701A at 6 (Brunell (2006)) (“Compactness is rarely an issue in court, although it can be, depending upon the judge or judges involved”).

216. There is no basis in the record to draw any conclusions about the compactness of the enacted map.

IV. WHETHER SB 881 WAS INTENDED TO FAVOR ANY POLITICAL PARTY, INCUMBENT LEGISLATOR, OR ANY OTHER PERSON: ORS 188.010(2).

A. Lay Testimony Regarding Partisan Intent

1. Melissa Unger, SEIU Executive Director

217. Some Service Employees International Union Local 503 (hereinafter “SEIU”) members testified before the legislature in connection with congressional redistricting. There was also an ongoing conversation between SEIU and particular legislators about redistricting that included Portland, the largest city in Oregon. Ex. 1045, at 40-47, 54-55 (Unger Depo. Trans.).

218. The Executive Director of SEIU Local 503, Melissa Unger, had ongoing conversations with two members of Democratic Leadership, Representative Salinas and Speaker Kotek, along with a chief of staff for Speaker Kotek, Lindsey O’Brien, during the weekend before the vote on SB 881-A that were focused on whether the map could pass through the representative legislative process, with a particular focus on drawing a map that Republicans would show up to vote on (as opposed to denying a quorum), which was SEIU’s primary interest. Ex. 1045, at 56-59, 69, 71-72, 74-75. *See, e.g., id.* at 58 (“I was not involved in the details of the map, the actual, like, districts. I was involved in the strategy of which map would be acceptable to get the Republicans to show up and vote for it.”).

219. Melissa Unger, SEIU, did not discuss how Bend should be apportioned with any member of the Legislative Assembly or with legislative staffers. Ex. 1045, at 53-54.

220. Members of Democratic Leadership were also aware of and discussing the ratings of the various proposed maps by FiveThirtyEight.com and other publicly available models and discussing the overall meaning of those proposed maps and their grading under the modeling tools. Ex. 1045, Unger Dep. at 61, 63–66, 68–69.

221. Melissa Unger discussed with members of the Oregon Legislature how Oregon Public Broadcasting and The Oregonian were reporting on the proposed maps. Ex. 1045, Unger Dep. at 64.

222. Melissa Unger had conversations with Democratic legislators regarding the various proposed maps and the potential impact of those maps. Ex. 1045, Unger Dep. at 76, 80–81.

B. Expert Testimony Regarding Partisan Intent

223. The Special Master received expert testimony from Dr. Jonathan Katz, Dr. Paul Gronke, Dr. Devin Caughey, and Dr. Thomas Brunell.

1. Dr. Jonathan Katz

224. Dr. Katz is qualified to testify as an expert witness in the field of political science, including statistical analysis, with respect to the electoral consequences of redistricting.

225. Dr. Katz is a professor of social sciences and statistics at the California Institute of Technology and holds a Ph.D. in political science. Ex. 2300 at 1 (¶ 1).

226. Dr. Katz has published numerous peer-reviewed articles, including on the topic of measures of partisan fairness. Ex. 2301.

227. Dr. Katz has testified as an expert witness in more than 20 election law cases, including cases regarding partisan gerrymandering claims. In those cases, he was retained by counsel representing Republican, Democratic, governmental, and nonpartisan clients, and has been called to testify for both plaintiffs and defendants. Ex. 2300 at 2 (¶ 3).

228. Dr. Katz's testimony was credible.

229. Dr. Katz's methods in this case are consistent with his previously expressed academic views and are generally accepted in the field of political science. Ex. 2302-2305.

230. On the cross-examination and redirect examination before the Special Master, Dr. Katz's testimony was direct, forthright, clear, and convincing. Dr. Katz demonstrated a strong command of the relevant background principles of political science as well as the opinions and analysis in his report. 10/28/2021 Hrg. Trans. (Rough vol. 2) at 66:19-127:25.

