

IN THE SUPREME COURT OF OHIO

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

Relators,

v.

OHIO REDISTRICTING
COMMISSION, *et al.*,

Respondents.

Case No. 2021-1193

BRIA BENNETT, *et al.*,

Relators,

v.

OHIO REDISTRICTING
COMMISSION, *et al.*,

Respondents.

Case No. 2021-1198

THE OHIO ORGANIZING
COLLABORATIVE, *et al.*,

Relators,

v.

OHIO REDISTRICTING
COMMISSION, *et al.*,

Respondents.

Case No. 2021-1210

STIPULATION OF EVIDENCE

(deposition transcript and exhibits)

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STIPULATION OF EVIDENCE
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	Exhibits to Huffman deposition transcript	DEPO_01875-1892



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Transcript of Representative Robert R. Cupp

Date: October 21, 2021

Case: League of Women Voters of Ohio, et al. -v- Ohio Redistricting Comm., et al.

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IN THE SUPREME COURT OF OHIO

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LEAGUE OF WOMEN VOTERS :
OF OHIO, ET AL., :
Relators, :
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Remote Videotaped Deposition of
REPRESENTATIVE ROBERT R. CUPP
Thursday, October 21, 2021
9:40 a.m.

Job No.: 405261
Pages: 1 - 110
Reporter: DEBRA BOLLMAN FARFAN, RDR-RMR-CRR
CA CSR NO. 11648

1 Videoconference Deposition of
2 REPRESENTATIVE ROBERT R. CUPP, held remotely:

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5 Witness Location:

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11 Pursuant to notice, before Debra Bollman
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13 Registered Merit Reporter, Certified Realtime
14 Reporter, and Certified Shorthand Reporter No.
15 11648, in and for the State of California.
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P R O C E E D I N G S

* * * * *

THE VIDEOGRAPHER: Good morning. Here begins Media Number 1 in the video recorded deposition of Speaker Robert Cupp in the matter of League of Women Voters of Ohio, et al., versus Ohio Redistricting Commission, et al. This is Consolidated Case No. 2021-1193, filed in the Supreme Court of Ohio.

Today's date is October 21st, 2021. The time on the video monitor is now 9:40 a.m.

The videographer today is Joel Coriat on behalf of Planet Depos, and this deposition will be taken via videoconference.

All counsel appearances will be noted on the stenographic record.

The court reporter today is Debra Bollman, on behalf of Planet Depos. She will now swear in the deponent.

Whereupon,

SPEAKER ROBERT CUPP

was called as a witness, was duly sworn and testified under penalty of perjury as follows:

1 EXAMINATION

2 BY MR. STAFFORD:

3 Q. Good morning, Speaker Cupp. My name is
4 Ben Stafford. I'm an attorney with the Elias
5 Law Group. I represent a group of relators in
6 this case.

7 Have you ever had your deposition taken
8 before?

9 A. I don't recall that I did.

10 Q. Okay. So this is your first deposition
11 you've had the pleasure of, then?

12 A. To be honest, yes.

13 Q. So I'm sure your attorneys have prepared
14 you exquisitely, but just a few brief reminders
15 as we get underway here.

16 First, it's important to verbalize your
17 answers rather than just nod your head or shake
18 your head so that we get a clear transcript.

19 Okay?

20 A. Okay.

21 Q. I will also ask you to let me complete
22 my question before you start your answer, even
23 if you think you know where I'm going, and I
24 will try to do the same as you give your answer
25 so that, again, we can get a clear transcript

1 and try not to talk over each other.

2 Then, finally, I will say in all of my
3 questions, I am not trying to trick you. So if
4 you do not understand a question that I've
5 asked, please let me know so that we can make
6 sure that I address that.

7 Otherwise, if you do go ahead and
8 answer, I'll assume that you understood my
9 question. Is that fair?

10 A. Yes, it is.

11 Q. Okay. Speaker Cupp, what is your role
12 on the Ohio Redistricting Commission?

13 A. Pro forma member of the commission, and
14 I also served as the co-chair, one of the
15 co-chairs.

16 Q. And as one of the members of the
17 commission -- set aside the co-chair for a
18 moment -- what are your responsibilities?

19 A. To draw a constitutional district plan
20 for the -- for the state legislature. When
21 we're talking about legislative districts, of
22 course.

23 Q. Okay. And I will just let you know that
24 unless I am clearly asking to the contrary, my
25 questions are about the General Assembly plan

1 here today.

2 As the co-chair of the commission, what
3 were your responsibilities?

4 A. To work with the other co-chair in
5 establishing and doing the administrative work
6 to make sure the administrative work of the
7 commission was functioning properly and
8 completed.

9 Q. And when you say "the administrative
10 work of the commission," what do you mean?

11 A. Setting times for meetings, for
12 hearings, consulting with each other to make
13 sure that we were able to complete our work on
14 time. Have proper hearings following the
15 Constitution.

16 Q. And for the record, who was the other
17 commission chair -- or co-chair, rather?

18 A. Senator Vernon Sykes.

19 Q. Okay. And when you talk about hearings,
20 did the commission hold hearings to hear public
21 testimony or input from the members of the
22 public?

23 A. Yes, they did.

24 Q. And when were those meetings held?

25 A. Well, they were in August to begin with,

1 and then -- this is before the commission
2 introduced a map. And then after the
3 commission introduced the map, there were
4 hearings in September.

5 Q. And --

6 A. I don't know the exact dates. They're
7 on the record.

8 Q. And for the meetings before the release
9 of a plan, did you prepare any materials to
10 guide what you would say yourself during those
11 hearings?

12 A. Just the formalities about calling the
13 meeting to order, introducing who was there,
14 and that sort of thing. Made the announcement
15 as to additional hearings, when they were going
16 to be held.

17 Q. Okay. So you had a -- fair to say a
18 script of sorts for some of the basics of the
19 hearings that you were holding?

20 A. Yes, just very basic script of the
21 procedural matters.

22 Q. Okay. And did you approve the script
23 that you would be using?

24 A. Usually a staff member would give it to
25 me just shortly before the hearing. Again, it

1 was just basic, you know, procedure.

2 Q. Okay. And nothing about that was
3 inaccurate from your perspective?

4 A. I don't recall. I may have made minor,
5 you know, changes as, you know, I was using it
6 to fit the circumstances, but...

7 Q. Okay. Now, as the -- when you say that
8 as a commission member your basic
9 responsibility was to pass a constitutional
10 map, I believe you said, are you referring to
11 any particular provision of the constitution?

12 A. Well, all of them. Tried to follow all
13 of them.

14 Q. Okay. And that includes Article XI of
15 the Ohio Constitution?

16 A. Yes, it did.

17 Q. Okay. Now, as the Speaker of the House,
18 did you take on any particular additional
19 responsibilities when it came to the process of
20 preparing a General Assembly plan?

21 A. Additional responsibilities? Well, we
22 had -- so the staff worked on preparing the
23 district plan. So I assigned staff to that.

24 Q. And did you then particularly oversee
25 staff who were preparing a plan?

1 A. From time to time. Obviously, what's
2 the progress. They were concerned about trying
3 to get everything done under the constitutional
4 deadlines. So we would discuss how things were
5 going and occasionally see what -- again, what
6 the status, the progress of drawing the plan
7 was.

8 Q. And did any other member of the
9 commission oversee staff in a way similar to
10 the way that you were overseeing staff who were
11 drawing the plan?

12 A. Yes, Senator Huffman did, I believe, in
13 the Senate.

14 Q. And did you and Senator Huffman ever
15 talk about splitting up duties with respect to
16 the map drawing process?

17 A. No, I don't believe we had specific
18 discussions about dividing duties.

19 Q. Did you two, in fact, divide
20 responsibilities for preparing a General
21 Assembly plan?

22 A. Well, so for the House, obviously I
23 focused on what the House districts were going
24 to look like. I think he focused a lot on what
25 the Senate districts were going to look like.

1 Then, of course, because they overlap,
2 you know, we each had to be concerned about how
3 that affected the other.

4 Q. When did you start preparing for the
5 2021 redistricting cycle?

6 A. I don't remember the exact date.

7 I do know that we were following the
8 progress of the census data becoming available,
9 which was delayed, and obviously began
10 reviewing the constitutional requirements and
11 identified who from the House was going to be
12 working on drawing the district lines.

13 So that could have been -- well, the
14 census data, obviously, was something fairly
15 early in the spring or summer.

16 Q. And so, sorry, did you say then that you
17 began preparing for the process of districting
18 in the spring or summer of 2021?

19 A. I would say, in the general way, become
20 familiar with the constitutional requirements,
21 the deadlines, and concerned about when the
22 census data was going to be available so we
23 could actually get started on real maps.

24 Q. And what constitutional provisions did
25 you familiarize yourself with?

1 A. Read through the whole article,
2 Article XI.

3 Q. And did that include Section 6 of
4 Article XI?

5 A. It did.

6 Q. You said that one of the things that was
7 done was to identify staff in the House who
8 would work on the redistricting process. Which
9 staff did you identify?

10 A. Blake Springhetti.

11 Q. Okay. And who is Mr. Springhetti?

12 A. He was our budget director, and he was a
13 staff person we assigned to help draw the
14 district map.

15 Q. And why would you assign Mr. Springhetti
16 in particular to that responsibility?

17 A. He had a facility with numbers and
18 statistics, was thoughtful, paid attention to
19 detail, and was a hard worker.

20 So we knew from past experience that it
21 would be a monumental effort to try to get the
22 line drawing done in time because it took so
23 much time, so he was willing to put in that
24 kind of effort.

25 Q. Do you know whether Mr. Springhetti had

1 any prior map drawing experience?

2 A. I do not.

3 Q. Did you identify any staff members in
4 the House, other than Mr. Springhetti, to
5 assist in the map drawing process?

6 A. No, he was the only one involved in
7 drawing the maps from the House that I'm aware
8 of.

9 Q. And what did Mr. Springhetti use to draw
10 maps?

11 A. Well, he used a computer.

12 Q. Okay. And a software program presumably
13 on the computer?

14 A. Yes. I forget what the name of it is.
15 Map something or other.

16 Q. Is it Maptitude?

17 A. I believe so.

18 Q. And where was the computer that
19 Mr. Springhetti used for this purpose?

20 A. It was in the William Green Building, in
21 an office space there.

22 Q. And when did you get the software and
23 computer set up for the conduct of mapping?

24 A. I don't recall the exact date, but we
25 did it in advance of when the census data, we

1 understood, was going to be available so it
2 would be ready to begin the process of drawing
3 the lines.

4 Q. What, if anything, was done using that
5 equipment before the census data were released?

6 A. I think maybe some training on it,
7 getting familiar with how it worked.

8 Q. Who trained Mr. Springhetti on those
9 matters?

10 A. I don't know. I do not know
11 specifically.

12 Q. Was training conducted for
13 Mr. Springhetti on how to use Maptitude?

14 A. I have no personal knowledge of that.
15 My understanding was they were going to be
16 getting training on how to use it.

17 Q. And where did that understanding come
18 from?

19 A. From my chief of staff.

20 Q. Okay. And who is your chief of staff?

21 A. Christine Morrison.

22 Q. And did Ms. Morrison tell you who would
23 be conducting that training?

24 A. May have, but I don't recall. That was
25 not something that I was particularly paying

1 attention to.

2 Q. Did you receive any training on how to
3 use software to conduct mapping?

4 A. I did not. Although, it would have been
5 interesting.

6 Q. Did you consider engaging the services
7 of anyone other than legislative staff to
8 assist with mapping?

9 A. Well, we obviously obtained legal
10 counsel.

11 Q. Okay. And I'm not asking you for any
12 communications you had with legal counsel, but
13 which legal counsel did you retain?

14 A. Phil Strach and Tom Farr, I believe.

15 Q. And when did you obtain their services?

16 A. I don't recall exactly. It was before
17 we began the actual drawing of the maps.

18 Q. And when did you begin the drawing of
19 the maps?

20 A. Once the census data was available.

21 Q. Can you give me an estimate of what
22 month it was when you retained their legal
23 services?

24 A. Oh, you know, maybe July, July, August,
25 early August timeframe.

1 Q. And what source of funds was used to pay
2 for their services?

3 A. I am not entirely sure at this point.
4 There was obviously money that was appropriated
5 for map drawing, and each caucus was allocated
6 funds.

7 Q. And were Mr. Strach and Mr. Farr paid
8 from those funds that were allocated for the
9 purpose of redistricting?

10 A. I really do not know specifically.

11 Q. Who would know that?

12 A. Wendy Zhan, the director of Legislative
13 Service Commission, was monitoring the
14 expenditures.

15 Q. And can you tell me a little bit more
16 about those funds that were set aside for
17 redistricting? How was that fund created?

18 A. It was a legislative appropriation, and
19 there were -- essentially it was equal amount
20 of funds to each joint House/Senate caucus, and
21 they were divided equally.

22 Later on the Democrats asked for
23 additional funds, and I believe we provided
24 additional funds to the Democrats so they could
25 hire additional experts.

1 Q. Other than legal counsel, did you engage
2 the services of anyone other than legislative
3 staff to assist with the map drawing process?

4 A. I don't recall anyone else.

5 Q. And who retained those legal services?
6 Or to state that differently, who was the
7 client of those attorneys?

8 A. Well, I'm assuming they were
9 representing -- were representing me and
10 probably Senator Huffman as well.

11 Q. Okay. In your individual capacities?
12 Or were they representing the House and the
13 Senate themselves?

14 A. I don't know the technicalities of that,
15 quite frankly.

16 Q. Okay. Is it fair to say, then, that you
17 were responsible for overseeing the development
18 of the General Assembly plan on behalf of the
19 Republican caucus?

20 A. I was one of those, yes.

21 Q. The other one being Senator Huffman?

22 A. That's correct.

23 Q. Okay. So the two of you together were
24 responsible for overseeing the development of
25 the General Assembly plan?

1 A. Generally, yes.

2 Q. Okay. And I believe you said that you
3 generally took primary responsibility for the
4 House map, Senator Huffman took primary
5 responsibility for the Senate map, although the
6 two of you needed to collaborate together given
7 the impact of one map on the other map?

8 A. That's correct.

9 Q. Okay. So were you responsible for
10 providing direction to the map drawer for the
11 House map?

12 A. Yes.

13 Q. Okay. And I believe your testimony was
14 that it was Mr. Springhetti who was the map
15 drawer for the House map.

16 A. Yes.

17 Q. Were you responsible for providing
18 direction to the map drawer for the Senate map?

19 A. So in a general sense, the sense that
20 they kind of had to work together.

21 But my primary direction was to
22 Mr. Springhetti.

23 Q. And who was the map drawer for the
24 Senate map?

25 A. Ray DiRossi.

1 Q. Did anyone other than Mr. DiRossi and
2 Mr. Springhetti assist in drawing the map on
3 the House side?

4 A. You mean physically drawing it?

5 Q. Using the software program to draw.

6 A. Not to my knowledge.

7 Q. Did anyone other than Mr. Springhetti
8 and Mr. DiRossi use the map drawing software on
9 the Senate side?

10 A. Not to my knowledge.

11 Q. Did anyone other than yourself and
12 Senator Huffman provide direction to Mr. -- to
13 either map drawer on drawing the maps?

14 A. Well, I certainly can't speak for the
15 Senate. And I don't know. What do you mean by
16 "direction"?

17 Q. Did anyone other than yourself or
18 Senator Huffman provide guidance on how the map
19 should be drawn to either map drawer?

20 A. Other than legal advice as to what would
21 be a constitutional map, I do not believe so.
22 Not to my knowledge, anyway.

23 Q. And to your knowledge -- and, again, I'm
24 not asking for the substance of any legal
25 advice, but who provided legal advice to the

1 map drawers about the map?

2 A. Well, it would have been through me and
3 through Senator Huffman. But it would be
4 Mr. Strach and Mr. Farr.

5 Q. When did you first task anyone with
6 developing a General Assembly plan?

7 A. I think you asked that question before,
8 and I can't remember exactly when we identified
9 Blake with doing that for the House, but it
10 would have been perhaps sometime in July.

11 We were doing our state two-year budget,
12 so we were pretty consumed with doing that,
13 getting that done, and then we turned our
14 attention to the map drawing. So that would
15 have probably been in early to mid July
16 sometime.

17 Q. And let me clarify my question. When
18 did you task anyone to start actually drawing a
19 plan at this point?

20 A. Oh, directed -- Blake was directed to
21 start drawing the plans as soon as we got the
22 census data.

23 Q. Do you recall the date where
24 Mr. Springhetti started drawing a House plan?

25 A. Well, I don't know the date, but census

1 data came in around mid-August. So that's when
2 that would have -- we would have taken that up
3 immediately.

4 Q. Other than legal counsel, did you engage
5 consultants to assist in the preparation of
6 maps?

7 A. I don't believe so.

8 Q. Do you have an understanding of how
9 Mr. Springhetti and Mr. DiRossi worked together
10 in drawing maps?

11 A. No, not specifically. I didn't actually
12 see them, you know, work together.

13 Q. Do you know who Clark Benson is?

14 A. I've heard the name, but I don't know
15 him.

16 Q. Who is Clark Benson to your
17 understanding?

18 A. I think he is someone that had some
19 geographical data.

20 Q. Did you ever speak to Mr. Benson?

21 A. I have not.

22 Q. Did you ever communicate, yourself, with
23 Mr. Benson in any way?

24 A. No.

25 Q. Did any staff members on your behalf

1 speak or work with Mr. Benson?

2 A. No, not on my behalf.

3 Q. Okay. What geographic data did
4 Mr. Benson have?

5 A. My understanding was to align the
6 precincts in political subdivisions with -- I
7 think it was voting data from the early years,
8 like in the decade. That was part of looking
9 at the statewide partisan vote as precinct
10 lines and political things had shifted over
11 time.

12 Q. Is Mr. Benson a legislative staffer?

13 A. No.

14 Q. Do you know who Mr. Benson works for,
15 then?

16 A. I do not.

17 Q. Okay. How did you come to understand
18 that Mr. Benson was sharing some geographic and
19 partisan data that was used in the map drawing
20 process?

21 A. Well, I don't know about partisan data.
22 But the geographic data, trying to put together
23 the ten-year, you know, voting data, things
24 weren't publicly available, I guess, for the
25 early years, '12 and '14, so it was just an

1 attempt to try to put all that together.

2 Q. And who told you that Mr. Benson was
3 providing that data?

4 A. Mr. DiRossi, I believe.

5 Q. And when you say "voting data" that I
6 believe was mapping onto precincts, what voting
7 data do you mean?

8 A. I really don't know. We didn't get into
9 that level of detail.

10 Q. Do you know why Mr. DiRossi was getting
11 data from Mr. Benson if you hadn't directed him
12 to do so?

13 A. I think I had indicated that they were
14 trying to figure out how to match up, you know,
15 the legal subdivision lines from early on. And
16 maybe precinct lines.

17 Q. And just so that I'm clear, and this was
18 something that Mr. DiRossi had done without
19 your direction?

20 A. No. Well, we're looking for the data so
21 that they could be able to complete what the --
22 the ten-year lookback.

23 And the question was, "Is that
24 geographical data available publicly?"

25 And the answer was, "No."

1 "So is it available somewhere else?"

2 And they said, "Yes."

3 And so, "Could we get that geographical
4 information?"

5 And says, "Well, it should be as
6 complete as possible, so let's do it."

7 Q. Okay. And they got it from a person
8 that you never spoke to, and you don't know who
9 he works for; is that right?

10 A. That's correct.

11 Q. Do you know who John Morgan is?

12 A. I don't believe I've heard that name
13 before.

14 Q. Do you know whether anyone other than
15 Mr. Benson provided data that the map drawers
16 relied on in the redistricting process?

17 A. Not to my knowledge. Well, data -- I
18 think there's data from the Secretary of
19 State's office, that sort of thing.

20 Q. Okay. Other than from Ohio government
21 sources, do you know whether anyone else
22 provided data that the map drawers used in the
23 mapping process?

24 A. No, I do not know.

25 Q. Do you know whether Mr. Benson was being

1 paid for the services that he was providing to
2 Mr. DiRossi?

3 A. I believe so.

4 Q. Do you know who was paying him?

5 A. No, I do not.

6 Q. Were Mr. -- was Mr. DiRossi authorized
7 to expend funds without your approval?

8 A. I'm not essentially -- I'm not sure in
9 what sense you mean that. Obviously they had
10 some authority to expend funds to be able to
11 get the software and do all of those sort of
12 things.

