**Analyzing Whether a Map Triggers**

**A Rebuttable Presumption of Partisan Gerrymandering**

**Under the Freedom to Vote Act (S. 2747)**

This memo sets out the steps for deploying the rebuttable presumption of partisan gerrymandering in Section 5003 of the Freedom to Vote Act (FTVA).

Step 1: Calculate the number of seats a party would hold under a hypothetical perfectly efficient plan

* Use the efficiency gap to determine for a given election how many seats a party would hold under a plan that has no wasted votes (i.e., a plan with an efficiency gap of zero).[[1]](#footnote-1)

Step 2: Calculate maximum permitted deviation

* Determine whether 7 percent of seats, without rounding, or one seat is larger. The larger of these two numbers is how much the number of seats won by a party under an actual plan can deviate from the number of seats under a plan with zero wasted votes (as calculated in step 1).
* For example, Texas has 38 congressional districts. Seven percent is seats is 2.66 seats, which is the larger of the two numbers. Therefore, for Texas maps, the maximum permitted deviation from the number of seats won by a party under a plan with zero wasted votes is 2.66 seats.

Step 3: Calculate seats under the actual proposed or enacted plan

* Use election data to calculate how many seats would have been carried by a party’s candidate under the actual plan being evaluated.

Step 4: Determine whether the seats under the actual plan exceed the permitted deviation

* If the difference between the number of seats won by a party under plan with zero wasted votes and the number of seats that the party wins under an actual plan exceeds the maximum permitted deviation (step 2), then the plan fails the FTVA rebuttable-presumption test for that election.

Step 5: Determine whether the rebuttable presumption has been triggered

* If a plan fails the rebuttable-presumption test for two out of four of the elections analyzed under FTVA (the last two presidential and last two regular U.S. Senate elections in a state), then the rebuttable presumption is triggered.

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1. This threshold also can be expressed using percentages instead of seats. For example, one seat deviation in a state with seven seats is equal to a deviation of 14.28 percent. [↑](#footnote-ref-1)