231. The most commonly accepted standard in political science to judge the partisan fairness of voting districts for a legislature is partisan symmetry. Ex. 2300 at 2 (¶ 6) (Katz); 10/27/2021 Hrg. Trans. (Rough vol. 1) at 262:16-18 (Brunell) (“I know I’ve read some criticism on symmetry, but in general, that’s the approach of most political scientists.”); 10/28/2021 Hrg. Trans. (Rough vol. 3) at 45: 3-21, (Caughey); Ex. 3001 (Caughey).

232. “Because most electoral systems in the United States are single-member districts that are winner-take-all, as Congressional elections are, in practice they normally give a ‘bonus’ of varying sizes (above proportionality) in seats to the party that wins a majority of the votes across a state.” Ex. 2300 at 3 (¶ 7), 8 (Katz Decl.); Ex. 2303 (adopted by reference in Ex. 2300 at 3 (¶ 8)); *accord* 10/27/2021 Hrg. Trans. (Rough) at 210:8-211:25 (Brunell).

233. In the United States, a one percent increase in votes for a party normally leads to a two to three percent increase in seats. Ex. 2300 at 3; Ex. 2303 at 14 n.4 (adopted by reference in Ex. 2300 at 3 (¶ 8)).

234. The “winner’s bonus” is even larger in states with fewer than seven congressional seats. 10/27/2021 Hrg. Trans. (Rough) at 250:25-251:4 (Brunell).

235. The most reliable measure of partisan symmetry is the full seats-vote curve. Ex. 2300 at 7-8 (Katz Decl.); Ex. 2304 (adopted by reference in Ex. 2300 at 3 (¶ 10) (Katz Decl.)); 10/28/2021 Hrg. Trans. (Rough vol. 3) at 20:1-25 (Caughey); *see also* 10/28/2021 Hrg. Trans. (Rough vol. 2) at 107:15–111:9 (Katz) (explaining full seat-votes curve).

236. The efficiency gap metric measures the difference in “wasted” votes (votes that do not contribute to an election win) between the two parties, with a positive efficiency gap indicating that the votes of one party are more efficiently distributed across districts than the votes of the other party. Ex. 1006, Brunell Report, at 2; Ex. 3001, Declaration of Devin Caughey (“Caughey Decl.”), at 13–14.

237. The efficiency gap does not measure partisan symmetry or any other quantity of the seats-votes curve. Ex. 2300 at 10.

238. The efficiency gap alone may not “measure the partisan fairness of a proposed electoral map.” Ex. 2300 at 9.
239. Efficiency gap is an even less reliable measure of partisan fairness for congressional elections in Oregon, because Oregon has only six seats. 10/27/2021 Hrg. Trans. (Rough) at 215:21-217:24 (Brunell); Ex. 2703.
240. The efficiency gap is the recent measure that has seen the most use in practice to measure a map’s partisan bias. Ex. 2300, Expert Report of Professor Jonathan N. Katz (“Katz Report”) at 4.
241. Under every measure of the efficiency gap offered the experts have offered here, SB 881 (2021) favors Democrats to some degree under some hypothetical scenarios. Caughey Decl. at 14; Ex. 3002, Declaration of Paul Gronke (“Gronke Decl.”) ¶ 25; Ex. 1006, Brunell Report at 8; Ex. 1049, Supp. Brunell Report, at 21.
242. Public sources confirm that the efficiency gap of SB 881 (2021) favors Democrats to some degree. Ex. 1022, FiveThirtyEight Congressional Map Assessment (“538”); Ex. 1023, Princeton Gerrymander Project Congressional Map Grade (“Princeton”); Ex. 3002, Gronke Report, fn. 4.; Ex. 2703 (PlanScore.Org – Oregon Congressional Plan SB 881 (2021)).
243. Dr. Caughey’s testimony and other sources provided a range of estimates of the efficiency gap under various electoral conditions. One of Dr. Caughey’s estimates had a point estimate of an 8.5% efficiency gap in favor of Democrats (assuming an election in which Democrats won 54% of the statewide vote). *See* Ex. 3001; Caughey Decl. ¶28.
244. Dr. Katz’s regression methodology to produce the seats-votes curve is reliable and generally accepted in the field of political science. Ex. 2300 at 3-4 (¶¶ 12-13); Ex. 2300 at 12-13 (§ 3 of Katz report).
245. Dr. Katz’s implementation of this method is reliable.
246. Based on Dr. Katz’s model, the expected outcome of the enacted map is 3.86 Democratic seats to 2.14 Republican seats. 10/28/2021 Hrg. Trans. (Rough vol. 2) at 118:16-119:16 (Katz); Ex. 2300 at 14 (Table 2).