13 So we would certainly have -- we
14 authorized him to use that -- to get that data.
15 The assumption would be if there were a cost,
16 it would be paid for.

17 Q. So did you provide any direction to
18 Mr. DiRossi or Mr. Springhetti on what
19 permissible use of funds were or were not?

20 A. Not for litigation.

21 Q. And so what was it for?

22 A. It was for information, for data, for
23 software, to be able to draw a district plan.

24 Q. And so were the funds that they were
25 authorized to use the funds that had been

1 appropriated by the legislature for both the
2 Democratic caucus on the one hand and the
3 Republican caucus on the other hand?

4 A. That would be my assumption, but I don't
5 know specifically.

6 Q. Could any member of the Republican House
7 caucus who wanted to give instruction to
8 Mr. Springhetti or Mr. DiRossi about how to
9 draw the maps?

10 A. In what sense do you mean that? They
11 were -- he was a direct -- Mr. Springhetti was
12 to take direction from me and my staff.

13 Q. And so I'm just trying to make sure that
14 I understand the flow of communication.

15 A. All right.

16 Q. If a House caucus member had some input
17 they wanted to provide, could they communicate
18 directly with Mr. DiRossi or Mr. Springhetti?
19 Or did they have to come through you or Speaker
20 Huffman -- sorry, Senator Huffman?

21 A. That's right. You never know. So I
22 don't know about the Senate side. But for the
23 House side, if a member had input, suggestions,
24 they would have to come through me or one of my
25 staff members.

1 Q. And what staff members, in particular,
2 could people use as a point of contact for
3 issues related to the mapping process?

4 A. Well, our legal counsel, Paul Disantis,
5 or our chief of staff, Christine Morrison.

6 Q. That was Paul Disantis?

7 A. Pardon?

8 Q. Did I hear the name correctly, was it
9 Paul Disantis?

10 A. Yes.

11 Q. Okay, thank you. Anyone other than
12 Mr. Disantis or Ms. Morrison?

13 A. No.

14 Q. And I think I asked you specifically
15 about the House caucus. Would the same
16 protocol have been in place for any members of
17 the Senate caucus who wanted to provide input
18 or suggestions on the plan?

19 A. Yes. If any senator wanted to have
20 input through Mr. Springhetti, they would not
21 go to Mr. Springhetti. They would go to either
22 me or Christine Morrison.

23 Q. Okay. And then with regard to other
24 members of the Redistricting Commission, if
25 they wanted to provide input or suggestions to

1 Mr. Springhetti or Mr. DiRossi, could they do
2 so directly?

3 A. No.

4 Q. Okay. How -- then who would they be
5 responsible for communicating with?

6 A. With -- reporting to the House side,
7 with me or Christine Morrison.

8 Q. And then to your knowledge on the Senate
9 side?

10 A. I do not know how the Senate handled it.

11 Q. Is it fair, then, to say that on the
12 House side, you limited access to who could
13 provide input to the map drawers for the
14 Republican plans?

15 MR. STRACH: Objection.

16 Go ahead.

17 THE WITNESS: Would you -- would you
18 restate the question, please.

19 BY MR. STAFFORD:

20 Q. Is it fair, then, to say that on the
21 House side, you limited access to who could
22 provide input to the map drawers responsible
23 for drawing the Republican plan?

24 A. Yes. Direct access, yes, we did limit
25 that.

1 Q. Okay.

2 A. That was just to -- yeah, we did.

3 Q. Did you provide either Mr. DiRossi or
4 Mr. Springhetti with any data that could be
5 used to draw legislative maps before the census
6 data was released?

7 A. I didn't. Did you ask whether others
8 did too? I'm sorry, repeat that.

9 Q. To your knowledge, did anyone provide
10 data to Mr. Springhetti or Mr. DiRossi to draw
11 legislative maps before the census data were
12 released?

13 A. Not to my knowledge.

14 Q. Did either Mr. Springhetti or
15 Mr. DiRossi start drawing any maps before the
16 census data were released?

17 A. I don't know about Mr. DiRossi, but
18 Mr. Springhetti did not start drawing maps
19 until the census data was available.

20 Q. Okay. Do you know whether anyone other
21 than Mr. Springhetti working on behalf of the
22 House started drawing legislative maps before
23 the census data were released?

24 A. I do not know of anyone working on
25 behalf of the House did that.

1 Q. Other than the data that Mr. Benson
2 provided, are you aware of whether Mr. DiRossi
3 or Mr. Springhetti utilized any other voting
4 data in preparing the General Assembly plans?

5 A. I believe they did use data from the
6 Secretary of State's office.

7 Q. Other than those two sources, did they
8 use any --

9 A. I'm not aware.

10 Q. I'm sorry. Just let me finish my
11 question.

12 A. Yeah, right, go ahead.

13 Q. Other than those two sources, did either
14 Mr. Springhetti or Mr. DiRossi utilize any
15 other voting data in preparing the maps?

16 A. Not to my knowledge.

17 Q. Okay.

18 A. Not to my knowledge.

19 Q. Were you provided with a copy of the
20 voting data that they used to prepare the
21 plans?

22 A. No.

23 Q. Are you familiar with the maps that were
24 introduced to the commission on September 9th
25 by Senate President Huffman?

1 A. Am I familiar with it?

2 Q. Yes.

3 A. Generally speaking, yes. I had seen the
4 map before it was introduced, yeah.

5 Q. When did you first see the map that was
6 ultimately introduced on September 9th?

7 A. Maybe the day before. I had seen parts
8 of it before that.

9 Q. When did you first see any part of the
10 map that was being drawn that was ultimately
11 released on September 9th?

12 A. Probably not until early September, and
13 that's kind of a -- kind of a guess. I don't
14 know specifically.

15 Q. Do you know when the final version, at
16 least final as of September 9th version, of the
17 map was completed?

18 A. I think it was fairly late on
19 September 14th.

20 Q. I'm sorry. Let me clarify my question.
21 There was a map that was released on
22 September 9th. I'm asking when that version of
23 the map --

24 A. Okay.

25 Q. -- was completed finally.

1 A. I think late on September 8th, the day
2 before. I know they were -- because there's so
3 much data and there's so little tolerance in
4 the line drawing and the population
5 requirements, I know it was a fairly tedious
6 and time-consuming effort to be able to get it
7 right.

8 And we did tell them that we wanted it
9 right. We wanted to follow the Constitution.
10 And so it was a -- it was something that just
11 took a lot of time.

12 Q. When you saw parts of the map, what
13 parts of the map did you see prior to the
14 release on September 9th?

15 A. Well, there was some -- part of it was
16 demonstrating what the constitution
17 requirements were and how that affected the
18 line drawing.

19 So there were some counties that could
20 not be split and some that, you know, had to
21 be, based upon other constitutional
22 requirements. So we looked at part of those to
23 show how that worked and affected the line
24 drawing. So those would have been the earliest
25 parts.

1 And then from time to time get a little
2 status report about how far they've been able
3 to construct the map and keep within the
4 constitutional requirements.

5 Q. Did you see images of the map or parts
6 of the map before September 9th? Or
7 September 8th, I'm sorry. I think that's when
8 you said you saw it initially.

9 So before September 8th, did you see
10 images of the map or parts of the map?

11 A. Yes.

12 Q. Did you see it on the computers that
13 Mr. DiRossi and Mr. Springhetti were using?

14 A. I may have seen a little, but most of it
15 was on paper, as I recall.

16 Q. Okay. When you were provided with paper
17 versions of maps, were you provided with any
18 data accompanying those images?

19 A. No.

20 Q. Okay. So you were not provided with
21 population data about the various districts?

22 A. No. Well, I don't recall whether it was
23 population data on it or not. I know there was
24 obviously some discussion about whether it's
25 within the 5 percent leeway either way.

1 You know, so that's about all I recall
2 about that kind of data.

3 Q. I believe you said that you saw maps on
4 the computers a little before September 8th; is
5 that correct?

6 A. Yes. It would have been an individual
7 kind of thing to show, for example, how you had
8 to follow the political subdivision lines and
9 not split them to stay in compliance. So that
10 would have been kind of like a little
11 demonstration as to why this particular one was
12 drawn the way it was.

13 Q. And would that have come about because
14 you had questions about a draft map that you
15 had seen and you received an explanation in
16 response?

17 A. Sometimes. Sometimes it was just, you
18 know -- if you look at some of them and you
19 follow political subdivision lines, they look
20 kind of a little like a lot of little lines
21 here and little parts there.

22 And the point was to demonstrate that
23 those -- that it's part of the political
24 subdivision lines. It's not something that the
25 map drawers were doing to split political

1 subdivisions. They're trying to keep it whole.

2 Q. When you saw the maps on the computer
3 screen, what data were displayed about the map
4 on the screen?

5 A. I didn't recall seeing any data
6 displayed on the screen.

7 Q. Okay. So your testimony is that there
8 was no data about population or political
9 performance available on the screen?

10 MR. STRACH: Objection.

11 Go ahead.

12 THE WITNESS: I don't recall seeing any
13 of that kind of data on the screen, no.

14 BY MR. STAFFORD:

15 Q. Prior so September 9th, did you have any
16 conversations about the partisan makeup of any
17 particular districts in a map that was being
18 prepared by Mr. Springhetti?

19 A. Would you restate that, please.

20 Q. Prior to September 9th, did you have any
21 conversations about the partisan makeup of any
22 particular districts in a map that was being
23 prepared by Mr. Springhetti?

24 A. Yes, there would have been individual
25 districts. There was some conversation about

1 the political makeup.

2 Q. Which particular districts did you
3 discuss the political makeup of, the partisan
4 makeup of those districts before September 9th?

5 A. I don't -- I do not recall.

6 Q. Do you recall any of those districts?

7 A. I do not.

8 Q. Okay. What discussion did you have
9 about the political makeup of particular
10 districts?

11 A. I think it was just -- it was very
12 general about, you know, individual districts
13 here or there, what the -- what the political
14 index would be.

15 Q. And when you say "the political index,"
16 what do you mean by that?

17 A. I assume that's a voting district in
18 terms of whether it was lean Republican or lean
19 Democrat.

20 Q. Okay. And who did you have those
21 discussions with?

22 A. It would have been Blake mostly.

23 Q. Okay. And so would you ask
24 Mr. Springhetti about what the -- let me make
25 sure I've got your phrase correctly here. I

1 think you said "political index." Did you have
2 discussions or did you ask Mr. Springhetti
3 about what the political index of a particular
4 district was in a draft map?

5 A. Not specifically. It would have come up
6 in looking at the district. Again, this was a
7 spotty sort of thing.

8 Q. What do you mean it would have come up
9 in looking at a particular district?

10 A. Well, the way that the district was
11 drawn, the limitations in terms of the
12 splitting of the district and -- so whether you
13 had to draw it, and the question is what --
14 what is -- does that lean Republican or lean
15 Democrat or is it a competitive district, that
16 sort of thing, in a general sense.

17 Q. And when that issue came up, what did
18 Mr. Springhetti look at to answer the question?

19 A. I don't know. He gave didn't give me an
20 answer.

21 Q. Did this come up when you were looking
22 at the computer with him?

23 A. No.

24 Q. Okay. And so if this came up, he would
25 get back to you and tell you what the political

1 index of the district, were a question had come
2 up, what that was?

3 A. No. Since I indicated most of the
4 districts that we see were printed on paper
5 copy, and it would come up in the sense of
6 looking at those districts and how they -- how
7 they were -- how they appear on the map.

8 Q. And Mr. Springhetti would tell you what
9 the political index of a given district was in
10 the context of those sorts of conversations?

11 A. Not as a uniform matter. But, you know,
12 if it was a change in the way the district
13 looked, it would -- that did obviously come up.

14 Q. And I'm asking maybe an even more simple
15 question, which was on the occasions that this
16 came up, in those occasions would
17 Mr. Springhetti tell you, for example, the
18 political index of this district is Republican
19 plus three?

20 A. Sometimes it was specific like that, but
21 more likely it was -- it was a lean Republican
22 or lean Democrat.

23 Q. And on the occasions that this came up,
24 was this something that Mr. Springhetti was
25 answering off the top of his head?

1 A. Well, I don't know off the top of his
2 head, but he didn't consult, you know, a
3 directory or anything.

4 Q. So he answered the question without
5 looking at any source of information?

6 A. Yeah, to me, he did, yeah.

7 Q. Prior to the release of the
8 September 9th map, did you discuss the overall
9 partisan makeup of the House map?

10 A. No, I did not, actually.

11 Q. Okay. Did you have any discussion about
12 the overall political index of the House map?

13 A. No, we did not.

14 Q. Did you have any discussion about how
15 many overall Republicans you expected that the
16 map would elect and how many Democrats you
17 would expect the map would elect?

18 A. I'm trying to recall, because that was
19 not really the -- generally any part of any
20 discussion. It was more focused on kind of
21 individual ones where the lines had changed.

22 And I don't recall -- honestly, I do not
23 recall whether it was ever advised as to what
24 the overall final map had in terms of total
25 districts leaning one way or the other.

1 After the map was introduced, I was
2 advised of that. I remember being a bit
3 surprised by it.

4 Q. After the -- when was that, after the
5 map was released, that someone advised you,
6 that you specifically recall, of the overall
7 expected partisan performance of the map?

8 A. I assume on this -- I believe on the
9 same day. It may have been part of the
10 discussion before the commission when the map
11 was introduced. Or presented, I guess.

12 Q. You said that you were surprised. What
13 do you mean by that?

14 A. That the number of Republican leaning
15 districts was more than I had anticipated it
16 was going to be.

17 Q. Were you concerned by the number of
18 Republican leaning districts?

19 A. I'd just say I was surprised by it.

20 Q. And I asked: Were you concerned by that
21 data?

22 A. Well, our goal was to draw a
23 constitutional map, and we also wanted a
24 ten-year map.

25 And my concern was, and I was a bit

1 concerned, that that would be something that
2 would not be acceptable to the Democrat members
3 of the commission and that we would, obviously,
4 have to try to figure out some way of getting
5 to a compromise.

6 Q. As the Speaker of the House, before a
7 map was introduced on behalf of the Republican
8 caucus, were you interested in what the overall
9 partisan performance of that plan would be?

10 A. Was I interested? Well, obviously, I
11 anticipated that it would be a Republican
12 leaning overall map, because I believe we are a
13 Republican state. So in that sense, you know,
14 certainly.

15 Q. When you and Mr. Springhetti discussed
16 the partisan performance or expected partisan
17 performance of the political index, I believe
18 this is how you put it, of particular districts
19 before the release of the September 9th map,
20 did you ever tell Mr. Springhetti to make a
21 district less Republican leaning?

22 A. I can't recall specifically before the
23 map was presented.

24 Q. Before the map was presented on
25 September 9th, did you ever tell

1 Mr. Springhetti to make a district more
2 Republican leaning?

3 A. No, I'm sure I did not.

4 Q. Prior to the release of the map on
5 September 9th, did you have any conversations
6 with members in your caucus about the partisan
7 makeup of specific districts?

8 A. I know I had some discussion with some
9 members, but I can't remember whether it was
10 before or after the release of the map, and it
11 was because their districts became less
12 Republican leaning or their districts included
13 the geography that was not in their current
14 district, so it would have been a big change
15 for them.

16 And I do think some of them -- I had an
17 understanding that there would be less
18 Republican leaning, so we had a conversation
19 with them about that. But, again, I can't
20 recall whether it was before the original
21 Republican map was presented or whether it was
22 later than that. And maybe some of both.

23 Q. Do you recall any conversations with
24 members of your caucus before the September 9th
25 map was released about their districts?

1 A. Again, I can't recall whether it was
2 before or whether it was right after.

3 Q. You talked, I believe, and correct me if
4 I'm wrong -- go ahead.

5 A. I want to add, if it were before, it
6 would have been just before.

7 Q. You talked previously, and correct me if
8 I'm wrong, that one of the contexts in which
9 discussions about the political index of
10 particular districts would come up with
11 Mr. Springhetti was when there were changes to
12 the map. Am I remembering that correctly? Or
13 changes to districts or areas of the state?

14 A. Yes, the geographical changes to
15 districts.

16 Q. Okay. What parts of the state did that
17 kind of conversation occur in?

18 A. It would have been mostly Northeastern
19 Ohio. It's my understanding that there has
20 been a long-standing problem with being able to
21 draw districts there that conform to the
22 Constitution without violating another
23 provision.

24 This time, however, with the population
25 changes, it was possible to do that. And so

1 they were instructed to draw it in a
2 constitutional way.

3 So there were some -- obviously some
4 changes in district geography and -- district
5 geography and political leanings.

6 Q. Other than Northeastern Ohio, was there
7 discussion of political leanings or political
8 index in any other parts of the state?

9 A. Sorry. The chair just dropped here.

10 Okay, there we go.

11 Again, are we talking about before the
12 introduction of the map on September 9th or
13 presentation of the map on September 9th?

14 Q. Yes. My understanding is that you had a
15 discussion with Mr. Springhetti about the
16 political leanings or index of the Northeastern
17 Ohio area before the release of the map on
18 May 9th. And my question is did you have a
19 similar conversation about any other parts of
20 the state?

21 A. I don't recall specifically.

22 Q. Okay. Do you recall any general
23 discussions of that nature before the release
24 of the May 9th map as to any other parts of the
25 state other than Northeastern Ohio?

1 MR. STRACH: September 9th, Ben.

2 MR. STAFFORD: Thank you for correcting
3 me. I meant September 9th.

4 MR. STRACH: Go ahead.

5 THE WITNESS: If I understand the
6 question correctly, was there any discussion
7 about political leanings of any other districts
8 before the map was released on September 9th,
9 and the answer would be yes. There would have
10 been here or there. I don't recall exactly
11 where those were.

12 BY MR. STAFFORD:

13 Q. You don't recall as to what parts of the
14 state those conversations concerned?

15 A. No. I think there was -- there might
16 have been one in the Hamilton County area. But
17 that's really all I recall.

18 Q. Did you have conversations with other
19 members of the commission, other than Senator
20 Huffman, about working together to draw a map
21 before September 9th?

22 A. Had some discussions with Auditor Faber.
23 Had some discussion -- a discussion with
24 Secretary LaRose. Obviously had some
25 discussions with Senator Sykes and, to a lesser

1 extent, Leader Sykes.

2 Q. When you say you had conversations with
3 those individuals about working together to
4 draw a map, generally speaking, what
5 conversations were you having or on what
6 subject?

7 A. Well, usually it was what's the progress
8 of the map or about the hearings on the map.
9 The Auditor of State and Secretary of State
10 were interested in, you know, how the map was
11 coming along and what it was looking like. So
12 those would have been the discussions before
13 the map was presented.

14 Q. Did you show Auditor Faber a copy of the
15 map or the draft map before May 9th?

16 MR. STRACH: Ben, September 9th, sorry.
17 You got May 9th.

18 MR. STAFFORD: Sorry, it's stuck in my
19 brain somewhere, so let's remedy that.

20 BY MR. STAFFORD:

21 Q. Did you have any discussion -- did you
22 show Auditor Faber a copy of the map that was
23 released on September 9th, before
24 September 8th?

25 A. I believe that, yes. I believe he was

1 shown a copy of the map.

2 Q. When was he shown a copy of the map?

3 A. It would have been right around that
4 timeframe. You know, maybe a few days before.

5 I'm not sure the map was entirely
6 completed by that time, but that would show the
7 direction, the general look of the map.

8 Q. Prior to that meeting, did you provide
9 Auditor Faber an opportunity to provide input
10 into the construction of the map?

11 A. I wasn't presented with any input by
12 Auditor Faber prior to that time.

13 Q. Did Auditor Faber ask you to be able to
14 look at the map and provide input?

15 A. He, early on, I think maybe early
16 August, indicated that he would like to be kept
17 abreast of what was happening with the map
18 drawing.

19 Q. Okay. And so did you invite him to
20 review the map as it was being developed and
21 give input?

22 A. Did I? No.

23 Q. Did anyone on your behalf?

24 A. Not on my behalf.

25 Q. Same question as to Secretary LaRose.

1 Did Secretary LaRose ask you for an opportunity
2 to review the map and provide input?

3 A. I believe -- I don't know whether he
4 asked or whether we invited him to take a look
5 at the map before it was presented. But we
6 did.

7 Q. Did you incorporate any feedback from
8 Auditor Faber into the map?

9 A. This before the September 9th map?

10 Q. Before September 9th.

11 A. I'm just trying to remember whether we
12 actually got any feedback. And I know Auditor
13 Faber had some concern or interest in -- in
14 Western Ohio. But that was -- that's all the
15 feedback I got. And I know he was going to
16 look at that and try to find a solution to it.
17 But I don't recall any other input that was
18 offered.