247. Assuming Democratic incumbents run in Districts 1, 3, 4, and 5, and a Republican runs in District 2, the expected seat share is 4.16 Democratic seats to 1.84 seats. 10/28/2021 Hrg. Trans. (Rough vol. 2) at 117:15-118:12 (Katz); Ex. 2300 at 14 (Table 3).

248. Political scientists generally do not specify incumbency, because incumbency is unpredictable over the course of the decade. 10/28/2021 Hrg. Trans. (Rough vol. 2) at 113:11-117:12 (Katz); Ex. 2300 at 10 & n.11.

249. Dr. Katz's estimate of the seats-votes curve demonstrates there is no statistically significant bias toward either party under the enacted map. His point-estimates of the bias ranges from 0.03 seats in favor of the Democrats (when one party wins 55%-60% of the two-party vote) to 0.12 seats in favor of Republicans (when each party wins 49%-51% of the two-party vote). Ex. 2300 at 4 (¶ 14), 15-17 (Figures 1-2 & accompanying text).

250. Dr. Katz, like Dr. Gronke, noted that "proportionality"—the idea that "a party's share of the seats should be roughly equal to their share of the vote in the election"—is not required for partisan symmetry, and that lack of proportionality is not an indication of unfairness because of the effects of the single-member, winner-take-all electoral system in the United States. Ex. 2300 at 8 (Declaration of Dr. Katz).

251. Alternatively, Dr. Katz performed his analysis assuming that Democratic incumbents would run in the First, Third, Fourth, and Fifth Congressional Districts; a Republican incumbent would run in the Second Congressional District; and no incumbent would run in the new Sixth Congressional District. Ex. 2300 at 19 (Declaration of Dr. Katz).

252. Dr. Katz calculated that, even with the 3-percentage-point increase that incumbency provides, the results for partisan bias are "qualitatively similar to the case without incumbents running"; although "all the point estimates [] show small Democratic bias," the Enacted Map "shows no statistically significant partisan bias in favor of either party with this given configuration of incumbents assumed to be running." Ex. 2300 at 20-21 (Declaration of Dr. Katz).

253. Dr. Katz further determined that, “[a]s with the bias estimates,” the estimated responsiveness “do[es] not qualitatively differ from the scenario without any incumbents running.” Ex. 2300 at 21-22 (Declaration of Dr. Katz).

254. Finally, Dr. Katz countered Petitioners’ assertion that the Enacted Map contains five Democratic seats and one Republican seat, emphasizing that “this is not how we should think about fairness, which should be based on partisan symmetry” rather than proportionality, and determining that “it is not an accurate assessment of the map” since “Democrats are expected to win [on average] 3.85 seats assuming all seats were open.” Ex. 2300 at 22-25 (Declaration of Dr. Katz).

255. Based on these findings, the Special Master agrees with Dr. Katz’s conclusion that the Enacted Map “shows no statistically significant partisan bias.” Ex. 2300 at 6 (Declaration of Dr. Katz).

2. Dr. Paul Gronke

256. Dr. Gronke is qualified to testify as an expert witness in the field of political science, including statistical analysis, with respect to the electoral consequences of redistricting.

257. Dr. Gronke is a Professor of Political Science at Reed College and Director of the Elections and Voting Information Center. He holds a PhD in Political Science from the University of Michigan and has written scientific research publications on elections, voting behavior, election administration, congressional representation, and voting turnout that have appeared in peer-reviewed journals, university press-edited volume, and policy reports. He has also published a number of articles that contain statistical analyses of congressional redistricting, congressional representation, and voting in congressional elections, and served as editor of the *Election Law Journal* from 2010 to 2017. Ex 3002 ¶¶ 5–7 (declaration of Dr. Gronke).

258. The testimony of Dr. Gronke is credible, and his methodology and conclusions are reliable. His testimony is relevant and limited in scope because it considered whether there is evidence that the Enacted Map constitutes a partisan gerrymander. His methodology is reliable

because it is similar to that which he uses in his published work and because he produced all of the data on which he relied, such that his conclusions are testable by others in his field.

259. Dr. Gronke undertook his analysis by calculating and explaining statistical estimates of the fairness of the Enacted Map and comparing the fairness of the Enacted Map with previous congressional districting plans. Ex 3002 ¶2 (declaration of Dr. Gronke).

260. Dr. Gronke explained that “a simple demonstration of a disparity between vote shares and seat shares—a metric called ‘disproportionality’—is not sufficient to demonstrate a gerrymander. The use of single-member, winner-take-all districts in the United States does not produce proportionate results; instead, it most often provides a ‘bonus’ in representation to the majority party.” Ex 3002 ¶10 (declaration of Dr. Gronke).

261. Dr. Gronke further explained that “[p]artisan advantage can occur because of a deliberate effort to draw a plan to advantage one party, but it can also arise because of other factors, such as demographic changes, political geography, candidate strengths and weaknesses, and national electoral swings.” Ex 3002 ¶10 (declaration of Dr. Gronke).

262. In his declaration, Dr. Gronke considered four metrics of symmetry and fairness in order to evaluate the Enacted Map:

- a. The “efficiency gap,” a measure of partisan asymmetry that can be used to express the performance of an advantaged party, and the number of seats an advantaged party has won, over and above what the advantaged party would have been expected to have won if there were no partisan advantage, Ex 3002 ¶14 (declaration of Dr. Gronke);
- b. “Declination,” a second measure of partisan asymmetry that expresses the number of votes needed to gain seats for an advantaged political party compared to a disadvantaged party, Ex 3002 ¶15 (declaration of Dr. Gronke);
- c. “Partisan bias,” which measures the degree to which a map deviates from partisan symmetry by simulating a set of elections under a map using a plausible range of counterfactual vote shares and comparing the shares of seats that two parties would receive, Ex 3002 ¶16 (declaration of Dr. Gronke); and

d. The “mean-median difference,” which expresses the difference between a party’s vote share in its median district compared to its average vote share across all districts, Ex 3002 ¶17 (declaration of Dr. Gronke).

263. Dr. Gronke evaluated the Enacted Map using the measures of the efficiency gap and declination and compared these results to all Oregon congressional plans adopted since 1970. He also evaluated the Enacted Map using the measures of partisan bias and the mean-median difference. Ex 3002 ¶18 (declaration of Dr. Gronke).

264. Dr. Gronke observed that comparing the Enacted Map with historical maps was enlightening for two reasons: (1) similarities across maps might reveal that perceived partisan advantage is actually the consequence of political geography, demographic changes, and other factors in the state; and (2) because previous maps were adopted through various processes, similar partisan advantages are not likely to be the result of partisan intent. Ex 3002 ¶¶19-20, 23 (declaration of Dr. Gronke).

265. Dr. Gronke found that the efficiency gap of the Enacted Map—.085—“falls well within the range of plans that have been used in the state for the past fifty years.” Ex 3002 ¶25 (declaration of Dr. Gronke).

266. Dr. Gronke similarly found that, converting the efficiency gap into seats, “[t]he level of ‘bias’ in the [Enacted Map] is comparatively small” and “within the range of all these past plans.” Ex 3002 ¶26 (declaration of Dr. Gronke).

267. Dr. Gronke found that, in terms of declination, the Enacted Map “is a significant improvement over plans that have been in place since 1990, and the estimated value falls well within the range of plans that have been in place for a half-century.” Ex 3002 ¶27 (declaration of Dr. Gronke).