19 Q. After the release of the September 9th
20 plan, did either Vernon or Emilia Sykes reach
21 out to you or your staff to try to set up
22 meetings to discuss the General Assembly plan?

23 A. Yes. We were trying to figure out a way
24 of being able to do that. Because under our
25 open meeting law, four members of the

1 commission could not meet together. So the way
2 we handled that was they met with Senator
3 Huffman.

4 Q. Did you ever meet with either of the
5 Sykeses regarding the General Assembly plan?

6 A. Yes.

7 Pardon me here. My screen on the Zoom
8 has gone a little strange. I'm trying to get
9 it back to normal.

10 MR. STRACH: You look fine on that.

11 THE WITNESS: All right. I'm just
12 trying to be able to see the others. I don't
13 know what happened to it. Okay.

14 BY MR. STAFFORD:

15 Q. Are you good?

16 A. Pardon? I think so.

17 Q. Okay.

18 A. You all on the screen -- my screen kind
19 of went somewhere. So I think I can see you
20 though, so...

21 I can't recall the time -- timeline on
22 that. I know at one point we showed them the
23 map. I don't recall whether it was the
24 September 9th map or the September 15th map.

25 Q. I think you said that when the Sykeses

1 reached out after September 9th, the way that
2 was handled was that Senator Huffman met with
3 them. Did you authorize Senator Huffman to
4 discuss and make changes to the plan on your
5 behalf?

6 A. No, it was to meet with them, discuss,
7 and see what their concerns were and to
8 basically have a discussion about, you know,
9 where to go from there.

10 Again, our goal was to try to get a
11 ten-year map and recognize, you know, after our
12 map was developed, that we were going to have
13 to work through some sort of a compromise on
14 that.

15 So he met with them to determine where
16 their concerns were and to have some
17 discussions, I believe -- this is my
18 understanding -- as to where we could go in
19 order to get closer to be able to have their
20 support for a ten-year map.

21 Q. Your concern after the map was released
22 or a concern that you had was the expected
23 number of Republicans that map would elect, as
24 I understood your testimony.

25 So then would a compromise be a plan

1 that would be likely to elect more Democrats
2 than the initial version?

3 A. It was to have more -- to reduce the
4 number of Republican leaning districts and to
5 have more Democrat leaning districts.

6 Q. Okay. And ultimately a compromise was
7 not reached, and so why was that?

8 A. Well, I think it takes, you know, two to
9 get to a compromise. We -- as a result of
10 those discussions, the Republican map changed.

11 We went from what my understanding was
12 about 67 Republican leaning districts down to
13 62 Republican leaning districts.

14 And after that was presented, we were
15 looking forward for the Democrats to come back
16 with probably a counteroffer to see whether
17 there was any other movement that we could
18 make, and I believe that really never came.

19 Q. And so the discussion was is there a
20 compromise where a map is going to elect an
21 anticipated number of Democrats, an anticipated
22 number of Republicans, and can we all agree on
23 what those numbers are? Everyone did not agree
24 on what those numbers were, and there was no
25 compromise as a result?

1 A. Well, I don't know about electing
2 members one way or another. But whether the
3 districts tended to lean Republican or lean
4 Democrat.

5 Q. Okay. So with that clarification that
6 we're talking about districts that lean rather
7 than election, that's the reason there was not
8 a compromise, was people couldn't agree on the
9 number of districts that would lean Republican,
10 would lean Democratic?

11 A. I don't think we were looking at a
12 number specifically. We were in negotiations.
13 In terms of the House number, we went from,
14 what my understanding was leaning 67
15 Republicans to leaning 62 Republicans. And we
16 were looking for some movement on the Democrat
17 side, and it never came.

18 Q. And movement on that number? Like
19 that's what was under discussion, that was the
20 source of disagreement among the parties on the
21 commission?

22 A. Well, that's my understanding.

23 Q. Okay. Did you -- when you were giving
24 Mr. Springhetti direction about the process he
25 should follow in the map drawing, what did you

1 tell him to do?

2 A. We told him to draw a map that was
3 constitutional, could follow all the mandatory
4 requirements in terms of not splitting
5 districts, you know, follow districts to be --
6 to start drawing and to follow all those and to
7 minimize any kind of permissive splits of
8 districts so that we could have more compact
9 districts and those that followed the
10 constitutional requirements. Same way with
11 population requirements, obviously. So those
12 were the instructions.

13 Q. How were those instructions provided?

14 A. Verbally.

15 Q. Same thing with the chair, I think, that
16 happened to you earlier there.

17 Did you provide instructions in writing
18 at any time?

19 A. No, I didn't, no.

20 Q. To your knowledge, did anyone else
21 provide written instructions to Mr. Springhetti
22 or Mr. DiRossi about how to do the map drawing
23 process?

24 A. No, not to my knowledge.

25 Q. When you provided those instructions,

1 who was present?

2 A. Obviously Blake was. I think Christine
3 Morrison was present. I'm not sure about legal
4 counsel.

5 Q. Was Mr. DiRossi present?

6 A. I don't think there was like one meeting
7 where we did this. It was, you know -- it was
8 a Constitution -- it was what the Constitution
9 requires. You have your map drawing program,
10 you have the census data. Follow the
11 Constitution and draw a constitutional map.
12 And minimize splits because and -- and follow
13 -- try to make the list as compact as possible.
14 As reasonably possible.

15 Q. You testified that, after the initial
16 release of the map, changes were made that took
17 the House map from a 67 leaning Republican map
18 to a 62 district leaning Republican map; is
19 that right?

20 A. Yes.

21 Q. How was that done?

22 A. Well, as you know, there are some parts
23 of the state where you can't draw a Democrat
24 leaning map, so you had to go to the areas
25 where there were more Democrats. And so -- and

1 still stay within the mandatory requirements of
2 the constitution. And so --

3 Q. So what would -- apologies, go ahead.

4 A. So you'd have to try to figure out
5 another way of drawing the lines so that you
6 had more potential Democrat leaning voters in
7 those districts.

8 Q. And what would Mr. Springhetti have been
9 looking at to know that's what he was doing if
10 he was changing a line on a map?

11 A. He was looking at the voting. The
12 public voting history, is my understanding of
13 what he was looking at.

14 Q. Okay. Now, you indicated that
15 Mr. Springhetti was instructed by you to comply
16 with the mandatory requirements of the Ohio
17 Constitution, if I'm capturing your testimony
18 correctly. Did you tell him what the mandatory
19 requirements (indiscernible) were in
20 particular?

21 (Court Reporter clarification.)

22 Of the Ohio Constitution were.

23 A. Well, I don't think specifically, but
24 they were obviously Article XI, and it talked
25 about how to draw the lines and not having

1 certain splits. And when you have permissive
2 splits or required splits, you go -- you'd have
3 a whole -- I don't remember the numbers of the
4 constitution, but...

5 Q. Did you tell Mr. Springhetti that any
6 particular sections of the constitution were
7 mandatory or not mandatory?

8 A. It was the line drawing part that was
9 the focus.

10 Q. Okay.

11 A. It was about where do you start drawing,
12 how you have to have, you know, a whole
13 ratio -- whole ratio, and where they have to be
14 either in a political subdivision. If you go
15 out, how you can do that. And those were the
16 mandatory requirement -- the population.

17 Q. Okay.

18 A. That was the focus.

19 Q. Did you tell Mr. Springhetti that he
20 needed to comply with Section 6 of the Ohio
21 Constitution? Section 6, Article XI, to be
22 clear.

23 A. Not specifically.

24 With the chair again. My turn, I guess.
25 I think I'll just leave it down. There we go.

1 I'm sorry, would you rephrase -- or
2 restate that.

3 Q. My question was did you tell
4 Mr. Springhetti that he needed to comply with
5 Article XI, Section 6 of the Ohio Constitution?

6 A. I told him to -- no, not specifically.
7 Anticipated that we would attempt to get a
8 ten-year map, and we would negotiate over it,
9 and that would get us, hopefully, you know,
10 somewhere in that range that Article VI is
11 talking about.

12 So, no, he was not given instructions to
13 specifically follow section or look at
14 Section 6.

15 Q. Did you tell Mr. Springhetti that he
16 needed to attempt to comply with Section 6?

17 A. We did that in terms of our
18 negotiations, our attempted negotiations with
19 the Democrats.

20 Once the map was drawn, according to the
21 mandatory line drawing, the geography
22 requirements, then that's when we set about to
23 work with the Democrats to try to get to
24 somewhere close, as close as we could to that.

25 So that's when we changed from what were

1 stated as 67 Republican leaning districts, we
2 went down to 62, and we were prepared to move
3 additionally if the Democrats were willing to
4 move as well.

5 So in terms of changing those districts
6 from Republican leaning to Democrat leaning,
7 certainly instructed Blake to find a way of
8 doing that.

9 Q. Find a way to do that, see if the
10 Republican side could cut a deal with the
11 Democratic side to get to a ten-year map?

12 A. No, we didn't ask Blake to cut a deal.
13 We asked Blake to be able to redraw the
14 district so they would be more Democrat leaning
15 so that we could get closer to what the
16 Democrats were asking for.

17 Q. And thanks for the correction. My
18 question there was imprecise.

19 So you asked Mr. Springhetti to make
20 those changes to the map in the hopes that
21 the -- that yourself and Speaker [sic] Huffman
22 could cut a deal with the Democratic
23 commissioners to have the option of a ten-year
24 map?

25 A. No, this came out of the discussion that

1 Senator Huffman had with Senator Sykes and
2 Representative Sykes about the maps. And after
3 that discussion, we tried to find a way of
4 getting closer to what the Democrats were
5 asking for.

6 Q. And what your attempt -- I'm sorry. Go
7 ahead.

8 A. So that's when we moved five House
9 districts from Republican leaning to Democrat
10 leaning.

11 Q. And what you were trying to do was get a
12 version of your plan that the Democratic
13 commissioners would approve so you could have a
14 ten-year map? That was what the goal was?

15 A. Yes, that was the goal.

16 Q. (Indiscernible); is that correct?

17 MR. STRACH: Ben, you froze up for about
18 ten seconds. So you'll need to repeat that.

19 BY MR. STAFFORD:

20 Q. Let me try again.

21 So my question was: "What you were
22 trying to do was get a version of your plan
23 that the Democratic commissioners would approve
24 so that you could have a ten-year map? That's
25 what the goal was?"

1 And, I'm sorry, I'm seeing now you said,
2 "Yes, that was the goal." Just for the sake of
3 the record. Sorry. I'm coming back online
4 here now.

5 A. I'll say it again. Yes, that was the
6 goal.

7 Q. Thank you, sir.

8 Okay. So then I am correct that, during
9 the map drawing process, you did not provide
10 any direction to Mr. Springhetti about what it
11 would mean to comply with Section 6, Article XI
12 of the Ohio Constitution?

13 A. That is correct. I don't recall
14 providing any direction to him in that regard.

15 Q. Is it your understanding that the
16 standards set forth in Section 6 are mandatory?

17 A. Well, it says "shall attempt." And I do
18 believe that's something that we were required
19 to do. So we did attempt to do that.

20 Q. Okay.

21 A. Excuse me.

22 Q. Through the negotiation with the
23 Democratic commissioners that you talked about
24 earlier?

25 A. Yes.

1 Q. Okay. And you did not -- again, just
2 for the sake of clarity, you did not tell
3 Mr. Springhetti to do something in particular
4 to the map to comply with Section 6?

5 A. Not aside from, when the negotiations
6 started, to redraw some districts so they would
7 move from Republican leaning to Democrat
8 leaning.

9 Q. You've talked about what a Republican
10 proposal was: In the House, 62 Republican
11 leaning seats.

12 What was the Democratic offer?

13 A. Okay. My device says it just ran into a
14 problem and it needs to restart, so...

15 MR. STAFFORD: Can we go off the record
16 here?

17 THE VIDEOGRAPHER: We are going off the
18 record. The time is 11:09.

19 (Recess ensued from 11:09 a.m.
20 to 11:20 a.m.)

21 THE VIDEOGRAPHER: We are back on the
22 record. The time is 11:21.

23 MR. STAFFORD: Could you put the
24 realtime back in the chat, please.

25 /////

1 BY MR. STAFFORD:

2 Q. Speaker, before we went on break, I had
3 asked you what was the Democratic proposal or
4 the Democratic commission proposal on the
5 number of seats that would be Democratic
6 leaning.

7 A. I believe they -- I don't have a real
8 clear recollection, but I think they started
9 out at 56, and then they had an amendment or
10 proposal that went to 57. And we went from 67
11 to 62, and that's kind of where it stalled out.

12 Q. And on that 56 or 57 figure, that would
13 be the number of Republican leaning seats in
14 the Democratic proposal?

15 A. Yes.

16 Q. Did you ever conduct any analysis of the
17 Democratic proposal to see whether it was
18 compliant with Section 6, Article XI of the
19 Ohio Constitution?

20 A. I did not.

21 Q. Did you authorize anyone to conduct such
22 an analysis?

23 MR. STRACH: I'm going to object, Ben,
24 just to the extent it's calling for a legal
25 conclusion.

1 But go ahead and answer.

2 THE WITNESS: No, I don't
3 specifically -- would you please restate that
4 again. Or repeat it again, I guess, not re --
5 BY MR. STAFFORD:

6 Q. Did you authorize anyone to conduct an
7 analysis of the Democratic proposal to see
8 whether, in your view, it complied with
9 Article XI, Section 6 of the Ohio Constitution?

10 MR. STRACH: Same objection.

11 THE WITNESS: No, not specifically.
12 BY MR. STAFFORD:

13 Q. What do you mean by "specifically"?

14 A. To conduct a specific analysis to see
15 whether it complied. I think the numbers were
16 out there, that it was a 50 -- 54 Republican
17 leaning seats to 45 Democrat leaning seats, as
18 I recall from the ten-year analysis. Which
19 really wasn't a ten-year analysis, it was more
20 like a six-year analysis.

21 So that was a number that was thrown
22 around. So if you're just looking at plain
23 numbers, that was -- it was -- the numbers were
24 apparent.

25 But then again, the question was did

1 y'all attempt to do that. So we were
2 attempting to get closer by -- through
3 negotiations with the Democrats. With the
4 goal, of course, to get a ten-year plan.

5 Q. So then am I correct that, other than
6 looking at the baseline number, 56 Republican
7 leaning seats, 57 Republican leaning seats,
8 there was not any additional analysis conducted
9 with respect to Section 6?

10 MR. STRACH: Objection.

11 You can answer if you can.

12 THE WITNESS: First of all, Section 6 is
13 not exactly clear as to what it means, which is
14 of course the statement that the commission
15 adopted so it could, you know, range, depending
16 on how you interpret it, from, you know, pretty
17 significant Republican to a much more narrower
18 range.

19 So we were in that range. So that was
20 where we felt we were. We had been trying to
21 get closer to a number Republicans and
22 Democrats could agree on.

23 BY MR. STAFFORD:

24 Q. And my question was about the Democratic
25 proposal. Other than looking at the number of

1 Republican leaning seats in that plan, was any
2 analysis conducted of that plan under
3 Section 6?

4 MR. STRACH: Objection.

5 THE WITNESS: No, I don't believe so.

6 BY MR. STAFFORD:

7 Q. Okay. You mentioned a statement. This
8 is a statement that the commission approved
9 into the record under Section 8(C)(2) of the
10 Ohio Constitution, Article XI; is that right?

11 A. I don't have that specific
12 constitutional provision before me, but it's
13 the one that has the statement as to why -- how
14 it meets the requirements of Section 6.

15 Q. Okay.

16 A. Yes.

17 Q. What was your role in drafting that
18 statement?

19 A. I looked at a draft, and looked at it.
20 And that was basically my role in drafting it.
21 Reviewed a draft, it seemed correct.

22 Q. When did you look at that draft?

23 A. I think it was either on the 14th or the
24 15th of September.

25 Q. Was that draft the same as what was

1 ultimately approved?

2 A. The draft I looked at had some blanks in
3 it. I don't recall whether it was related to
4 section numbers or what. But that was
5 essentially the only change that I'm aware of.

6 Q. Who drafted that statement that you
7 reviewed?

8 A. I am not really sure who -- who drafted
9 it.

10 Q. Who gave you the statement to review?

11 A. I'm not sure whether it was -- I'm not
12 sure whether it was Blake or Ray or Senator
13 Huffman or who it was, but...

14 Q. But one of those individuals gave you?

15 A. Or Paul Disantis, our legal counsel, or
16 Frank, the Senate counsel.

17 Q. Were you provided with a hard-copy
18 statement to review?

19 A. Yes.

20 Q. Okay. Could we go ahead and mark as
21 Exhibit 1 the document titled "Section 8(c)(2)
22 Statement."

23 (Deposition Exhibit No. 1 was marked for
24 identification.)

25 MR. STRACH: You'll want to blow that

1 up.

2 BY MR. STAFFORD:

3 Q. Yeah, Speaker, do you recognize this
4 document?

5 A. I'm seeing part of it, and the part I
6 see I recognize.

7 MR. STAFFORD: Could you just quickly
8 scroll down. I'm not going to ask many
9 specific questions about this, but just so the
10 speaker can see the whole statement.

11 Q. Okay. So do you recognize this
12 document, having had a chance to at least
13 review the text here?

14 A. Yes.

15 Q. Okay. And what is this?

16 A. That was the statement that the
17 commission adopted when the four-year map was
18 also adopted.

19 Q. Okay. And I didn't see any blanks in
20 this version that the commission adopted. And
21 so some changes were made to the draft that you
22 had reviewed before this version was finalized
23 and adopted; is that correct?

24 A. Yes. There were fairly minor, as I
25 recall. And, again, I don't know whether it

1 was a number or whether it was relating to a
2 section or something, but...

3 Q. Okay. Could you scroll down just a
4 little bit, please, on Exhibit 1, and stopping
5 right there is great.

6 Do you see the third sentence of the
7 paragraph that begins "The Commission
8 considered statewide" -- and I'll just read it
9 for you.

10 "When considering the results of each of
11 those elections, the Commission determined that
12 Republican candidates won thirteen out of
13 sixteen of those elections resulting in a
14 statewide proportion of voters favoring
15 statewide Republican candidates of 81% and a
16 statewide proportion of voters favoring
17 statewide Democratic candidates of 19%."

18 Did I read that correctly?

19 A. Yes.

20 Q. Okay. Were those figures in the draft
21 that you reviewed?

22 A. Oh, I don't remember. Again, I don't
23 remember what was -- what the blanks were.

24 Q. Who made the calculation regarding
25 81 percent and 19 percent?

1 A. I do not know.

2 Q. Did you discuss with anyone the
3 justification for using those particular
4 figures as a measure of proportionality?

5 MR. STRACH: Objection.

6 Mr. Speaker, obviously, you can answer
7 that question without revealing any discussions
8 with lawyers.

9 THE WITNESS: Discuss it with anyone?
10 Yes. With Senator Huffman. He talked about
11 that as a -- as one of the readings in the
12 Constitution of what the results were.

13 BY MR. STAFFORD:

14 Q. And as your counsel noted, I am not
15 asking you for the substance of any discussions
16 that you've had with counsel.

17 Did you discuss that figure -- when you
18 discussed that with Senator Huffman, was
19 counsel present?

20 A. Well, I think Senator Huffman had
21 mentioned it on several different occasions.
22 And I think at one time counsel was present and
23 other times they weren't.

24 Q. Okay. So asking about conversations
25 where counsel was not involved, when was the

1 first time that Senator Huffman discussed that
2 interpretation with you?

3 A. Oh, I don't remember exactly. It would
4 have -- it would have been about the time that
5 the census data became available and the map
6 drawing began.

7 Q. Did you tell Mr. Springhetti to draw
8 districts that would result in an expected
9 Republican leaning for 81 percent of the seats?

10 A. No.

11 Q. Did you tell Mr. Springhetti about
12 Senator Huffman's potential interpretation of
13 Section 6?

14 A. I don't recall telling him that, no.

15 Q. Did you tell Mr. Springhetti to draw a
16 House map that would result in 54 percent of
17 statewide seats in the -- let me start over
18 with that question.

19 Did you ask Mr. Springhetti to draw a
20 map where 54 percent of House seats would lean
21 Republican?

22 A. I think we've gone over this before.
23 What I asked him to do was to draw a map that
24 complied with the constitutional mandated line
25 drawing requirements, the geographic as well as

1 the population requirements. And we did not
2 discuss specific numbers of Republican leaning
3 or Democrat leaning districts.