268. Dr. Gronke found that, when measuring partisan bias and the mean-median difference, “[b]oth of these metrics show [the Enacted Map] to have a very slight pro-Republican skew.” Ex 3002 ¶28 (declaration of Dr. Gronke). Specifically, “[t]he partisan bias measure indicates that Republicans would be expected to win .6% extra seats in a hypothetical, perfectly tied election,

and that Republicans would be favored in 68% of the scenarios.” Ex 3002 ¶28 (declaration of Dr. Gronke). Furthermore, the mean-median difference “also shows a very small Republican advantage: the median Republican vote share is expected to be 0.1% higher than the mean Republican vote share, favoring Republicans in 50% of the scenarios.” Ex 3002 ¶28 (declaration of Dr. Gronke).

269. Dr. Gronke concluded that, “[o]verall, the results show that [the Enacted Map] provides what is at most a half-a-seat Democratic advantage over a completely neutral plan,” which is likely could not “feasibly be drawn” given other factors—specifically, “Democratic strength in the state, the geographic concentration of many of the Democratic voters in the Portland metro region and the Willamette Valley, and the geographic concentration of many Republican voters in central and eastern Oregon.” Ex 3002 ¶30 (declaration of Dr. Gronke).

270. Based on these findings, the Special Master agrees with Dr. Gronke’s conclusions that “[o]n well-established metrics, [the Enacted Map] is well within the range of partisan asymmetry and fairness measures produced by these historical plans.” Ex 3002 ¶31 (declaration of Dr. Gronke).

3. Dr. Devin Caughey

271. Dr. Caughey is qualified to testify as an expert witness in the field of political science, including statistical analysis, with respect to the electoral consequences of redistricting.

272. Dr. Caughey is a tenured professor of political science at the Massachusetts Institute of Technology. He holds a PhD in political science from the University of California–Berkeley and has published numerous peer-reviewed articles on the quantitative analysis of political phenomena, including legislative redistricting. Ex 3001 ¶¶ 4–5 (declaration of Dr. Caughey).

273. The testimony of Dr. Caughey is credible, and his methodology and conclusions are reliable. His testimony is relevant and limited in scope because it considered whether the Enacted Map is a partisan gerrymander. His methodology is reliable because it is similar to that which he uses in his published work and because he produced all of the data on which he relied, such that his conclusions are testable by others in his field.

274. Dr. Caughey undertook his analysis by reviewing whether election results under the Enacted Map are likely to exhibit “partisan symmetry,” which political scientists broadly agree is the test for whether a districting scheme is neutral with respect to a party and which refers to the share of legislative seats a party can expect to win if it earns a given share of the statewide vote. Ex 3001 ¶6 (declaration of Dr. Caughey).

275. Dr. Caughey reviewed whether election results under the Enacted Map are likely to deviate from partisan symmetry by reviewing its “partisan bias,” which, in a two-party system, is the difference between the two parties’ seat shares when each receives the same statewide vote share. Ex 3001 ¶¶ 14-16 (declaration of Dr. Caughey).

276. Dr. Caughey provided illustrative examples of partisan bias under the enacted map where one of the major parties wins 58% of the statewide vote, as the Democratic candidate did in Oregon’s 2020 presidential election, and where each party receives 50% of the statewide vote, which is a scenario that political scientists commonly analyze in performing these calculations. Ex 3001 ¶¶ 14-16 (declaration of Dr. Caughey).

277. Dr. Caughey reported that if Democrats win 58% of Oregon’s statewide vote, they are likely to win five of six congressional seats under the Enacted Map. Conversely, Dr. Caughey illustrated that when Republicans win 58% of Oregon’s statewide vote, they are likely to win four of six congressional seats. This one-seat difference in the two party’s expected fortunes with 58% of the statewide vote reveals a partisan bias of 8%, the smallest possible pro-Democratic bias. Ex 3001 ¶¶ 14-16 (declaration of Dr. Caughey).