4 Q. Okay. Other than yourself, do you know
5 of any other commission members who reviewed
6 the statement before it was distributed prior
7 to voting on September 15th or September 16th
8 on the record?

9 A. I believe Senator Huffman may have seen
10 it, but I don't recall whether any other
11 commission members did prior to its
12 distribution on the 15th.

13 Q. Did you discuss Mr. Springhetti's
14 deposition with Mr. Springhetti at any point?

15 A. No.

16 Q. Did you discuss your own deposition with
17 Mr. Springhetti at any point in this matter?

18 A. No.

19 Q. Did you direct Mr. Springhetti to not
20 consider race in the map introduced on
21 September 9th?

22 A. Yes.

23 Q. Okay. And what was your instruction in
24 that regard to Mr. Springhetti, to the best of
25 your recollection?

1 A. Do not consider race in drawing
2 districts.

3 Q. Did you tell Mr. Springhetti not to
4 consider demographic information in drawing
5 districts in the map introduced on
6 September 9th?

7 A. What do you mean by "demographic
8 information"?

9 Q. Any form of demographic information,
10 other than race.

11 MR. STRACH: Objection.

12 THE WITNESS: I don't recall discussing
13 other demographic information.

14 BY MR. STAFFORD:

15 Q. Okay. Did you provide any direction to
16 Mr. DiRossi regarding the use of race in the
17 map introduced on September 9th?

18 A. I did not directly, no.

19 Q. Okay.

20 A. I mean, he may have been on the
21 conversation when I discussed with Blake. But
22 I didn't specifically give anything to Ray.
23 That would have been Senator Huffman's
24 responsibility.

25 Q. Returning to the Section 8 statement

1 that we were looking at there, which was marked
2 as Exhibit 1, when was a final draft of that
3 statement completed?

4 A. I don't know, but as we were nearing the
5 midnight deadline to adopt a map, the statement
6 was available at that time in completed form
7 and I think was distributed prior -- prior to
8 the vote on the map. But --

9 Q. And did you -- I'm sorry. Go ahead.

10 A. And --

11 Q. And did you --

12 A. I'll let you go ahead.

13 Q. I was going to ask you another question.
14 So if you haven't completed your answer, I'm
15 sorry for cutting you off, and please continue.

16 A. No, I did complete my answer.

17 Q. Okay. You, yourself, received a copy of
18 the final statement at that time shortly before
19 casting a vote on the map; is that correct?

20 A. That's correct.

21 Q. Was that the first time that you had
22 seen the final version of the statement?

23 A. I believe so.

24 Q. Okay. And you've generally described
25 the sorts of changes from the draft to the

1 final. And my question is, do you recall any
2 of the specific changes that were made from the
3 draft version to the final version?

4 A. Well, there were no longer any blanks.
5 They were all filled in. But, again, I don't
6 remember specifically what the blanks were.
7 The general tenor of the statement was the
8 same.

9 Q. Okay. When you were provided with a
10 copy of the draft statement, which I believe
11 you said was on the 14th or 15th of September,
12 did you approve the statement?

13 A. I think I took it to look at it.

14 Q. Okay.

15 A. I don't recall saying either way at the
16 time.

17 Q. Were you asked to approve it or to do
18 anything in particular with it when it was
19 provided to you?

20 A. I don't recall any specific conversation
21 like that.

22 Q. Okay.

23 A. I know it arose in the context of: "If
24 we're not going to get to a ten-year map, then
25 we have to have a statement; so is somebody

1 working on a statement?"

2 And I think that's when they said,
3 "Well, here's our draft. Here is a draft."

4 But it was pretty much complete. So I
5 felt assured that we would have the necessary
6 document when we took the vote.

7 Q. And were you asking, "It looks like
8 we're not going to get to a ten-year map. Do
9 we have a statement"? Was that a question you
10 were asking of someone?

11 A. Yes, I did.

12 Q. And who were you asking that question
13 to?

14 A. I'm trying to remember, because we were
15 waiting for the Democrats to come back in
16 response to our movement in the House to go
17 down to 62 Republican leaning districts, and
18 they were going to -- they said they were going
19 to reply to that and provide additional
20 mapping.

21 I know we were waiting on it and waiting
22 on it. So I was concerned, if we didn't get
23 anything, did we have all the documents that we
24 need. So that's when I asked, "Has anybody
25 been working on the statement that's required

1 by the constitution?"

2 And your question was who was present,
3 and I know, you know, Blake and Ray, I'm pretty
4 sure, were present. Maybe legal counsel was
5 present. And maybe, you know, House -- House
6 Republican and Senate Republican counsel may
7 have been present.

8 Q. Okay. And when you asked that question,
9 did somebody give you the draft statement
10 immediately in response to that question, or
11 was it provided at some time later?

12 A. My recollection is that it was provided
13 at that time.

14 Q. Okay. Okay. You've talked about, I
15 think, Senator Huffman floating the idea using
16 the outcome of statewide races as a measure of
17 proportionality in various discussions. Is
18 that fair to say?

19 MR. STRACH: Objection. Go ahead.

20 THE WITNESS: Yes, he raised that a
21 couple times.

22 BY MR. STAFFORD:

23 Q. Okay. How did you respond when he
24 raised that?

25 A. Well, so I looked at the language, and I

1 think that's a -- that's a possible reasonable
2 interpretation.

3 Q. Okay. Do you agree with that
4 interpretation?

5 A. I think it's reasonable, is one
6 reasonable interpretation.

7 Q. Do you think it is the best -- I'm
8 sorry. Go ahead.

9 A. Based upon the actual, you know, text of
10 the constitutional provision.

11 Q. In your personal view, is it the best
12 reading of the language of the constitutional
13 provision?

14 MR. STRACH: Objection. Calls for a
15 legal conclusion.

16 Answer if you can.

17 THE WITNESS: I think the statement was
18 adopted by the commission. I think the
19 statement is fair. It's -- there's a range
20 that is permissible. So I think that's -- I
21 would stand on that statement.

22 BY MR. STAFFORD:

23 Q. So then is it your personal view as a
24 member of the commission who voted to approve
25 the map, I'm not asking you as an attorney,

1 that it would comport with Section 6 of the
2 Ohio Constitution and had adopted a plan
3 (indiscernible) --

4 (Court Reporter Clarification.)

5 81 percent of seats leaning Republican.

6 MR. STRACH: Objection.

7 Go ahead.

8 THE WITNESS: This question is to the
9 map?

10 BY MR. STAFFORD:

11 Q. Yes. Is it your personal view, not
12 asking as an attorney, as a member of a voting
13 commission, that it would have comported with
14 Section 6 of the Ohio Constitution if the
15 adopted map had 81 percent of House seats or
16 Senate seats leaning Republican?

17 MR. STRACH: Objection. Calls for
18 speculation.

19 Go ahead and answer it if you can.

20 THE WITNESS: I don't know what the
21 percentage is. I'd say with the 62 House
22 districts that were adopted and our effort to
23 reach a compromise to get to a ten-year map, I
24 think we made an attempt. So I think what we
25 did comply with the constitution.

1 BY MR. STAFFORD:

2 Q. Well, we've got the statement here that
3 the commission approved. And it talks about a
4 statewide proportion of voters favoring
5 statewide Republican candidates between
6 54 percent and 81 percent.

7 So my question is not what the
8 commission did or, as you say, what you
9 attempted to do to reach a compromise map.

10 My question is in your view would it
11 comport with Section 6 of the Ohio
12 Constitution, Article XI, if the resulting plan
13 had 81 percent seats leaning Republican?

14 MR. STRACH: Same objection.

15 THE WITNESS: Well, that's not what we
16 did. So I'm not going to speculate. I'm going
17 to rest on what we did.

18 BY MR. STAFFORD:

19 Q. I'm asking you about the statement that
20 you adopted that lays out your rationale for
21 what you did.

22 MR. STRACH: Same objection.

23 BY MR. STAFFORD:

24 Q. So I would ask you to answer my
25 question, please, sir.

1 MR. STRACH: Same objection. He's
2 answered the question. He can answer again, if
3 you'd like.

4 THE WITNESS: We didn't adopt
5 81 percent. That was the range. And so I
6 think what we did comports with the
7 Constitution.

8 BY MR. STAFFORD:

9 Q. And when you said there was a range,
10 anything that you adopted in that range would
11 have been permissible in your view; is that
12 correct?

13 MR. STRACH: Objection. Same objection.

14 THE WITNESS: Well, I'm not going to
15 speculate on what could have happened. What we
16 did I think was -- comports with the
17 Constitution.

18 BY MR. STAFFORD:

19 Q. I am asking you to answer the question
20 that I asked. So --

21 MR. STRACH: So, Ben, he -- Ben, Ben,
22 Ben, he's answered the question. You're going
23 to keep getting the same answer. We can do
24 this until your time is expired, which is about
25 four minutes.

1 So if you want to keep doing this
2 through the remainder of your time, feel free.
3 But you're going to keep getting the same
4 objection and the same answer.

5 MR. STAFFORD: So I understand the
6 witness --

7 MR. STRACH: So proceed.

8 MR. STAFFORD: I will proceed.

9 MR. STRACH: Proceed.

10 MR. STAFFORD: I understand that the
11 witness is not going to answer the question
12 that I've asked.

13 MR. STRACH: That's incorrect. He's
14 answered the question multiple times. He has
15 answered the question, and he will continue to
16 do so.

17 MR. STAFFORD: Uh-huh. So let me say,
18 before we close our time here, that the Speaker
19 has identified a draft of the Section 8
20 statement. I don't believe that that document
21 has been produced in discovery. I believe that
22 it is responsive to various of the discovery
23 requests that Relators have made.

24 I would ask that it be produced by the
25 end of the day. So I want to say that on the

1 record to counsel. We can take it up
2 afterwards if needed, but that document should
3 be produced.

4 MR. STRACH: All right. I disagree.
5 Anything that was responsive and not privileged
6 was produced, Ben. But feel free to
7 communicate with me on that.

8 BY MR. STAFFORD:

9 Q. Do you know whether Governor DeWine,
10 Secretary of State LaRose, or Auditor Faber
11 were involved in the drafting of the Section 8
12 statement that we have been talking about?

13 A. I don't know whether they were or they
14 weren't.

15 Q. Okay. Did you direct that a copy of the
16 draft statement be provided to the other
17 members of the commission at any point?

18 A. I did not.

19 Q. You mentioned before -- and, again,
20 correct me if I'm wrong -- that when the
21 Sykeses reached out about potentially meeting
22 after the initial release of the map, that
23 Senator Huffman met with them. In part that's
24 because the commission had to consider the Open
25 Meetings Act; is that correct?

1 And, again, please correct me if I'm
2 wrong about that.

3 A. Yes. We wanted to meet with them to
4 have discussions about where we could go and
5 where we could find a compromise to get to a
6 ten-year map.

7 So these would be the four legislative
8 members. We couldn't meet together because
9 that would violate the Open Meeting law. It
10 would be more than a majority of the
11 commission.

12 So Senator Huffman offered, and I
13 agreed, that he could meet with them and have
14 the discussion, and then he could fill me in
15 where we -- where we -- what generally the
16 result of that was.

17 Q. Why not just meet as a commission? Hold
18 a meeting? Why didn't you just do that?

19 A. Because I don't think that would have
20 been very productive.

21 MR. STAFFORD: All right. I don't think
22 I have any further questions at this time.
23 Thank you very much for your time, Speaker, I
24 appreciate it.

25 THE WITNESS: You're welcome.

1 MR. STRACH: All right. Thank you, Ben.

2 (Court Reporter clarification.)

3 MR. STAFFORD: I'm not sure where we are
4 on the timing.

5 MS. BENDER: I believe she was asking
6 the respondents.

7 MS. KOONTZ: Nothing on behalf of the
8 statewide officeholders.

9 MR. STRACH: Right, and I don't have any
10 questions.

11 MR. CLARK: And nothing on behalf of the
12 commission, thanks.

13 THE VIDEOGRAPHER: Okay. We are off the
14 record at --

15 MR. GILLIGAN: Wait a second. This is
16 John Gilligan on behalf of the respondents, the
17 Sykeses. I do have questions. So if I'm
18 permitted to go ahead, I'd like to ask my
19 questions.

20 EXAMINATION

21 BY MR. GILLIGAN:

22 Q. So, Speaker Cupp, my name is John
23 Gilligan. I'm one of the lawyers for Senator
24 Sykes and Leader Sykes. First of all, let me
25 ask a question, which I kind of implicitly

1 promised that I would get an answer to for
2 Auditor Faber yesterday.

3 What is the precise location of the
4 mapping, what he referred to as "sanctum,"
5 which he never was allowed to visit?

6 A. What is the precise location?

7 Q. Yes, sir.

8 A. It's in the William Green Building.

9 Q. Okay. And was there a specific room or
10 series of rooms?

11 A. Yeah, there's a floor that's not being
12 used by another state agency at the moment.

13 Q. And Auditor Faber testified yesterday
14 that he was not permitted to go to the mapping
15 sanctum. Do you agree with that?

16 MR. STRACH: Objection. Those are your
17 words.

18 Go ahead and answer it if you can.

19 THE WITNESS: He -- I don't know the
20 answer to that question specifically. But,
21 obviously, it was to allow the mappers to do
22 their work so that they could get it done
23 without a lot of interruptions, because the
24 delay in the census data created a time problem
25 in order to do that.

1 BY MR. GILLIGAN:

2 Q. You talked about the allocation of
3 resources between the Democratic caucus and the
4 Republican caucus for mapping software and
5 other expenses in redistricting. Do you recall
6 that?

7 A. Yes.

8 Q. Okay. Was there any money allocated for
9 the statewide commissioners so they could have
10 mapping software and could determine the
11 constitutionality of the proposed maps?

12 MR. STRACH: Objection. Mr. Gilligan, I
13 thought you represented the Sykeses. It sounds
14 like you represent the statewide officials.

15 So I'm going to permit the speaker to
16 answer some of these questions, but I'm going
17 to caution you that, number one, you're
18 questioning the Speaker of the Ohio House; and,
19 number two, you need to keep your questions for
20 your clients and not your non-clients.

21 Mr. Speaker, go ahead and answer the
22 question, if you can.

23 THE WITNESS: So other than the
24 Republican/Democrat caucuses, I do not believe
25 any money was allocated nor was any requested.

1 BY MR. GILLIGAN:

2 Q. So it's your testimony that neither
3 Secretary LaRose or Auditor Faber requested any
4 money for software, mapping software?

5 A. They did not request it from me, and I'm
6 not aware of their request to anyone else.

7 Q. Were you aware that the statewide
8 commissioners, Secretary LaRose and Auditor
9 Faber, had to rely on using Dave's
10 Redistricting software to analyze the maps?

11 A. I'm not aware they had to, no.

12 Q. So you testified about the statement
13 8(C)(2). And do you understand that
14 proportionality is a concept or principle in
15 redistricting that tries to eliminate or reduce
16 gerrymandering?

17 MR. STRACH: Objection. Calls for a
18 legal conclusion.

19 Answer if you can.

20 THE WITNESS: I know it has been
21 discussed as that, yes.

22 BY MR. GILLIGAN:

23 Q. And you indicated, I believe, in your
24 testimony that the provisions of 6(B) of
25 Article XI to the Ohio Constitution could have

1 several possible readings or meanings; is that
2 right?

3 A. Yeah, I think one could read it
4 different ways.

5 Q. If the -- I'm sorry. Go ahead, sir.

6 A. So in that regard, it's a bit ambiguous.

7 Q. Okay. And did the commission have
8 counsel prior to this litigation?

9 A. The commission itself?

10 Q. Yes, sir.

11 A. I don't know that anyone was designated
12 as counsel for the commission prior to the
13 litigation beginning.

14 Q. Did you, as co-chair of the commission,
15 ever request a legal opinion about the meaning
16 of the proportionality provision in
17 Section 6(B) of Article XI?

18 A. I -- I didn't -- I don't recall
19 requesting a legal opinion.

20 Q. Did you ever ask the --

21 A. As to that.

22 Q. I'm sorry. Did you ever ask the
23 Attorney General for a legal opinion about the
24 meaning of the proportionality provision?

25 A. I don't recall doing that, no.

1 Q. Did you ever ask the Legislative
2 Services Commission on the meaning of the
3 proportionality provision in the Section 6?

4 A. I don't recall doing that, no.

5 Q. Do you agree, sir, that proportionality
6 means that the percentage of the General
7 Assembly districts represented by one political
8 party should approximately match the percentage
9 of voters in the state associated with that
10 political party?

11 MR. STRACH: Objection. Calls for a
12 legal conclusion.

13 THE WITNESS: Would you restate that, or
14 repeat that.

15 BY MR. GILLIGAN:

16 Q. Yes, I will. Do you agree that the
17 proportionality provision in 6(B) of Article XI
18 means that the percentage of General Assembly
19 districts represented by one political party
20 should approximately match the percentage of
21 voters in the state associated with that
22 political party?

23 MR. STRACH: Same objection.

24 THE WITNESS: I -- no, I'm not sure I
25 agree with that. That doesn't sound like --

1 that doesn't sound like the actual language of
2 the constitutional provision.

3 BY MR. GILLIGAN:

4 Q. You disagree that that's what the actual
5 language of the constitutional provision
6 actually means?

7 MR. STRACH: Objection. He said he
8 disagrees that that's what it says.

9 MR. GILLIGAN: I'm asking him to
10 clarify.

11 Q. You can go ahead, Mr. Speaker.

12 THE WITNESS: Frankly, I don't think the
13 provision is all that clear, and that is why we
14 attempted to negotiate with the Democrats to
15 see where we could get in terms of a compromise
16 on that and also get the ten-year map. So...

17 BY MR. GILLIGAN:

18 Q. Would you be --

19 A. So --

20 Q. So would you be surprised to learn that
21 that was the interpretation of the
22 proportionality provision given by the
23 Legislative Services Commission of Ohio?

24 MR. STRACH: Objection.

25 BY MR. GILLIGAN:

1 Q. What I just read to you?

2 A. I was not aware that that was their
3 interpretation.

4 Q. You never asked the Legislative Services
5 Commission for their interpretation, did you?

6 A. I did not, no.

7 Q. And the proportionality, or the
8 Section 6 of Article XI, was an important part
9 of the Fair Districts amendment that was passed
10 by the voters in 2015, isn't that right?

11 A. It was part of it. I was not in the
12 legislature at the time, so I don't know what
13 the discussion was.

14 Q. So you have talked about delays caused
15 by the lateness of getting census information
16 so that you couldn't begin drawing the maps,
17 correct?

18 A. That's correct.

19 Q. Okay. Was there anything that prevented
20 the commission from meeting and discussing the
21 meaning of Section 6(B) of Article XI on what
22 proportionality actually means?

23 A. There was nothing to prohibit the
24 commission from meeting, have a discussion --
25 meeting and having discussion about anything.

1 Q. And did you believe that the
2 proportionality section, which you describe as
3 ambiguous, was important to have some
4 agreement, if possible, by the commission
5 members on the meaning of that term?

6 A. I think every member of the commission
7 was developing their own understanding of what
8 that term meant, and applied that when the
9 commission voted.

10 Q. So your testimony is that the map
11 drawers for the Republican caucuses were told
12 to draw maps that complied with the provisions
13 of Article XI, except for Section 6. They were
14 not to pay attention to Section 6. Is that
15 correct?

16 A. They were not instructed not to pay
17 attention to Section 6. They were instructed
18 to comply with the -- the requirements of not
19 splitting political subdivisions and all of
20 those other -- I'm not sure "mechanical" is the
21 right term, but those requirements. To draw
22 districts that complied with those
23 requirements.

24 Q. How is it that you expected the map
25 drawers for the Republican caucus to comply

1 with the provisions of 6(B), to attempt to meet
2 the proportionality standard, if they were not
3 provided with the commission's understanding of
4 what that proportionality clause means?

5 MR. STRACH: Objection.

6 THE WITNESS: They were directed to draw
7 maps that met the constitutional requirements
8 on the line drawing and division splitting and
9 the population requirements, and then we
10 attempted to negotiate with the Democrats to
11 reach some consensus on what would meet those
12 requirements.

13 And that was the process that we used,
14 which is, I believe, I testified to before.

15 BY MR. GILLIGAN:

16 Q. So do you understand that Section 6
17 required you as a commissioner to attempt to
18 compromise with the Democrats or to attempt to
19 draw a map that met the proportional provisions
20 of Section 6(B)?

21 MR. STRACH: Objection. Calls for a
22 legal conclusion.

23 THE WITNESS: We attempted to get to an
24 under- -- to a status of districts that would
25 proximate the political -- let me back up.

1 We attempted to negotiate with the
2 Democrats to get to a point where we could
3 agree that it represented a situation of
4 Republican and Democrat leaning districts that
5 would be acceptable in terms of being sort of a
6 approximation of political makeup of the state.

7 And, obviously, we didn't get there.
8 And our framework was what the commission
9 adopted later in its statement.

10 BY MR. GILLIGAN:

11 Q. So you agree that the historic lookback
12 at the statewide partisan races showed a split
13 of 54 percent Republican, 46 percent
14 Democratic, correct?

15 MR. STRACH: Objection.

16 THE WITNESS: In terms of the number of
17 votes cast in partisan statewide elections over
18 the last ten years?

19 BY MR. GILLIGAN:

20 Q. Yes, sir.

21 A. I think that's the number -- I think
22 that's the number that was computed.

23 Q. Okay. So were the mapmakers instructed
24 then to put together a map that met the 54-46
25 allocation of districts?

1 MR. STRACH: Objection.

2 THE WITNESS: They were instructed to
3 draw a map that met the line drawing
4 requirements, as I had previously mentioned.

5 BY MR. GILLIGAN:

6 Q. And did you understand that it was the
7 Sykeses' position that the proportionality
8 provision called for an allocation of seats on
9 a General Assembly map of 54 percent leaning
10 Republican and 46 percent leaning Democrat?

11 A. Did I understand that was the Sykeses'
12 position?

13 Q. Yes, sir.

14 A. Is that the question?

15 Yes.

16 Q. And so the map that they had proposed
17 was actually lower than what they thought was
18 the percentage that the constitution entitled
19 the Democrats to, correct?

20 A. I don't know about the term "entitled,"
21 but that was their view.

22 Q. That was their view. But you expected
23 that they would continue to negotiate a way
24 from their view of what the meaning of
25 Section 6(B) provided in terms of the

1 percentage of Democratic or Republican
2 districts; is that correct?

3 MR. STRACH: Objection.

4 THE WITNESS: We did expect to continue
5 to negotiate on that issue.

6 BY MR. GILLIGAN:

7 Q. So the statement 8(C)(2) averages the
8 percentage of votes that people cast for either
9 Democrats or Republicans with the percentage of
10 races that were won by Republican candidates to
11 get to a percentage of -- I think it's
12 32.5 percent for Democrats and 67.5 percent for
13 Republicans, is what this statement indicates
14 is the proportional allocation under 6(B).

15 MR. STRACH: Is that a question?

16 MR. GILLIGAN: Yes. Yes.

17 THE WITNESS: I don't understand the
18 question. I don't understand the question.

19 BY MR. GILLIGAN:

20 Q. Okay. Okay. Your statement that you
21 voted on, to explain why it is that you came up
22 with the map that was not agreed to by the
23 Democrats, calculated a proportionality formula
24 which showed 32.5 percent Democratic preference
25 and 67.5 percent Republican preference,

1 correct?

2 MR. STRACH: Objection. I don't think
3 that's what the statement says.

4 But answer if you can.

5 THE WITNESS: I don't have the statement
6 in front of me, so I -- I think the statement
7 speaks for itself.

8 BY MR. GILLIGAN:

9 Q. Well, I think the statement was marked
10 as an exhibit. Can we put that back up on the
11 screen so the Speaker could see it.

12 It says, the third line down in the
13 third paragraph: "The Commission determined
14 that Republican candidates won thirteen out of
15 sixteen of those elections resulting in a
16 statewide proportion of voters favoring
17 statewide Republican candidates of 81%."

18 Do you see that, sir?

19 A. Yes, I do.

20 Q. Okay. And then further down it says
21 that "the statewide proportion of voters
22 favoring statewide Republican candidates is
23 54%."

24 Do you see that?

25 A. Yes, I do.

1 Q. Okay. And then it says "the statewide
2 proportion of voters favoring statewide
3 Republican candidates is between 54 and 81%."
4 Do.

5 You see that?

6 A. Yes.

7 Q. So if you average those two, it would be
8 that the statewide proportion of voters
9 favoring statewide Republican candidates would
10 be 67.5 percent, right?

11 A. Well, I don't think it averages. It
12 just says what we did was within that range.

13 Q. So your understanding of the
14 proportionality requirement -- excuse me, the
15 proportionality provision in 6(B) was that the
16 districts fall somewhere between 54 percent
17 Republican and 81 percent Republican?

18 A. That would be a constitutional range,
19 yes.

20 Q. Did the Republican House incumbents meet
21 with Mr. DiRossi to talk about each of their
22 individual districts?

23 A. You're talking about -- are you asking
24 if whether members of the -- current members of
25 the Ohio House of Representatives met

1 individually with Mr. DiRossi?

2 Q. Yes.

3 A. Not to my knowledge.

4 Q. Did they have input to Mr. DiRossi about
5 what they wanted to see and what they did not
6 want to see happen with their districts?

7 A. Not to my knowledge.

8 Q. So it is your testimony that the
9 mapmakers, Mr. DiRossi on the Senate side and
10 Mr. Serengeti [sic] on the House side, had no
11 input from the Republican members of the caucus
12 about what they wanted to see with their
13 districts?

14 MR. STRACH: Objection. First of all,
15 it's Mr. Springhetti.

16 MR. GILLIGAN: Springhetti.

17 MR. STRACH: And, number two, your
18 questions were just asking about Mr. DiRossi.
19 You've now added Mr. Springhetti to the mix.
20 So are you going to ask him about conversations
21 with Mr. Springhetti separately?

22 MR. GILLIGAN: Well, I can do that if it
23 will move things along.

24 Q. Do you know whether any of the members
25 communicated with Mr. Springhetti about what

1 they wanted to see happen with their districts?

2 A. I do not believe they did prior to the
3 presentation of the initial Republican map.

4 There may have been some individual
5 conversations that went through either me or
6 Christine Morrison about some aspects of some
7 members' districts after that when there was a
8 map available to look at.

9 Q. So the first Republican map, you're
10 talking about the September 9th map?

11 A. Yes, that's correct.

12 Q. That was a map about which you expressed
13 surprise because of the lopsided partisan split
14 of the districts, correct?

15 MR. STRACH: Objection. That's not his
16 testimony.

17 THE WITNESS: I was a bit surprised at
18 the number of Republican leaning districts.

19 BY MR. GILLIGAN:

20 Q. Well, the number was somewhere between
21 19 percent and -- excuse me, 54 percent and
22 81 percent. So why were you surprised?

23 A. I didn't expect it would be as -- that
24 high. I didn't expect it to be 67.

25 Q. In fact, the map that was generated or

1 put forward on September 9th was actually more
2 lopsided toward the Republicans than the map
3 that was issued in 2011, isn't that right?

4 MR. STRACH: Objection.

5 THE WITNESS: I don't know about the map
6 in 2011. There were more Republican leaning
7 seats than there are current Republican
8 members. But then there are Democrats elected
9 in Republican leaning districts and Republicans
10 elected in Democratic leaning districts. So
11 it's not always a clear-cut thing.

12 BY MR. GILLIGAN:

13 Q. And just so I make sure that I
14 understand your testimony, there was no
15 discussion in the commission about the meaning
16 of the proportionality provision of Section 6
17 until, I think, the morning of September 16th
18 when there was some discussion or debate about
19 the 8(C)(2) statement?

20 A. That would have been September 15th.

21 And there was among the commission --
22 okay, so I'm not understanding. Are you
23 talking about individual members of the
24 commission having a discussion or the
25 commission as a whole having discussion?

1 Q. Let's start with the commission as a
2 whole having the discussion.

3 A. I don't think there was any discussion
4 of the commission as a whole until the evening
5 of September 15th.

6 Q. And the discussion about 8(C)(2)
7 actually followed the vote to approve the map,
8 correct?

9 A. Yes. The statement was handed out prior
10 to the vote, though.

11 Q. And so what about individual discussion?
12 You've already talked about discussion that you
13 believed that you had with President Huffman.
14 But was there any other discussion between or
15 among the members of the commission that you're
16 aware of about the meaning of the
17 proportionality provisions of Section 6(B)
18 prior to the night of September 15th?

19 A. I'm not aware of any.

20 Q. Thank you very much for your time. I
21 don't have further questions.

22 MR. STRACH: Thank you, John. I've got
23 no questions on behalf of Speaker Cupp or
24 President Huffman. Bridget, do you have any
25 questions?

1 MS. COONTZ: No, nothing, thank you.

2 MR. STRACH: Okay. Then I think that
3 concludes the deposition.

4 THE VIDEOGRAPHER: Thank you, we are
5 going off the record. The time is 12:21.

6 (Deposition concluded at 12:20 p.m.,
7 101)

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Reporter's Certificate

State of California)
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I, Debra Bollman Farfan, Registered Diplomat
Reporter and CSR No. 11648, in and for the State of
California, do hereby certify:

That prior to being examined, the witness
named in the foregoing deposition was by me duly sworn
to testify to the truth, the whole truth, and nothing
but the truth; That said deposition was taken down by
me in shorthand at the time and place therein named and
thereafter reduced to typewriting under my direction,
and the same is a true, correct, and complete
transcript of said proceedings;

I further certify that I am not interested in
the event of the action. Witness my hand this 22nd day
of October, 2021.



Debra Bollman Farfan, CA CSR No. 11648

RDR, RMR, CRR, CRC

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Article XI, Section 8(C)(2) Statement

Pursuant to Article XI, Section 8(C)(2) of the Ohio Constitution, the Ohio Redistricting Commission issues the following statement:

The Commission determined that the statewide preferences of the voters of Ohio predominately favor Republican candidates.

The Commission considered statewide state and federal partisan general election results during the last ten years. There were sixteen such contests. When considering the results of each of those elections, the Commission determined that Republican candidates won thirteen out of sixteen of those elections resulting in a statewide proportion of voters favoring statewide Republican candidates of 81% and a statewide proportion of voters favoring statewide Democratic candidates of 19%. When considering the number of votes cast in each of those elections for Republican and Democratic candidates, the statewide proportion of voters favoring statewide Republican candidates is 54% and the statewide proportion of voters favoring statewide Democratic candidates is 46%. Thus, the statewide proportion of voters favoring statewide Republican candidates is between 54% and 81% and the statewide proportion of voters favoring statewide Democratic candidates is between 19% and 46%. The Commission obtained publicly available geographic data for statewide partisan elections in 2016, 2018, and 2020. Publicly available geographic data for those elections was not available for elections in 2012 and 2014. Using this data, the Commission adopted the final general assembly district plan, which contains 85 districts (64.4%) favoring Republican candidates and 47 districts (35.6%) favoring Democratic candidates out of a total of 132 districts. Accordingly, the statewide proportion of districts whose voters favor each political party corresponds closely to the statewide preferences of the voters of Ohio.



The final general assembly district plan adopted by the Commission complies with all of the mandatory requirements of Article XI, Sections 2, 3, 4, 5, and 7 of the Ohio Constitution. The Commission's attempt to meet the aspirational standards of Article XI, Section 6 of the Ohio Constitution did not result in any violation of the mandatory requirements of Article XI, Sections 2, 3, 4, 5, and 7 of the Ohio Constitution.



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Transcript of Senator Matt Huffman

Date: October 21, 2021

Case: League of Women Voters of Ohio, et al. -v- Ohio Redistricting Comm., et al.

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IN THE SUPREME COURT OF OHIO

- - - - - x

LEAGUE OF WOMEN VOTERS :
OF OHIO, ET AL., :
Relators, :
v. : Case Nos. 2021-1193
OHIO REDISTRICTING : 2021-1198
COMMISSION, et al., : 2021-1210
Respondents. :

- - - - - x

Remote Videotaped Deposition of

SENATOR MATT HUFFMAN

Thursday, October 21, 2021

1:32 p.m.

Job No.: 405261

Pages: 1 - 134

Reporter: DEBRA BOLLMAN FARFAN, RDR-RMR-CRR-CRC

CA CSR NO. 11648

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

2

1 Videoconference Deposition of SENATOR MATT
2 HUFFMAN, held remotely:

3
4
5 Witness Location:

6 REMOTE
7
8
9
10

11 Pursuant to notice, before Debra Bollman
12 Farfan, Registered Diplomate Reporter,
13 Registered Merit Reporter, Certified Realtime
14 Reporter, and Certified Shorthand Reporter No.
15 11648, in and for the State of California.
16
17
18
19
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21
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Transcript of Senator Matt Huffman
Conducted on October 21, 2021

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Transcript of Senator Matt Huffman
Conducted on October 21, 2021

5

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(Exhibits are attached to the transcript.)

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END of EXHIBITS

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

10

1 P R O C E E D I N G S

2 * * * * *

3 THE VIDEOGRAPHER: Good afternoon. Here 01:32:09
4 begins Media Number 1 in the video recorded 01:32:10
5 deposition of Ohio Senate President Matt 01:32:14
6 Huffman, in the matter of League of Women 01:32:17
7 Voters of Ohio, et al., versus Ohio 01:32:19
8 Redistricting Commission, et al., Consolidated 01:32:24
9 Case No. 2021-1193, filed in the Supreme Court 01:32:26
10 of Ohio. 01:32:30

11 Today's date is October 21st, 2021, and 01:32:32
12 the time on the video monitor is now 1:32 p.m. 01:32:36

13 The videographer today is Joel Coriat on 01:32:39
14 behalf of Planet Depos, and this deposition 01:32:42
15 will be taken via videoconference. 01:32:45

16 All counsel appearances will be noted on 01:32:46
17 the stenographic record. 01:32:49

18 The court reporter today is Debra 01:32:50
19 Bollman on behalf of Planet Depos. She will 01:32:52
20 now swear in the witness. 01:32:55

21 Whereupon,

22 SENATE PRESIDENT MATT HUFFMAN
23 was called as a witness, was duly sworn
24 and testified under penalty of perjury as
25 follows:

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

11

1	EXAMINATION	01:33:15
2	BY MR. FUNARI:	01:33:15
3	Q. Thank you. Good afternoon, Senate	01:33:16
4	President Huffman. My name is Brad Funari. I	01:33:18
5	represent the Ohio Organizing Collaborative in	01:33:21
6	one of the three apportionment cases pending	01:33:26
7	before the Ohio Supreme Court.	01:33:30
8	First of all, can you hear me okay with	01:33:31
9	the technology these days? I always want to	01:33:34
10	make sure the witness can hear me clearly.	01:33:37
11	A. Yes, I can hear you. It's a little --	01:33:39
12	it's a little soft, but I can mostly hear you.	01:33:41
13	MR. STRACH: Yeah, you're a little	01:33:45
14	garbled, Brad, but I think it will be all	01:33:46
15	right.	01:33:48
16	BY MR. FUNARI:	01:33:49
17	Q. All right. I'm going to move the	01:33:49
18	microphone a little closer.	01:33:50
19	Let me start, Senate President, by	01:33:53
20	apologizing in advance. I will most likely end	01:33:56
21	up calling you Mr. Huffman at some point during	01:34:02
22	today's deposition, and please don't view that	01:34:06
23	as a sign of disrespect. It's not every day	01:34:09
24	that I've deposed a dignitary, so if I miss the	01:34:12
25	honorary title, I do apologize, and I'll do my	01:34:17

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

12

1	best to remember that.	01:34:20
2	A. Whatever title you would like is fine.	01:34:22
3	I didn't realize I was a dignitary until just	01:34:27
4	now. So go ahead.	01:34:29
5	Q. You are for purposes of this case.	01:34:30
6	A. Fair enough.	01:34:32
7	Q. Have you been deposed before,	01:34:33
8	Mr. President?	01:34:36
9	A. One time. I think it might have been	01:34:36
10	three or four years ago in a previous	01:34:42
11	redistricting lawsuit. And I can't tell you	01:34:46
12	who the parties were to that. But that's the	01:34:51
13	only time that I've been a witness in a	01:34:53
14	deposition.	01:34:54
15	Q. Okay. You've taken some depositions, I	01:34:55
16	would presume.	01:34:59
17	A. I have.	01:35:00
18	Q. Okay. So I'm not going to go into the	01:35:01
19	ground rules of a deposition and kind of the	01:35:04
20	formalities.	01:35:08
21	If by any chance you don't hear -- the	01:35:10
22	one I will advise you of is if you don't hear	01:35:12
23	my question or if for some reason we end up	01:35:14
24	talking over each other because of the	01:35:18
25	technology, just put your hand up or tell me to	01:35:19

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

13

1	slow down, and I'll get my question out.	01:35:22
2	A. I'll do that.	01:35:26
3	Q. Okay, great.	01:35:26
4	Are you familiar with a gentleman named	01:35:31
5	Ray DiRossi?	01:35:34
6	A. Oh, Ray DiRossi, sure.	01:35:35
7	Q. And does he work for the Ohio Senate	01:35:37
8	Republican caucus?	01:35:40
9	A. He's an employee of the Ohio Senate	01:35:41
10	President, to be specific, yes.	01:35:47
11	Q. Okay. And that's -- that's your office.	01:35:49
12	He's one of your employees?	01:35:52
13	A. That's correct.	01:35:53
14	Q. And is Mr. DiRossi the individual whom	01:35:55
15	you asked to draw the state legislative map	01:36:01
16	this year?	01:36:06
17	A. Yes.	01:36:07
18	Q. Did anyone else work with Mr. DiRossi in	01:36:11
19	drafting what we'll call as the Senate	01:36:16
20	legislative Republican map?	01:36:19
21	A. Well, I think he would have received	01:36:24
22	advice from counsel, and I don't think -- other	01:36:27
23	than just some logistical support, I don't	01:36:30
24	think there would have been any other Senate	01:36:34
25	employees working on this project.	01:36:36

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

14

1 Q. In terms of chain of command and 01:36:39
2 supervision, is it correct that Mr. DiRossi 01:36:43
3 would have reported directly to you during this 01:36:46
4 redistricting process? 01:36:48

5 A. For the most part, that is true. Again, 01:36:49
6 there were other staffers, including legal 01:36:56
7 counsel who he would have had conversations 01:37:00
8 with. I wouldn't necessarily be privy to 01:37:02
9 those. They're all full-time folks, and I'm 01:37:05
10 not in the Senate President's office every day. 01:37:07

11 So there are other people he would have 01:37:10
12 using the word "report" to, but -- or had 01:37:13
13 conversations with. 01:37:16

14 Q. But ultimately he was a member of your 01:37:18
15 staff, I guess is what I'm getting at? 01:37:19

16 A. That's correct. That's correct. 01:37:22

17 Q. Did he report to any other commissioners 01:37:23
18 of the Ohio Redistricting Commission? 01:37:25

19 A. Factually, I guess I can't say whether 01:37:27
20 that's true or not. But that wasn't the way it 01:37:34
21 was set up, unless from time to time, you know, 01:37:38
22 there would have been some communication 01:37:42
23 because he saw him someplace. 01:37:44

24 But in terms of reporting, he was my 01:37:46
25 employee and nobody else's. 01:37:48

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

15

1 Q. So at no time he -- at no time during
2 the process did he become employed by the Ohio
3 Redistricting Commission, correct?

4 A. That is correct, yeah.

5 Q. Did the Ohio Redistricting Commission
6 have any employees?

7 A. No. I think in terms of the work that
8 needed to be done, we call it "staffing it,"
9 those things were done by the individual
10 offices.

11 And specifically Speaker Cupp, who was
12 one co-chair, and Senator Sykes, who was the
13 other co-chair, if I have this right, their
14 staff were, in effect, staffing or running the
15 commission.

16 So there wasn't a separate commission
17 office some place or anything like that. But
18 for the hearings, communications, notices,
19 things like that, their two offices and their
20 staff in those offices were responsible for
21 that.

22 Q. Understood. Did Mr. DiRossi regularly
23 update you on his progress as he was drafting
24 the Republican legislative map?