278. Dr. Caughey explained that a more principled focal point is the partisan bias in an election where the two parties exactly split the statewide vote. Dr. Caughey modeled the results of a 50%-50% election by applying the “uniform partisan swing assumption” to the 2020 presidential election results, which is a commonly accepted method in the field of political science. Under this model, Dr. Caughey reported that an even split of Oregon’s statewide vote would result in Democrats winning two seats under the Enacted Map, and Republicans winning

four seats. This two-seat difference reveals a partisan bias of 17% in favor of Republicans. Ex 3001 ¶17 (declaration of Dr. Caughey).

279. Dr. Caughey found that an election where Democrats and Republicans evenly split the statewide vote is a plausible scenario in Oregon, confirming the validity of this generally accepted statistical analysis. The Republican candidate for Oregon Secretary of State won a majority of the statewide vote as recently as 2016, and the usual fluctuation of the major parties' fortunes suggests that Democrats' successes in recent cycles are likely to dissipate in future elections. . Ex 3001 ¶19 (declaration of Dr. Caughey); Hearing Tr (rough), Oct 28, 2021, vol 3 at 50–54.

280. In addition to his illustrative examples, Dr. Caughey reported a full statistical analysis of the enacted plan's partisan bias, which shows that the Enacted Map has approximately a 0.6% pro-Republican bias in elections where the statewide vote is evenly split between the major parties. This degree of partisan bias is small by historical standards. The model estimates that in an election where the statewide vote is tied, the Republican Party has a 68% chance of winning half or more of Oregon's congressional seats. Ex 3001 ¶ 21 (declaration of Dr. Caughey).

281. Dr. Caughey also reported three alternative indicators of partisan bias—the “mean-median difference,” the “declination,” and the “efficiency gap,” and found that they yield mixed results, but in no case do they indicate strong evidence of partisan bias. Dr. Caughey explained that each indicator is subject to statistical uncertainty, and so any given estimate should be interpreted as evidence of partisan gerrymandering only if its degree of uncertainty justifies such an inference. This is especially true when a plan includes fewer than seven seats, as Oregon's does. Additionally, each indicator focuses on a different aspect or consequence of gerrymandering, which vary in their prominence depending on circumstance. Ex 3001 ¶¶ 12, 22 (declaration of Dr. Caughey).

282. The “mean-median” difference is defined as the difference between the Democratic vote share in the median district and the average Democratic vote share across districts. Like the measures of partisan bias that Dr. Caughey reported, the mean-median difference indicates a

small pro-Republican bias in the Oregon congressional map. Under the Enacted Map, according to this measure, the expected Democratic vote share in the median district is 0.1% lower than its expected statewide average. This bias is extremely small by historical standards.Ex 3001 ¶¶ 23-24 (declaration of Dr. Caughey).

283. The “declination” identifies the difference between the lopsidedness of Democratic and Republican districts (normalized by each party’s seat share), which can indicate the skewness of districts’ partisan distribution. Dr. Caughey reported that the Enacted Map’s declination is estimated to be 0.1 in favor of the Democratic Party, which is comparatively small by historical standards and indicates little certainty about the Enacted Map’s partisan direction. Ex 3001 ¶¶ 25-26 (declaration of Dr. Caughey).

284. The “efficiency gap” measures the difference in “wasted” votes between the two parties. Dr. Caughey reported that when Democrats win 54% of the statewide vote in Oregon, which represents the Party’s performance in the average election between 2012 and 2020, the efficiency gap is estimated to be 8.5%, a moderate pro-Democratic bias. Comparison with other districting plans indicates that efficiency gaps of this magnitude are hardly unusual, and the efficiency gap of the Enacted Map is expected to favor Republicans fully 25% of the time. Ex 3001 ¶¶ 28-29 (declaration of Dr. Caughey).

285. Dr. Caughey also reported that estimates of the efficiency gap under different election scenarios are highly sensitive to the size of the statewide vote, suggesting that the Enacted Map does not offer a durable advantage to either party. Dr. Caughey found that any Democratic advantage under the Enacted Map is estimated to shrink the closer that the major parties come to even competition in Oregon, and the efficiency gap is predicted to be almost exactly zero in the case of a statewide tie.Ex 3001 ¶29 (declaration of Dr. Caughey).