25 A. Well, with, I guess, the caveat of what

01:37:52

01:37:55

01:37:59

01:37:59

01:38:01

01:38:04

01:38:09

01:38:12

01:38:16

01:38:18

01:38:20

01:38:24

01:38:28

01:38:32

01:38:37

01:38:37

01:38:39

01:38:41

01:38:45

01:38:47

01:38:49

01:38:53

01:38:55

01:39:00

01:39:04

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

16

1 you mean by the word "regularly." From time to 01:39:07
2 time we had conversations, but I did not have 01:39:11
3 daily conversations with him about his work on 01:39:15
4 the map. Just, as you know, there are other 01:39:21
5 things going on in the legislature. 01:39:23

6 But, yeah, I had conversations with Ray 01:39:26
7 on a, you know -- I suppose we'll call it an 01:39:29
8 as-needed basis. 01:39:33

9 Q. Okay. And fair point. "Regularly," I 01:39:34
10 think, is a -- it could be an ambiguous term. 01:39:38
11 So let me break it down a little bit. 01:39:40

12 When did Mr. DiRossi first begin working 01:39:42
13 on the map? 01:39:46

14 A. Well, work on the maps, you know, you 01:39:49
15 start to try to do these things while you -- 01:39:57
16 you do it not just days or weeks in advance. I 01:40:00
17 actually began talking to him about it when I 01:40:04
18 became Senate President in January, you know, 01:40:07
19 along with other staff, about how are we going 01:40:10
20 to accomplish this. 01:40:14

21 A lot of that had to do with the fact 01:40:16
22 that, even at the beginning of this year, it 01:40:20
23 became evident that the census data would not 01:40:22
24 be available in April. 01:40:25

25 So a lot of it was how do we schedule 01:40:26

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

17

1 this, how are we going to get it done. And I 01:40:29
2 don't -- I think it was maybe March when it was 01:40:32
3 confirmed we weren't getting the census data on 01:40:34
4 time. 01:40:37

5 So a lot of the scheduling and those 01:40:38
6 things, Ray was part of that but so was the 01:40:41
7 rest of the staff, and we had a meeting in 01:40:43
8 April with all of the legislative leaders about 01:40:45
9 this. 01:40:48

10 So, you know, probably the beginning of 01:40:49
11 this year. I wasn't Senate President until 01:40:51
12 first week in January. 01:40:56

13 Q. Did you consult with any other members 01:40:57
14 of the commission with respect to appointing 01:41:03
15 Mr. DiRossi as the drafter of the Republican 01:41:07
16 map? 01:41:12

17 A. Well, to be clear, Ray -- Ray DiRossi -- 01:41:12
18 I'm going to call him Ray, if that's all right 01:41:17
19 with you -- Ray was not the drafter of the 01:41:20
20 Republican map. He was the Senate Republicans' 01:41:23
21 person who was working on map drawing. 01:41:30

22 And to that extent, no, I didn't ask any 01:41:33
23 of the other six commission members about 01:41:36
24 whether they thought Ray DiRossi should work on 01:41:38
25 this map on behalf of the Senate Republican 01:41:41

Transcript of Senator Matt Huffman
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18

1 President's Office.

01:41:44

2 Q. Did you understand that Blake
3 Springhetti was the map drawer appointed by
4 Speaker Cupp to work on the House version of
5 the Republican map?

01:41:49

01:41:52

01:41:54

01:41:57

6 A. Yes.

01:41:58

7 Q. Did the commission itself at any point
8 in time hire a map drawer?

01:42:02

01:42:07

9 A. No.

01:42:09

10 Q. So I want to go back to your interaction
11 with Mr. DiRossi. I believe you testified that
12 you would meet with him as needed. Can you
13 recall when you first met with him specifically
14 for the purpose of drawing the map?

01:42:11

01:42:17

01:42:24

01:42:26

01:42:33

15 So not necessarily those conversations
16 we talked about with Mr. DiRossi in the early
17 part of the year, but specific to drawing the
18 map.

01:42:36

01:42:39

01:42:42

01:42:45

19 A. The brief answer to your question is,
20 no, I don't remember an initial meeting.

01:42:49

01:42:51

21 You know, again, we didn't have the data
22 until the end of August in a useable form. So
23 it would have been sometime in the month of
24 August. I think that's when a lot of the
25 organizational things were being done.

01:42:54

01:42:57

01:43:03

01:43:06

01:43:09

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

19

1 Q. So if I -- I will offer the date of
2 August 6th as the date that the Governor
3 convened the first meeting of the Redistricting
4 Commission.

5 Using that date, August 6th, as a point
6 of reference, do you believe that you met with
7 Mr. DiRossi for the purposes to start drafting
8 the maps before or after that meeting?

9 A. Yeah, I guess the phrase "to start
10 drawing the maps," to me, means other things
11 than, you know, putting pencil to paper. It's
12 what are the constitutional requirements? How
13 do we do that? And those were conversations
14 that are ongoing through the year.

15 If you're talking about simply, and I'm
16 using it metaphorically, pencil to paper, it
17 probably would have been at the end of the last
18 week in August because there wasn't much that
19 we could do until we had the data to be used.
20 So probably the last week in August.

21 Q. Do you know what, if any, information or
22 data from the Census Bureau ultimately made its
23 way into the map that was enacted by the
24 commission on September 15th? Or adopted by
25 the commission on September 15th?

01:43:10
01:43:15
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01:43:26
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01:44:03
01:44:05
01:44:12
01:44:20
01:44:23
01:44:26
01:44:32
01:44:35

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

20

1	A. Well, I think the population count is	01:44:36
2	what we used that came from the census data	01:44:39
3	into the map. I think that's what we were all	01:44:43
4	waiting for, if I have it right.	01:44:47
5	Q. Was there any other work that the	01:44:52
6	commission could have been doing while it was	01:44:53
7	waiting for the census data to arrive?	01:44:57
8	A. In the time period -- anytime in 2021,	01:45:01
9	you mean?	01:45:09
10	Q. Yes.	01:45:10
11	A. Talking about after August 6th?	01:45:10
12	Q. We'll talk about the time you took	01:45:13
13	office, beginning of 2021.	01:45:15
14	A. Well, "could" is a pretty broad word.	01:45:20
15	You know, what -- what I -- I will tell	01:45:23
16	you one of the things I did do is in April I	01:45:25
17	asked the legislative leaders to meet about	01:45:28
18	extending the timeline. And, unfortunately, I	01:45:30
19	didn't get agreement from Senator Sykes or	01:45:35
20	Leader Sykes on that.	01:45:40
21	Now, could have? I guess "could" is a	01:45:42
22	pretty broad word, so, yes, something could	01:45:45
23	have been done.	01:45:48
24	Q. I'm sorry. Could you tell me again, in	01:45:50
25	April you reached out to Senator Sykes for what	01:45:52

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21

1	purpose?	01:45:55
2	A. Yeah, in April, when we sort of had this	01:45:55
3	confirmation that -- and there was a statement	01:46:01
4	about that time period that the census data	01:46:03
5	would not be available until -- and I think the	01:46:05
6	initial date was August 16th, or something	01:46:10
7	along those lines, you know, my staff suggested	01:46:12
8	to me that -- and actually at one point the	01:46:16
9	date was the end of September. Well, we have	01:46:20
10	this constitutional deadline of September 15th.	01:46:22
11	And my staff said: Look, what we can do is get	01:46:28
12	an extension, but we'd have to put it on the	01:46:31
13	ballot in August, and people would have to	01:46:33
14	agree with that.	01:46:35
15	So we asked to meet with actually Leader	01:46:38
16	Yuko and Leader Sykes and Speaker Cupp, and we	01:46:41
17	did meet in my office in April. And I	01:46:44
18	suggested to them, Look, right now we're not	01:46:50
19	getting the data until the end of September --	01:46:52
20	it turned out to be the end of August, but end	01:46:54
21	of September -- we should extend this out 30 or	01:46:56
22	60 days, or we won't have time to do the due	01:46:59
23	diligence or public hearings or the things that	01:47:03
24	we're all anticipating.	01:47:07
25	So I had that meeting. I was	01:47:11

1 disappointed that the response was no and that
2 the response came by way of a press conference
3 and not someone calling me back and saying, "We
4 don't support it."

01:47:12

01:47:15

01:47:17

01:47:20

5 So that's the April meeting that I
6 convened in my office or invited people to come
7 to.

01:47:21

01:47:24

01:47:27

8 Q. So during that meeting with the House
9 and Senate Democratic leaders, did you -- I
10 understand you discussed a possible legislative
11 action to push out deadlines. Did you --
12 you're shaking your head no.

01:47:29

01:47:32

01:47:38

01:47:41

01:47:46

13 A. Yeah, it's not a legislative action. We
14 would have had to place a constitutional change
15 on the ballot. And we would have had to do
16 that at the August special election.

01:47:48

01:47:50

01:47:54

01:47:57

17 Q. Okay. All right.

01:47:59

18 A. So we couldn't have done this -- now,
19 legislatively, we would have had to place it on
20 the ballot. So to that extent. But I just
21 didn't want to confuse the issue.

01:48:00

01:48:02

01:48:05

01:48:09

22 And, frankly, we could have gone ahead
23 and done that. But it was my opinion that if
24 the Democrat folks, the Democrats, would not
25 have supported that, it would have not likely

01:48:12

01:48:14

01:48:16

01:48:19

1 passed on the ballot, not without a huge 01:48:22
2 campaign and all of that. 01:48:24

3 So when the Democrats rejected my 01:48:25
4 suggestion of extending the September 15th 01:48:28
5 deadline, you know, we didn't go ahead with 01:48:31
6 that. 01:48:35

7 Q. So putting that issue aside, in the 01:48:35
8 April meeting, did you have any discussions 01:48:38
9 about the actual work convening for the 01:48:43
10 Redistricting Commission? 01:48:48

11 A. I don't think so, other than, you know, 01:48:48
12 we knew what the deadlines were. We knew that 01:48:56
13 there had to be certain meetings. And, again, 01:48:59
14 with the presentation of a map and the number 01:49:04
15 of hearings that had to happen 01:49:06
16 constitutionally, that was part of that 01:49:09
17 discussion. 01:49:10

18 If we're going to do all of this, it 01:49:11
19 doesn't appear that we can get it done based on 01:49:13
20 what we knew in April of this year. 01:49:15

21 Q. So having received the message via press 01:49:17
22 conference that there was going to be no, I 01:49:23
23 guess, partisan action, bipartisan action, to 01:49:27
24 put a referendum question on the August ballot, 01:49:33
25 when did you start working on the work of the 01:49:41

Transcript of Senator Matt Huffman
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24

1	commission?	01:49:44
2	Do you understand -- that might be a bad	01:49:48
3	question.	01:49:50
4	A. Yeah --	01:49:51
5	MR. STRACH: I think it is. Why don't	01:49:52
6	you try to --	01:49:53
7	MR. FUNARI: Let me withdraw that and	01:49:55
8	ask again.	01:49:57
9	Q. So in April you learned via press	01:49:58
10	conference that there was not likely to be a --	01:50:01
11	an amendment to push back the dates. So when	01:50:08
12	did the work, or at least your work as a	01:50:13
13	commissioner, begin?	01:50:17
14	A. Well, I'll just -- formally, of course,	01:50:17
15	it began when I was sworn in as a commissioner	01:50:23
16	August 6th; but I will also say, you know, I	01:50:26
17	spoke in late July to Leader Sykes, Emilia	01:50:30
18	Sykes, and we were discussing the hearings and	01:50:35
19	the timing problems.	01:50:38
20	So I, essentially, asked Leader Yuko and	01:50:43
21	Leader Sykes to meet with Speaker Cupp. In	01:50:49
22	fact, I convened a meeting, I guess, again, to	01:50:53
23	invite everyone to get together. And we did	01:50:56
24	get together in the Speaker's office. I don't	01:50:57
25	recall the exact date, end of July, early	01:50:59

1 August.

01:51:01

2 And at that meeting -- and I -- you
3 know, I suggested to Leader Sykes that if we're
4 going to have these hearings, we need to
5 schedule them. We need to have it.

01:51:02

01:51:04

01:51:08

01:51:11

6 So that was, I guess, what you're
7 asking. I wasn't a Commissioner, with a
8 capital C, because I wasn't sworn in yet. But
9 we wanted to move this thing along and do the
10 things that we could do.

01:51:13

01:51:15

01:51:18

01:51:23

01:51:25

11 And so we did meet, and we began
12 sketching out the hearing dates. And we
13 actually, I think, even at that meeting decided
14 on a date when we could convene or when the
15 Governor could convene the commission.

01:51:27

01:51:30

01:51:35

01:51:38

01:51:42

16 Of course we had to have a date when the
17 Governor was available because,
18 constitutionally, he convenes it. So I think
19 at that meeting -- again, I don't recall the
20 exact date -- we got together and kind of
21 sketched out these hearings.

01:51:45

01:51:47

01:51:49

01:51:52

01:51:54

01:51:58

22 We weren't commissioners yet, though.

01:51:59

23 Q. I understand you might not be able to
24 remember the exact date, but what month did you
25 say you believed that meeting occurred in?

01:52:01

01:52:03

01:52:06

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1 A. Yeah, it was either the end -- very end
2 of July or the first couple days in August.

3 Q. Before that meeting, had you had any
4 discussions with the Governor about when he
5 intended to convene the commission?

6 A. No.

7 Q. All right. I want to go back to
8 Mr. DiRossi's work on the maps. Now,
9 Mr. DiRossi was deposed just a few days ago in
10 this matter. Are you aware of that,
11 Mr. President?

12 A. Yes.

13 Q. Have you spoken to Mr. DiRossi about the
14 testimony he provided?

15 A. Not as to any content. I mean, he came
16 back to the office and said his deposition was
17 taken, but we didn't talk about the content or
18 anything like that. I just knew that it had
19 happened.

20 Q. Have you read the transcript from his
21 deposition?

22 A. No.

23 Q. Well, he testified that from time to
24 time, when he would be working on the maps, you
25 would come in, and he would share the screen

1 with you, or you'd look over his shoulder, and
2 show you parts of the work that he was working
3 on.

4 Do you recall any instances where
5 something like that may have happened?

6 A. Yeah, that did happen. I don't know
7 that I was looking over his shoulder, but I --
8 but, yes.

9 Q. Okay. Well, he was sharing the screen,
10 he was showing you his monitor?

11 A. Right, right.

12 Q. Was the information that he was showing
13 you displayed through the software application
14 known as Maptitude?

15 A. I don't know the -- I don't know the
16 answer to that. I'm not -- I try not to learn
17 about things that I don't have to, and I'm not
18 really sure what the software was and all of
19 that. But that very well may be true.

20 Q. Well, what do you recall seeing on his
21 screen when you would meet with him from time
22 to time?

23 A. Yeah, just maps with, you know,
24 different districts and different political
25 subdivisions, all sorts of, you know, maps of

1	the state of Ohio.	01:54:38
2	And we'd talk about different districts	01:54:39
3	and the population requirements and, you know,	01:54:41
4	the mandates that are in the Constitution,	01:54:44
5	things like that.	01:54:47
6	Q. Okay, did you ever give him any	01:54:47
7	instruction or guidance with respect to how to	01:54:50
8	calculate the partisan performance of the maps?	01:54:53
9	A. No, I didn't. By and large the	01:54:58
10	instructions were, you know, the first thing is	01:55:03
11	we're going to have a -- we need to follow all	01:55:08
12	the mandates in the Constitution, which are	01:55:11
13	multiple, and -- but, no, I didn't make any --	01:55:14
14	give him any specific or general instructions	01:55:19
15	about partisan index and however it is that	01:55:23
16	political folks calculate that.	01:55:26
17	Q. You said that you gave him instruction	01:55:30
18	or direction to ensure that the maps complied	01:55:34
19	with the Constitution.	01:55:39
20	A. Yes.	01:55:44
21	Q. Do you recall saying that?	01:55:44
22	A. Yes.	01:55:45
23	Q. Which sections of the Constitution did	01:55:45
24	you tell Mr. DiRossi to be sure the maps	01:55:47
25	complied with?	01:55:50

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1 A. All of the constitutional requirements
2 that are mandatory. That was paramount in what
3 I believed was the most significant thing.

4 So we've got -- as I said, there are
5 multiple mandates. And I said first thing we
6 have to do is make sure this thing is
7 constitutional; don't deviate populations more
8 than 5 percent. Counties that are in the sweet
9 spot, so to speak, have to be the same division
10 of counties, things like that. So those are
11 laid out. I guess I can't tell you by number
12 where all of the mandatory provisions are, but
13 that was what was paramount.

14 Q. What about Section C of Article XI? Do
15 you recall giving Mr. DiRossi any direction
16 specific to that section of the constitution?

17 A. No.

18 Q. Do you know if Mr. DiRossi sought any
19 direction from anyone with respect to the
20 meaning of Section 6 of Article XI?

21 A. No.

22 Q. Are you familiar with Section 6 of
23 Article XI?

24 A. Yeah, I guess I can't recite it for you
25 as we're sitting here, but I know what that

1	provision generally says.	01:57:22
2	Q. Okay. Would it be -- I'm going to ask	01:57:23
3	you a few questions about that section	01:57:26
4	specifically. Would it be helpful if I pulled	01:57:28
5	it up on the screen?	01:57:30
6	A. Maybe, depending on the question you	01:57:31
7	ask, so...	01:57:33
8	Q. Are you familiar with the term	01:57:34
9	"proportional" that's used in Section 6 of	01:57:42
10	Article XI?	01:57:47
11	MR. STRACH: Brad, did you say	01:57:48
12	proportion or proportional?	01:57:50
13	BY MR. FUNARI:	01:57:54
14	Q. Proportional. Maybe I'm misspeaking.	01:57:54
15	So let's pull it up, why don't we.	01:57:56
16	MR. STRACH: Yeah, I think the word	01:57:58
17	proportion is in there, but not proportional.	01:58:01
18	THE VIDEOTECH: Counsel, what's the name	01:58:13
19	of the document?	01:58:15
20	MR. FUNARI: Actually, hold on. We're	01:58:17
21	going to come back to the constitutional	01:58:18
22	questions I have in a few minutes.	01:58:20
23	Actually, let's just do this now while	01:58:30
24	you're working on it. It's Exhibit 2.	01:58:33
25	(Deposition Exhibit No. 1 was marked for	01:58:33

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1	identification.)	01:58:46
2	THE VIDEOTECH: So it's Ohio	01:58:46
3	Constitution Article XI?	01:58:48
4	MR. FUNARI: Yes.	01:58:49
5	(Discussion with Videotech held off the	01:58:49
6	written record.)	01:58:49
7	Q. Okay. My question is with respect to	02:01:00
8	Section 6(B), Mr. President. I'll give you an	02:01:04
9	opportunity to read it.	02:01:08
10	A. Oh, read it right now? You want me to	02:01:11
11	read it right now?	02:01:13
12	Q. Yeah, to refresh your memory in terms of	02:01:14
13	what it says.	02:01:16
14	A. Okay. I've read page one of two.	02:01:32
15	Q. Okay. So just so the record's clear,	02:01:36
16	you gave no direction to Mr. DiRossi with	02:01:40
17	respect to this constitutional requirement,	02:01:43
18	Section 6(B); is that correct?	02:01:47
19	A. Well, yeah, I guess to be specific, I	02:01:49
20	told Ray we need to follow the constitutional	02:01:55
21	requirements. And if this -- to the extent	02:01:58
22	that, you know, this is not a mandated portion,	02:02:02
23	I didn't have a specific conversation with Ray	02:02:06
24	about this.	02:02:11
25	What I told him was that it was -- the	02:02:12

1 significant thing is we needed to follow the 02:02:15
2 mandated portions of the Constitution. 02:02:18

3 So I didn't give any specific 02:02:20
4 instructions about Number 6, if that's what 02:02:23
5 your question is. 02:02:27

6 Q. That's what I was asking, yes. 02:02:28

7 A. Okay. 02:02:30

8 Q. Did you personally, as a commissioner, 02:02:35
9 conduct any analysis of whether the map that 02:02:37
10 was introduced on September 9th complied with 02:02:41
11 this Section 6(B) of the Ohio Constitution, 02:02:47
12 Article XI? 02:02:51

13 MR. STRACH: Objection. Calls for a 02:02:52
14 legal conclusion. 02:02:56

15 Mr. President, you can answer that to 02:02:56
16 the extent that you don't reveal any legal 02:02:58
17 advice. 02:03:00

18 MR. FUNARI: Just so you're clear, Phil, 02:03:01
19 and maybe you misheard my question, my question 02:03:04
20 is: Did you, in your role as a commissioner, 02:03:07
21 conduct any analysis of the map that was 02:03:10
22 introduced on September 9th as to whether or 02:03:15
23 not the map complied with Section 6(B) of the 02:03:18
24 Ohio -- Article XI of the Ohio Constitution. 02:03:25

25 MR. STRACH: Correct. And my objection 02:03:28

1 is that I believe that calls for -- inherently
2 calls for inherent legal analysis by the
3 president.

4 But to the extent he can answer that
5 without revealing any legal advice, please do
6 so.

7 THE WITNESS: No.

8 BY MR. FUNARI:

9 Q. Did you make any mention to Mr. DiRossi
10 during his work to ensure that the maps
11 complied with Article I of the Ohio
12 Constitution?

13 A. Yeah, we can go back and look at --
14 Article I or Section 1 of Article VI do you
15 mean -- or Article XI, I guess?

16 Q. Article I of the Ohio Constitution.

17 A. Okay. That's not the reapportionment.
18 You're talking about something that's not
19 reapportionment?

20 Q. Yeah, could we go back to the second
21 page of this document, put up Article I in this
22 exhibit as well.

23 A. Yeah, I think the answer to your -- we
24 can go back. I think the answer to your
25 question is, no, I did not do that.

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1	Q. Now, do you recall at the September 9th	02:04:43
2	hearing, when the map was introduced that	02:04:47
3	Mr. DiRossi had been working on, he testified	02:04:50
4	at that hearing? Do you recall that?	02:04:52
5	A. Yes.	02:04:56
6	Q. And do you recall in response to a	02:04:57
7	question I believe that was posed by Leader	02:05:02
8	Emilia Sykes, Minority Leader Emilia Sykes,	02:05:08
9	about certain racial and other demographic	02:05:12
10	information and if he had considered that, and	02:05:17
11	his response was something along the lines of	02:05:23
12	that he was instructed not to use racial or	02:05:26
13	other demographic information in preparing the	02:05:29
14	map?	02:05:31
15	Do you remember that testimony?	02:05:33
16	A. Yes.	02:05:34
17	Q. He was then asked who directed him, and	02:05:35
18	he said the legislative leaders. Do you recall	02:05:43
19	him saying words to that effect?	02:05:47
20	A. Yeah, vaguely. I'll take your word for	02:05:48
21	it. I guess I don't remember exactly what he	02:05:51
22	said; but I think so, yeah.	02:05:53
23	Q. Well, let me ask it this way. Did you,	02:05:55
24	in your position, instruct Mr. DiRossi not to	02:05:57
25	consider race or other demographic information	02:06:02

1 in his preparation of the map? 02:06:05

2 A. Yes. And I told Leader Sykes that the 02:06:07
3 day before. We had a meeting with Leader Sykes 02:06:17
4 and Senator Sykes to show them the map before 02:06:20
5 it was released publicly so they could ask 02:06:22
6 questions. And she asked me that question the 02:06:24
7 day before; and then, of course, I think that's 02:06:29
8 why she asked Ray at the meeting. 02:06:31

9 Q. At the time that the commission met on 02:06:37
10 September 9th, did you know the proportion of 02:06:49
11 districts in the plan that favored each 02:06:52
12 political party? 02:06:55

13 A. No, I think there was a analysis ongoing 02:06:58
14 regarding that. One of the problems with this 02:07:04
15 process, especially when you're doing it in a 02:07:07
16 truncated way, is the variety of information 02:07:10
17 that people have or submit or suggest about 02:07:15
18 whether districts are leaning Republican or 02:07:22
19 leaning Democrat. 02:07:25

20 And there was so much of that that there 02:07:27
21 really wasn't a clear picture about that on 02:07:30
22 that particular day. And obviously those 02:07:33
23 things came out later after a few days as we 02:07:37
24 were negotiating or attempting to negotiate. 02:07:42

25 Q. So, as I understand your testimony, it 02:07:45

1 was some point after September 9th that you 02:07:47
2 ultimately learned the proportion of districts 02:07:49
3 that favor each respective political party; is 02:07:52
4 that right? 02:07:59

5 A. Yeah, I think it was sometime after that 02:07:59
6 that we began to have a -- a more reliable set 02:08:01
7 of conclusions. But on that particular day, 02:08:07
8 you know, as Ray indicated, the analysis was 02:08:10
9 ongoing. 02:08:14

10 Q. Did you ask Mr. DiRossi to provide you 02:08:15
11 with that information before the map was 02:08:18
12 introduced on September 9th? 02:08:21

13 A. I don't have any recollection of doing 02:08:23
14 that. 02:08:26

15 Q. Going back to Article XI, 02:08:26
16 Section 8(C)(2) requires a statement to be 02:08:36
17 adopted by the commission that contains a 02:08:43
18 measure of proportionality. 02:08:48

19 Are you familiar with that -- 02:08:51

20 A. Yes. 02:08:52

21 Q. -- statement that's required? 02:08:54

22 A. Yes. 02:09:01

23 Q. When did you first learn of a measure of 02:09:01
24 proportionality for the map that the commission 02:09:03
25 was considering as introduced on September 9th? 02:09:06

1	A. I'm sorry, can you repeat that?	02:09:09
2	Q. Sure. When did you first learn of what	02:09:11
3	the measure of proportionality would be for the	02:09:14
4	map that you were considering as introduced on	02:09:19
5	September 9th?	02:09:22
6	A. You're going to have to define the	02:09:23
7	"measure of proportionality" for me. I don't	02:09:25
8	understand what you mean by that phrase.	02:09:28
9	Q. Okay. Are you familiar with -- I	02:09:30
10	believe you said you're familiar with	02:09:32
11	Section 8(C)(2), correct?	02:09:34
12	A. Yeah, the commission has to prepare a	02:09:36
13	statement in the event of a four-year map.	02:09:38
14	Q. And Section 6(B), which we just	02:09:44
15	reviewed, talks about the proportion -- about	02:09:47
16	proportionality, right?	02:09:51
17	MR. STRACH: Objection. That's not	02:09:53
18	actually what it says.	02:09:54
19	BY MR. FUNARI:	02:10:05
20	Q. You can answer.	02:10:05
21	A. Well, yeah, I guess Section C, as I	02:10:06
22	understand it, talks about, if I have it --	02:10:08
23	maybe we need to put it back up -- the results	02:10:11
24	of the election over the past ten years, and	02:10:14
25	proportionality -- I guess that's all sort of	02:10:18

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1 in a salad there of things that's in there.

02:10:21

2 And I guess maybe -- I thought you were
3 asking me about the statement that was
4 prepared. So I'm sorry. Maybe you want to
5 start over with the question?

02:10:26

02:10:28

02:10:30

02:10:35

6 Q. Yeah, why don't we put the statement up.

02:10:36

7 I believe it's -- it's Tab 1, Planet
8 Depos.

02:10:40

9 A. Okay.

10 (Deposition Exhibit No. 2 was marked for
11 identification.)

12 (Discussion with Videotech held off the
13 written record.)

14 Q. Let's give President Huffman an
15 opportunity to read the statement.

02:11:21

02:11:23

16 So, President Huffman, just let the
17 technician know when you're ready to scroll.

02:11:27

02:11:30

18 A. Okay. Okay. Yeah, go ahead and scroll
19 down. Okay.

02:11:33

02:11:52

20 Oh, there's another page? Okay.

02:12:08

21 Okay. I've got it I've read it.

02:12:19

22 MR. STRACH: Brad, I think you were on
23 mute.

02:12:33

02:12:34

24 MR. FUNARI: Yeah, I was on mute, sorry.

02:12:35

25 If we could scroll down to the bottom of

02:12:37

1 this first page and draw the president's
2 attention to that last sentence.

3 Q. The last sentence reads: Accordingly,
4 the statewide proportion of districts whose
5 voters favor each political party corresponds
6 closely to the statewide preferences of the
7 voters of Ohio.

8 Did I read that correctly?

9 A. Yes.

10 Q. This is the word "proportion" that I was
11 referring to, and my question was: Do you have
12 an understanding of what the term "proportion"
13 means as used in this statement?

14 A. Yeah, I mean, I think -- I mean, first
15 of all, to the extent that these are legal
16 conclusions or constitutional conclusions. But
17 when we, you know, looked at this statement,
18 there were, you know, a variety of things that
19 we could look at.

20 You know, we have, of course, over the
21 past ten years these statewide election results
22 and that's mentioned in here. We looked at the
23 publicly available data on the partisan
24 elections. Not all statewide elections,
25 because not all of them are partisan, or at

1 least in the last ten years they haven't. And
2 we sort of repeated all of that in there.

3 So, you know, to the extent that these
4 districts -- and I think we use the word
5 "favor" in here, we've used the word "lean"
6 before, these percentages are, you know, within
7 the mark, so to speak.

8 So I think that's a pretty easy
9 conclusion that we made at the end of this
10 statement.

11 Q. Who drafted this statement, this 8(C)(2)
12 statement that we've marked as Exhibit 2?

13 A. Well, I don't think there was an
14 individual person, but the staff drafted that,
15 and I guess I don't know exactly who did it.

16 Q. Whose staff?

17 A. My counsel is Frank Strigari; Ray
18 DiRossi, of course, as we've mentioned before.
19 To the extent that other people assisted them,
20 I don't know that, but those are the two main
21 guys.

22 Q. Would it surprise you to learn that
23 Mr. DiRossi testified that he played no role
24 and was asked for no information regarding the
25 preparation of this document and, in fact,

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Conducted on October 21, 2021

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1 didn't see it until after it was adopted? 02:15:20

2 A. No, I don't have any reason to doubt him 02:15:22
3 about that. 02:15:27

4 To the extent that, you know, this 02:15:28
5 information is available, I guess it would 02:15:33
6 surprise me that Ray didn't know that the 02:15:36
7 Republicans had won 13 out of the last 16 02:15:41
8 statewide elections because just about anybody 02:15:44
9 could know that. 02:15:47

10 But as indicated, this was something 02:15:49
11 that was done by my staff. And if Ray wasn't 02:15:51
12 directly involved in it, I'd certainly take him 02:15:54
13 at his word. 02:15:57

14 Q. Okay. And just so the record is clear, 02:15:58
15 I didn't ask you to speculate as to what 02:16:00
16 information in this document Mr. DiRossi may or 02:16:03
17 may not know. 02:16:05

18 My question was: His testimony was he 02:16:08
19 had nothing to do with this document and never 02:16:11
20 even saw it until after it was adopted by the 02:16:13
21 commission. If he testified to that effect, 02:16:16
22 would you have any reason to not believe 02:16:18
23 Mr. DiRossi's testimony? 02:16:21

24 MR. STRACH: Objection. Just to the 02:16:23
25 extent that his testimony will speak for 02:16:24

1 itself.

2 But if you want to assume that's what he
3 said, then you can answer the question.

4 THE WITNESS: Yeah, I have no doubt that
5 Ray would testify truthfully and accurately.

6 BY MR. FUNARI:

7 Q. So that leaves Mr. Frank Strigari as the
8 only other staffer you mentioned who you
9 believe drafted this statement. Do you believe
10 Mr. Strigari alone drafted this statement?

11 MR. STRACH: Objection.

12 You can answer that question to the
13 extent you do not reveal or discuss discussions
14 or activities with outside counsel.

15 THE WITNESS: Okay, I don't -- I don't
16 know who all was part of the drafting of this
17 statement. I would have talked to Frank about
18 it.

19 And, frankly, I don't remember. You
20 know, this was, I think, in the last day or so
21 when this statement was being prepared. But
22 certainly I would have talked to Frank about
23 it. But who else was involved in -- who Frank
24 talked to or ran ideas by or anything like
25 that, I don't know the answer to that.

Transcript of Senator Matt Huffman
Conducted on October 21, 2021

43

1 BY MR. FUNARI:

02:17:38

2 Q. But it's fair to say it was drafted by
3 your staff?

02:17:38

02:17:41

4 A. It's fair to say that my staff worked on
5 it. I don't know whether there were folks
6 outside of my staff who worked on it or not.

02:17:43

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7 Q. Okay.

02:17:53

8 A. Or made contributions or suggestions or
9 reviewed or anything like that. But I wouldn't
10 have talked to those people.

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02:18:03

11 Q. That was kind of anticipating my next
12 question.

02:18:04

02:18:07

13 A. Oh.

02:18:07

14 Q. Do you know if this statement or any
15 drafts of this statement were shared with other
16 members of the commission prior to its adoption
17 at the September 15th meeting?

02:18:08

02:18:14

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02:18:23

18 A. As I understand it, this isn't something
19 that I did myself. But as I understand it, the
20 proposed statement was sent to the other
21 commissioners maybe about 7:00 or 8 o'clock in
22 the evening. So several hours before the
23 commission adopted it as its own statement.

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24 Okay. And that was something again that
25 was done by staff, was sent to their staff, et

02:18:53

02:18:54

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1	cetera.	02:18:57
2	So yes to the question; I just don't	02:18:58
3	know the mechanics of all of that.	02:19:01
4	Q. Okay. Did any of the members of the	02:19:02
5	commission or their staff make any suggested	02:19:05
6	revisions or question any of the information	02:19:09
7	contained in Huffman 2?	02:19:13
8	A. Not to my knowledge.	02:19:15
9	Q. Now, Mr. -- I'm sorry -- Speaker Cupp	02:19:24
10	this morning testified of drafts of this	02:19:27
11	statement.	02:19:29
12	Are you aware of earlier drafts of this	02:19:29
13	statement?	02:19:31
14	A. Not specifically, no.	02:19:32
15	Q. What about generally? Would a document	02:19:37
16	like this have a draft circulated?	02:19:40
17	A. Yeah, I mean, basically that day I	02:19:43
18	was -- when it became clear that the	02:19:48
19	Democrats -- I guess I still held out hope even	02:19:52
20	the day before, but I wasn't getting any	02:19:55
21	response.	02:19:58
22	But it became clear that it was possible	02:19:58
23	that we were going to get this four-year map,	02:20:01
24	and this was statements required in that	02:20:04
25	circumstance. That's when work on this began.	02:20:10

1 I frankly didn't know about that until told by
2 staff that, hey, this statement is necessary if
3 we don't work out a deal.

4 So I was shown a draft or a copy. I
5 don't recall having any of my own suggested
6 changes. So if there were other drafts that
7 were changed by other folks, I'm not aware of
8 that.

9 Q. Did you personally have any input into
10 the drafting of this statement?

11 MR. STRACH: Objection.

12 Answer if you can.

13 THE WITNESS: Yeah, I didn't -- I didn't
14 type it up or suggest word changes. This was
15 handed to me. It was reviewed by me. I looked
16 at.

17 And what I was -- you know, I wanted to
18 make sure that everything in here was fully
19 correct and talked about what the constitution
20 said you should talk about, which were results
21 of elections over the past ten years and, you
22 know, the other language that's in there.

23 So I didn't -- I didn't, you know, draft
24 up and say this has to be in here, that has to
25 be in here. But I think it talks about the

1 things that you're supposed to.

02:21:33

2 And I think the best answer is to the
3 extent that I looked at it and said, yeah, I
4 think these things are good and they ought to
5 be in there, I guess that's my personal
6 contribution.

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7 BY MR. FUNARI:

02:21:44

8 Q. Well, I guess what I was getting at, if
9 Mr. Strigari was the drafter, the actual person
10 who put words to paper, did he do so at your
11 direction? Did you tell Mr. Strigari, "This is
12 what I want the statement to say," or words to
13 that effect?

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02:22:02

14 A. Yeah, I don't know if Mr. Strigari was
15 the drafter, but the answer to your question
16 is, no, this was something that was presented
17 to me. Something that we would have to do in
18 the event that there would not be a ten-year
19 map.

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20 Q. We looked at Section 6(B) of Article XI
21 a short while ago, and if you'll recall 6(B)
22 requires a determination of the statewide
23 preferences of the voters of Ohio. Do you
24 recall that concluding clause?

02:22:19

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02:22:35

25 A. Yeah.

02:22:37

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1 Q. Who made the calculation that a
2 statewide proportion of voters favoring
3 statewide Republican candidates was 81 percent
4 based on the proportion of elections won as
5 stated in this document?

6 A. Well, I don't know who calculated the 16
7 divided into 13 is 81 percent. I think anybody
8 can do that.

9 Certainly I suggested that what the
10 Constitution says is that we're supposed to
11 look at the results of the previous ten years
12 of elections, of statewide elections, both
13 federal and state.

14 And, you know, that's something that
15 anybody with a little bit of historical,
16 political knowledge can figure out.

17 As to the 54-46 part of it, I didn't
18 know that. I guess you've got to go through
19 with the results of the Secretary of State's
20 office and add all of those things up, and
21 that's not something you can do off the top of
22 your head.

23 So, yeah, I mean, 81 percent is pretty
24 easy to see. Those are the results of the last
25 ten years prior to this year.

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1 Q. So that calculation, who was it that
2 first devised the idea that using elections won
3 to inform the commission's determination of the
4 statewide preferences of the voters? Who
5 decided that?

6 A. Well, the commission decided it,
7 ultimately, when they adopted this statement
8 unanimously I might add, without objection.

9 But the first idea about this, you know,
10 it might have been my idea. I guess I remember
11 talking about it, and I said: Look, the
12 Constitution says look at results, if we ever
13 get to Section 6. But the Constitution says
14 look at results, and those are results of the
15 previous ten years of election.

16 So who is the first brain child of this?
17 I guess I don't know who first specifically
18 suggested it. It might have been me. But I
19 don't -- you know, it's pretty easy to see what
20 results are and one result is who wins and
21 loses elections.

22 Q. Right.

23 A. And what party they are.

24 Q. And that is -- you'd agree that that is
25 one way of determining the statewide

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1	preferences of the voters of Ohio, using the	02:25:18
2	information from statewide, state, and federal	02:25:24
3	partisan general election results in the last	02:25:28
4	ten years. There would be other ways to do	02:25:31
5	that, correct?	02:25:34
6	A. Sure, yeah.	02:25:34
7	Q. Did you consider any other way to	02:25:36
8	calculate how to determine the statewide	02:25:42
9	preference of the voters of Ohio?	02:25:47
10	A. You're stepping outside of this	02:25:48
11	statement. You're just talking about myself?	02:25:52
12	Q. Yes.	02:25:54
13	A. Yeah.	02:25:56
14	Q. We talked about elections won, right?	02:25:56
15	And you may have been the individual who came	02:26:00
16	up with that idea. My question was did you	02:26:03
17	have any other ideas of how that calculation or	02:26:07
18	measurement might be made?	02:26:10
19	A. No, because, again, our first mission	02:26:12
20	here was to make sure that the mandates in the	02:26:20
21	constitution were met. And this, you know,	02:26:23
22	calculus was part of making sure that our	02:26:26
23	statement accurately reflected the facts that	02:26:30
24	the commission would consider in exercising its	02:26:33
25	discretion.	02:26:36

1 So, you know, these are -- the two that
2 are specifically mentioned in here are the two
3 that are -- you know, show -- two different
4 ways of showing results.

5 I suppose that, you know, there may be a
6 lot of different ways that you could talk about
7 results in the last ten years and sort of parse
8 that out about, well, how hard would some
9 candidate campaign in a particular election,
10 and is that really a valid result or do we
11 still include it in the same weighting?

12 But none of that was really done.
13 Again, because this wasn't a mandatory part of
14 the constitution. But we did want to comply
15 with the requirement that this statement be
16 prepared, so we put in the things we thought
17 were the results. But these aren't things that
18 I calculated or I did some independent research
19 on.

20 Q. All right. Do you know if anyone was
21 consulted for the purpose of providing research
22 for the numbers that made their way into this
23 statement?

24 A. No, I don't know that.

25 Q. So let's talk about the second, I guess,

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1 bucket of numbers that's on the screen. When
2 considering -- it's right at the top of the
3 screen.

4 When considering the number of votes
5 cast in each of those elections for Republican
6 and Democratic candidates, the statewide
7 proportion of voters favoring statewide
8 Republican candidates is 54 percent, and the
9 statewide proportion of voters favoring
10 statewide Democratic candidates is 46.

11 So I want to focus on that, the second
12 method of calculating voter preferences as set
13 forth here.

14 Who was it, if you know, that came up
15 with those percentages?

16 A. I don't know the answer to that.

17 Q. Was it a member of your staff, do you
18 know?

19 A. Well, I don't think that -- I think this
20 information is just publicly available at the
21 Ohio Secretary of State's website.

22 So whoever went through and did the
23 calculations or added up the total votes and
24 all of that sort of thing, I don't know who did
25 that.

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1 These were -- I think were the same
2 numbers that the Democrat Senate map
3 considered. Although, for some reason, I think
4 at some point somebody was saying 55-45.