286. Of the four common indicators of partisan gerrymandering that Dr. Caughey reviewed, two of the indicators—including the most direct and theoretically grounded estimate of partisan bias—suggest that the map favors Republicans in competitive elections, and two indicators suggest a pro-Democratic bias. Dr. Caughey reported that on its own, each estimate carries

considerable uncertainty about the direction of partisan bias, as indicated by the fact that for all four indicators, electoral simulations assign substantial probabilities to both pro-Democratic and pro-Republican bias. And regardless of the direction of bias, Dr. Caughey reported that comparisons with other districting plans indicate that the absolute magnitude of bias under the Enacted Map is unusually small. Ex 3001 ¶30 (declaration of Dr. Caughey).

287. Based on these findings, the Special Master agrees with Dr. Caughey’s conclusion that “[t]here is, in short, little compelling evidence that the Oregon districting plan substantially favors the Democratic Party.” Ex 3001 ¶15 (declaration of Dr. Caughey).

4. Dr. Thomas Brunell

288. Dr. Thomas Brunell is a Professor of Political Science and the Program Head for Political Science at the University of Texas at Dallas. Ex 1006 at 1 (report of Dr. Brunell).

289. While the Special Master finds Dr. Brunell generally to be a credible witness, the methodology he employs, and therefore the conclusions he reached, lack credibility and are therefore unreliable.

290. Several of Dr. Brunell’s conclusions lack even a minimum of academic or methodological rigor. He was unprepared to testify about several components of his submissions. For example:

291. Dr. Brunell reported compactness scores and the number of county and municipal splits for the Enacted Map and two other maps he purported to compare. Ex 1006 at 8-9 (report of Dr. Brunell). But Dr. Brunell testified that he merely copied and pasted these figures from counsel—he did not otherwise know where the figures came from—and he never examined or verified the calculations that he reported. *See* Hearing Tr (rough), Oct 27, 2021, at 168–169, 264–65.

292. Dr. Brunell attached an alternative congressional map to his report, but he testified that he knew little about the map. *See* Hearing Tr (rough), Oct 27, 2021, at 218, 268–72. He could not explain basic features of the map, such as the relevance of white lines that were drawn across it, nor could he explain whether the map complied with statutory redistricting criteria. *See* Hearing Tr (rough), Oct 27, 2021, at 268–72.

293. Dr. Brunell’s report and testimony is further weakened by apparent inconsistencies in Dr. Brunell’s approach. For example:

294. Dr. Brunell reported county splits as a typical method of quantifying how well a map preserves communities of interest, but admitted previously criticizing the notion that a county is a good proxy for a community of interest. Compare Ex 1006 at 9 (report of Dr. Brunell), with Hearing Tr (rough), Oct 27, 2021, at 175–76.

295. Dr. Brunell reported compactness as a “measure of interest” when comparing potential maps, but admitted his view that stressing compactness is a mistake. Compare Ex 1006 at 8 (report of Dr. Brunell) with Hearing Tr (rough), Oct 27, 2021, at 187.

296. Dr. Brunell reported that Democrats are “likely” to win in five of the six congressional districts under the Enacted Map, but he could not describe with any specificity or confidence how likely such a scenario would be. Compare Ex 1006 at 9 (report of Dr. Brunell) with Hearing Tr (rough), Oct 27, 2021, at 197–98.

297. Dr. Brunell reported that the Enacted Map favors the Democratic Party because he expects Democrats to win a seat share disproportionate to their vote share, but he testified that in America’s electoral system of single member, winner-take-all districts, is it common for the majority party to win a share of the elected seats that is more than their proportional share of the vote. Compare Ex 1006 at 4 (report of Dr. Brunell), with Hearing Tr (rough), Oct 27, 2021, at 211, 250–51.

298. In addition to these problems, the credibility of Dr. Brunell’s report and conclusions suffers from other shortcomings. For example:

299. Dr. Brunell’s report failed to cite any academic or peer-reviewed sources. Hearing Tr (rough), Oct 27, 2021, at 212, 242.

300. Dr. Brunell declined to share limitations of his conclusions, such as the fact that any efficiency gap estimate is likely to be especially volatile in a state with only six congressional seats. *See* Hearing Tr (rough), Oct 27, 2021 at 216–17, 250–51.

301. Dr. Brunell filed a Supplemental Report on October 28 that further undermines his original conclusions. Dr. Brunell originally estimated an efficiency gap under the Enacted Map of 19.85%, which he calculated by analyzing what the efficiency gap would be under only three scenarios: the vote distribution reflected by the 2012, 2016, and 2020 presidential elections in Oregon. Ex 1006 at 8 (report of Dr. Brunell). Because data from these three elections are insufficient to model elections that will occur under the Enacted Map, Dr. Brunell reconducted his analysis using data from all Oregon statewide elections from 2012-2020. Ex 1049 at 2 (supplemental report of Dr. Brunell). Under this more comprehensive approach, the Enacted Map's estimated efficiency gap shrunk significantly—by over 60%—to 7.76%. *Id.* at 21.

302. Given the inconsistencies in Dr. Brunell's testimony when compared with testimony he has provided in previous redistricting cases regarding his opinions and methodology, the lack of citations to peer-reviewed sources in his reports, and the finding that Dr. Brunell is generally a credible witness, but the methodology he employs, and therefore the conclusions reached, lack credibility and are therefore unreliable, the Special Master does not credit Dr. Brunell's findings or adopt his conclusions.

V. OREGON CONSTITUTIONAL COMPLIANCE

303. No person testified to the legislature or has asserted in this proceeding that they are denied the privilege of voting for a Representative in Congress based on an immutable characteristic.

304. No person testified to the legislature or has asserted in this proceeding that SB 881(2021) prevents them from uttering and publishing their views on candidates for office in any of the Congressional districts created under SB 881(2021).

305. No person testified to the legislature or has asserted in this proceeding that SB 881(2021) prevents them from assembling with others, petitioning their representatives for redress of grievances, or instructing their representatives.

VI. FEDERAL STATUTORY & CONSTITUTIONAL COMPLIANCE

306. Petitioners have alleged no violation of federal statute or federal constitution, and nothing in the record indicates that SB 881(2021) violates any relevant provision of federal statute or federal constitution.

VII. PETITIONERS' PROPOSED REDISTRICTING PLAN

307. Petitioners have proposed a redistricting plan. *See* Ex. 1014 (overview of the map); Ex. 2574 (detailed map, including city boundaries in red). Petitioners have presented almost no evidence that the proposed plan complies with the ORS 188.010(1) criteria.

308. Each of the districts in Petitioners' plan appears to be contiguous and of almost exactly equal population, satisfying ORS 188.010(1)(a) and (b). *See* Ex. 2574; Exs. 1019–1020 (files containing the exact map data). The districts appear to utilize existing geographic and political boundaries, relying mostly on county lines. *See* Ex. 2574. But Petitioners have not presented any evidence that the districts are connected by transportation links. Nor have they presented any evidence that their plan does not unnecessarily divide communities of common interest beyond a simple counting of how many counties and cities are “split” between multiple districts.

309. Dr. Katz's point estimates of the bias of the Petitioners' map is a 4% to 10.54% bias toward Republican candidates. Ex. 2306 at 6 (Figure 2).

310. Dr. Katz's analysis of the Petitioners' map shows that it is more likely than not that Democrats would need to receive more than half the votes in congressional races to be expected to win half of the seats (i.e., a 3-3 delegation). Ex. 2306 at 5 (Figure 1).

311. Dr. Katz's analysis of the Petitioners' map shows that it is more likely than not that Republicans would not need to receive more than half the votes in congressional races to be expected to win half of the seats (i.e., a 3-3 delegation). Ex. 2306 at 4-6.

RESPECTFULLY SUBMITTED

A handwritten signature in black ink, appearing to read "Henry Breithaupt", written over a horizontal line.

11/5/2021 3:53:06 PM

Henry Breithaupt, Judge