5 So I don't know who went through to the
6 Secretary of State's website and did all the
7 addition of votes, et cetera.

8 Q. So we've talked about both of the
9 measures of proportionality that are in this
10 final adopted 8(C)(2) statement. Were there
11 any other measures of proportionality
12 considered by the commission, other than these
13 two that made their way into the 8(C)(2)
14 statement?

15 A. No. I think those things would have
16 been discussed at a commission meeting, so I
17 think the answer to that is no.

18 Q. Okay. At the bottom of this Exhibit 2,
19 it reads: Using this data, the Commission
20 adopted the final general assembly district
21 plan, which contains 85 districts (64.4%)
22 favoring Republican candidates and 47 districts
23 (35.6%) favoring Democratic candidates out of a
24 total of 132 districts.

25 Do you see that?

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1	A. Well, it's not up on my screen here at	02:30:40
2	the moment, but I think I heard you read it	02:30:44
3	correctly, or I think you read it correctly,	02:30:47
4	so -- somebody would have to scroll on my	02:30:50
5	screen.	02:30:52
6	Q. You're not seeing the screen?	02:30:53
7	A. I'm seeing the screen, but the bottom	02:30:54
8	portion that you just read from is not on my	02:30:56
9	screen.	02:30:58
10	Q. Oh, I'm sorry. It's on ours.	02:30:58
11	Can Planet Depos move that up?	02:31:02
12	A. I apologize. I thought you were reading	02:31:03
13	the last page. It is on my screen. I have	02:31:06
14	that in front of me. I apologize.	02:31:08
15	Q. I'll give you a minute to read it.	02:31:11
16	A. No, it's okay. I've got it. I read it	02:31:12
17	before.	02:31:14
18	Q. All right. So these numbers that the	02:31:14
19	commission adopted for the General Assembly	02:31:19
20	plan of 64.4 percent favoring Republican	02:31:21
21	candidates and 35.6 favoring Democratic	02:31:25
22	candidates, when did you first learn that those	02:31:30
23	were the numbers that were going to be put	02:31:34
24	forth in this statement?	02:31:37
25	A. When I saw the statement, which was	02:31:38

1	probably sometime late afternoon on	02:31:44
2	September 15th.	02:31:47
3	Q. Were you, to your knowledge, the first	02:31:55
4	member of the commission to see this statement?	02:31:57
5	A. I do not know the answer to that.	02:31:59
6	Q. Do you know if other commissioners were	02:32:03
7	provided a copy of this Section 8(C)(2)	02:32:07
8	statement prior to their being asked to vote	02:32:12
9	for it or against it at the September 15th	02:32:16
10	meeting?	02:32:20
11	A. Yes, they were.	02:32:20
12	Q. When were they provided with a copy of	02:32:22
13	it?	02:32:27
14	A. I can't tell you that specifically, but	02:32:27
15	I think it's in the 7:00 to 8:00 range. Those	02:32:32
16	things were sent to their emails by -- I think	02:32:36
17	by my staff, and I think they all acknowledged	02:32:40
18	receipt of it.	02:32:45
19	Q. Why didn't your staff or you send a	02:32:46
20	draft of this statement to the other	02:32:51
21	commissioners prior to commencing the	02:32:55
22	September 15th meeting?	02:32:58
23	A. Well, to be clear, the meeting commenced	02:33:00
24	at 10:30 in the morning and recessed.	02:33:03
25	This was worked on by my staff and	02:33:08

1 presented to me sometime late in the afternoon.

02:33:12

2 And what we sent to them at whatever
3 time that those emails went out, 7:00 or 8:00,
4 was a draft, when it became, again, apparent to
5 me at that point that, you know, I was -- I was
6 waiting most of the afternoon on the 15th for a
7 response of some kind from Leader Sykes or
8 Senator Sykes. So what we sent at 8:00 was a
9 draft.

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10 Now, it's a draft until the commission
11 adopts it, which, ultimately, the commission
12 adopted it without any changes to the proposal
13 that was sent out at 8:00.

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14 And, in effect, somebody had to do
15 something about this because the Constitution
16 required it. So that's -- it was a draft until
17 it was adopted.

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02:33:59

18 Q. Understood. What was the plan that you
19 had sent over to the Sykeses that you were
20 awaiting a response on between the time the
21 commission convened in the morning of the 15th
22 and the time it reconvened in the evening?

02:34:00

02:34:07

02:34:12

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02:34:20

23 A. Well, that plan was sent to them much
24 before that, which we were attempting to
25 negotiate with the Sykes. So they -- that time

02:34:22

02:34:29

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1 period stretches back into the previous week.

02:34:35

2 But if you're only asking about the
3 15th, I was told by Senator Sykes that a
4 response to our latest proposal would be
5 coming.

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6 I had attempted to meet with he and
7 Leader Sykes earlier in the week. I requested
8 to meet with them. They didn't respond to my
9 request.

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02:34:58

02:35:01

10 But if you're only asking about that
11 day, I had a series of phone conversations with
12 Senator Sykes. Again, the time was 10:30. We
13 were supposed to meet, and beginning at about
14 1:00 o'clock, I was told by Senator Sykes that
15 the response to our latest proposal would be
16 coming, and we pushed the time back to 3:00
17 o'clock.

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18 And I think another phone call, let's
19 come in at 5:00. We pushed it back to 7:00,
20 and I continued to call.

02:35:26

02:35:29

02:35:33

21 I think maybe we talked three times that
22 day, and he said a response would be coming.
23 And ultimately, because we have the -- we have
24 to do this on September 15th, Speaker Cupp
25 convened the meeting and of course we did what

02:35:34

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1 we did.

02:35:53

2 But there were a series of attempts on
3 my part to try to have some negotiations in
4 response to our proposals.

02:35:56

02:35:59

02:36:04

5 Q. Okay. I apologize, it's probably a
6 result of my misunderstanding.

02:36:06

02:36:10

7 It was my understanding that, while the
8 commission was in recess on the 15th, there
9 were actual negotiations back and forth between
10 the Democrats and the Republican legislative
11 leaders. It sounds like that is incorrect.

02:36:11

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12 There was not a back-and-forth negotiation, but
13 rather you had made the prior week what you've
14 called the latest proposal, and you were
15 waiting for them to respond, which they never
16 did; is that correct?

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17 A. Yeah, so, that's part of that.

02:36:38

18 The other thing is when you say
19 Republican and Democrat members of the
20 commission, I don't know what sort of
21 discussions Secretary LaRose, Governor DeWine,
22 and Auditor Faber were having with anyone.

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02:36:50

23 And I guess I don't know everything that
24 Speaker Cupp may have been talking to each
25 other about.

02:36:54

02:36:56

02:36:58

1 But for my part, I was trying to get my
2 Democratic counterpart in the Senate to
3 respond.

4 And, frankly, I thought that Vern,
5 because, you know, I know him, known him for
6 many years, was the best person for me to try
7 to talk to. And tried to -- as I said, tried
8 to -- asked him if he would meet with me in
9 Akron earlier in the week. I didn't get a
10 response to that. And then when I did speak
11 with him in Cleveland on the 13th, he said they
12 would have a response the next day. We didn't
13 get that.

14 And when we talked on the 15th, he
15 promised, several times, responses.

16 And I don't put that all on him. I know
17 there's a lot of different folks, and there's a
18 lot of things that have to happen. It's not
19 just you walk in the room, make a decision, and
20 come back out.

21 So, if you're including other Republican
22 members of the commission, I don't know what
23 discussions they may have been having on that
24 particular day.

25 Q. Fair enough. So the "latest proposal,"

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02:38:01

1 as you use that term, what was the latest
2 proposal that you made to the legislative
3 Democrats?

4 A. So I'm going to use these terms just --
5 and if these aren't clear to you, I think
6 they're clear, but the initial map that the --
7 although we didn't quite know that when it was
8 introduced -- and I'm just going to use House
9 numbers just because it's closer to percentages
10 and so we can have one sort of rubric.

11 As I understand it, it had districts
12 that leaned Republican. The total number was
13 68. The Democratic proposal had 57 districts
14 that leaned Republican. The subsequent
15 proposal that we had made had 62 districts that
16 leaned Republican.

17 Again, as I understand it. I didn't
18 examine these districts or whatever indices may
19 have been used. And that was sort of where we
20 were at a day or so before, and certainly on
21 the 15th.

22 It was our attempt, what we were trying
23 to do was get them to respond to, you know, "if
24 we boil it all the way down to 68; no, how
25 about 57; no, how about 62," we were

1 negotiating, and we were at 62, and they were
2 at 57.

3 And, again, there are many other things
4 that were part of that, of course. But we were
5 trying to get a response out of them.

6 Q. Understood. Mr. DiRossi testified that
7 he worked with two consultants in his work
8 drawing the map. Would you agree that
9 Mr. DiRossi worked with two consultants in his
10 work drawing the map?

11 MR. STRACH: Objection. I don't think
12 he testified that they helped him draw the map.
13 He talked about two consultants, but not in
14 drawing the map.

15 MR. FUNARI: Fair enough. Let me
16 rephrase the question. I'll withdraw that
17 question.

18 BY MR. FUNARI:

19 Q. Do you have an understanding of whether
20 or not two consultants were made available for
21 consulting purposes and for the provision of
22 data or other reasons to Mr. DiRossi for his
23 map drawing process?

24 A. To be honest with you, the answer to
25 that is no. I know there was a data guy, and I

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1 don't know what his name was.

02:41:02

2 If there was a second person who was
3 providing data to Ray, then I don't have any
4 reason to doubt his testimony about that. I
5 just -- wasn't necessary for me to vet any of
6 that. That was up to Ray. And, of course, you
7 give -- you give folks the tools they need to
8 accomplish their task.

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9 So the answer really is, no, I don't
10 know who those folks are.

02:41:24

02:41:26

11 Q. But do you remember authorizing
12 Mr. DiRossi to hire such consultants?

02:41:27

02:41:29

13 A. I don't specifically remember that, but
14 that probably happened.

02:41:32

02:41:34

15 Q. Does the name Clark Benson ring a bell
16 to you?

02:41:36

02:41:39

17 A. Rings a bell. I guess I can't tell you
18 anything else about him or who he is.

02:41:40

02:41:43

19 Q. What about the context in which you know
20 that name? You recognize that name from
21 Mr. DiRossi's work on the maps?

02:41:47

02:41:49

02:41:51

22 A. No, I really don't.

02:41:53

23 Q. What about John Morgan? Are you
24 familiar with that name?

02:41:57

02:42:00

25 A. I don't think I know who John Morgan is,

02:42:01

1	no.	02:42:04
2	Q. Have you ever worked with Mr. Benson, to	02:42:10
3	the best of your recollection?	02:42:12
4	A. I don't think so, no.	02:42:13
5	Q. Do you know whether Mr. DiRossi was	02:42:21
6	provided access to non-public 2012 and 2014	02:42:39
7	election data?	02:42:48
8	A. No, I don't know the answer to that.	02:42:49
9	Q. Did the commission ever consider hiring	02:42:54
10	a nonpartisan mapmaker to draw the maps to your	02:43:02
11	knowledge?	02:43:09
12	A. Well, I guess the way the commission	02:43:09
13	would consider that would be jointly at a	02:43:16
14	public meeting. Those meetings, of course, I	02:43:20
15	think are all recorded and there's minutes of	02:43:23
16	it, et cetera.	02:43:25
17	So I don't recall at any of our meetings	02:43:26
18	that we discussed that topic.	02:43:28
19	Q. What about before the commission was	02:43:30
20	convened on August 6th? Was there any	02:43:34
21	discussion among the members, or the	02:43:37
22	individuals who would become the members of the	02:43:41
23	commission, whether or not --	02:43:44
24	A. Yeah, I -- at the meeting I mentioned,	02:43:47
25	the end of July, beginning of August meeting in	02:43:49

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1 the Speaker's office, and really maybe before,
2 we talked about each of the four caucuses
3 having access to someone who can assist them in
4 making these decisions.

5 From the perspective of the Senate
6 Republicans, we didn't think it was necessary
7 for us to go out and hire outside people.
8 Mr. DiRossi, he might be the most qualified
9 person in the United States, as far as I know.
10 He had done this for two cycles, and, you know,
11 was enthusiastic about he wanted to do it. So
12 there wasn't any reason for me to do anything
13 about that.

14 I don't know what Speaker Cupp's
15 analysis was in terms of who they had.

16 Leader Yuko, who, of course, did not
17 become a member of the commission, his
18 statement at that meeting was we have -- I
19 guess I can't remember -- there is a Democratic
20 staffer, nice guy. He's been around for years.
21 I apologize, I can't remember his name. He
22 knew about drafting maps, so they wouldn't need
23 to hire an outside person.

24 However, Leader Sykes, you know, said --
25 you know, made a fair statement, a clear

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02:44:56
02:44:59
02:45:01
02:45:02
02:45:06

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1	statement, that: Hey, we don't have a Ray	02:45:09
2	DiRossi in-house or same fellow for the Senate	02:45:11
3	Democrats. We need additional funds to go out	02:45:15
4	and hire a mapmaker or consultant or whatever	02:45:20
5	term we were using at the moment.	02:45:25
6	So we authorized a considerable amount	02:45:30
7	of money. I think originally each caucus, each	02:45:32
8	party, I think, was given \$150,000, and that	02:45:35
9	was used to buy computers and software and	02:45:39
10	such.	02:45:41
11	But in this case, Leader Sykes asked	02:45:45
12	for, I think, an additional \$250,000, I think,	02:45:49
13	just to hire consultants, which I think was for	02:45:53
14	mapmaking purposes and we agreed to do that.	02:45:59
15	Of course, that would have had to be something	02:46:01
16	that we all agreed to.	02:46:03
17	So in this case, and I think it was just	02:46:08
18	the House Democrats, I don't know exactly how	02:46:10
19	they did what they did, but I think they went	02:46:13
20	out and hired somebody, and that was for four	02:46:15
21	months. That included the Congressional	02:46:17
22	portion of this redistricting, which, of	02:46:19
23	course, is ongoing as we speak.	02:46:22
24	We try not to, you know, get down to	02:46:29
25	telling each other what we're going to do with	02:46:33

1 our consultants. It's supposed to be a process
2 where you take money. But the answer is the
3 House Democrats got an additional quarter of a
4 million dollars or so to assist them in the
5 mapmaking process.

6 Q. And is it correct that none of the
7 statewide elected officials, that being
8 Governor DeWine, Secretary of State LaRose, and
9 Auditor Faber, none of those statewide elected
10 officials participated in that meeting where
11 the decision was made that there would be no
12 hiring of a nonpartisan mapmaker?

13 A. That is correct. This is a meeting that
14 happened before the commission convened among
15 the four caucus leaders, three of whom ended up
16 actually being on the commission.

17 Q. I think I know the answer to this, but
18 I'm going to ask it anyway. Did the commission
19 as a collective entity ever attempt to draft a
20 map?

21 A. No. Again, they can only act through a
22 joint action, either in a meeting or I suppose
23 possible to do a written resolution. But none
24 of that ever happened, no.

25 Q. Did the commission ever develop metrics

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1	for assessing the various plans that were to	02:48:12
2	come before it as contemplated by the	02:48:16
3	Constitution for compliance with Section 6?	02:48:18
4	A. Not -- yeah, not to my knowledge.	02:48:24
5	Q. Did each -- do you know if each	02:48:28
6	independent member, including yourself, had	02:48:32
7	their own individual idea of the metrics by	02:48:34
8	which he or she would use to determine the	02:48:39
9	compliance of any respective map to Section 6?	02:48:42
10	MR. STRACH: Objection.	02:48:48
11	THE WITNESS: Yeah, I think -- I don't	02:48:49
12	know what the other six commission members did.	02:48:51
13	What I instructed Ray to do was, first	02:48:55
14	and foremost, comply with the Constitution, the	02:48:58
15	mandates of the constitution, and that our	02:49:02
16	mission here, so to speak, was to attempt to	02:49:08
17	come to a resolution that would allow us a	02:49:11
18	ten-year map, which necessarily would have	02:49:14
19	required both Democratic members of the	02:49:16
20	commission to be in favor of it.	02:49:20
21	So that's what our attempts were.	02:49:21
22	Section 6, of course, is aspirational	02:49:26
23	first, but if we require -- if we comply with	02:49:29
24	the mandates of the Constitution, are not --	02:49:33
25	that's not something that is also a mandate.	02:49:38

1 BY MR. FUNARI:

02:49:45

2 Q. So you don't know one way or another
3 whether any of the other commissioners or their
4 staff created specific metrics or checklists
5 for purposes of evaluating whether or not the
6 maps that would come before them would comply
7 with Section 6?

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8 A. Yeah, I don't know what the other six
9 commission members were doing in that regard.

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02:50:08

10 Q. But you did not. You didn't create any
11 such, you know, metric or checklist by which
12 you would evaluate compliance with Section 6 as
13 the maps would come before you?

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02:50:23

02:50:26

14 A. Well, I guess the one exception to that
15 would be the metrics that were set out in the
16 statement, which we've already reviewed, which
17 are the results of elections over the previous
18 ten years, either in percentage or outcome.

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02:50:40

19 So if you want to call that metrics, I
20 suppose those are things that I discussed with
21 my staff in the afternoon of the 15th.

02:50:44

02:50:47

02:50:50

22 Q. Right. So that was after the
23 September 9th map was introduced that you
24 developed that metric in your mind and
25 discussed with your staff sometime during the

02:50:58

02:51:00

02:51:02

02:51:04

1 recess on the 15th?

02:51:06

2 A. That was the date that we prepared the
3 statement and began including all of the things
4 that we thought were relevant as it was related
5 to that Section 4 -- excuse me, the statement
6 that was required. Certainly those other
7 things were known prior to that and as early
8 as, you know, four or five days or probably
9 earlier than that.

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10 Again, anyone at any time can look and
11 see who has won the previous ten years. 13 out
12 of 16 have been won by Republican.

02:51:40

02:51:44

02:51:48

13 So when that idea first surfaced and
14 discussed, I don't know, but that was long
15 before September 15th. And the 54-46 or 55-45,
16 well, people have been talking about that for
17 several months, including the Democrats. So
18 these things weren't unknown. But as a
19 statement of the commission, as its own
20 statement as to these are the results, those
21 were things that had to go on the statement.

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22 Again, there's no formula in the
23 constitution. We consider facts and then
24 exercise discretion, and that was the purpose
25 of having it in a statement. But those things

02:52:22

02:52:23

02:52:26

02:52:29

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1 were known, generally, to the public and other
2 people, including me, prior to September 15th.

3 Q. Okay. Just I may have cloudy view of
4 the timeline, then, here. Just so I'm clear.
5 This idea of using statewide elections won as
6 one of the two metrics that made their way into
7 the 8(C)(2) statement, you came up with that
8 idea approximately five or six days before the
9 15th; is that right?

10 A. I don't think that's accurate. And I
11 don't know that I came up with it. I may have
12 come up with it.

13 But this was something as we began to
14 talk about what are all of the things that we
15 were considering, that was a discussion that we
16 had long before the 15th.

17 Maybe at the end of August, beginning of
18 September, the first time, you know, we talked
19 about, well, what do results mean?

20 Well, results, as suggested by some
21 folks, including Democrats, were add up all of
22 the votes in all of the elections and do a
23 calculation. I'm not sure that that -- you
24 know, because, again, you have 19 races,
25 they're different candidates, different things.

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1	I'm not sure that adding all of the votes	02:53:49
2	together would be one. And -- but adding --	02:53:53
3	you know, looking at the actual results of who	02:53:57
4	won is another way of doing it.	02:53:59
5	You know, the one thing that didn't make	02:54:01
6	it into the statement, I guess, I'm sitting	02:54:04
7	here thinking, is look at the actual results of	02:54:05
8	all of those statewide elections, those 19	02:54:09
9	statewide elections.	02:54:12
10	And some candidates were winning 51-49.	02:54:13
11	Of course, you know, by the way, this	02:54:17
12	calculation doesn't include third-party and	02:54:19
13	independent candidates. So there's a lot of	02:54:21
14	other percentages that aren't in the statement.	02:54:27
15	Those aren't things that we considered,	02:54:29
16	necessarily, because, you know, we're sitting	02:54:32
17	there that day saying what are important facts	02:54:34
18	for the commission to include in the statement?	02:54:36
19	But, yeah, I think these are things that	02:54:40
20	everybody knew long before the 15th.	02:54:42
21	Q. Okay. So as I understand it, and tell	02:54:45
22	me if this is a fair statement: You had	02:54:49
23	discussions prior to the 15th about a metric	02:54:52
24	being statewide elections won, but you didn't	02:54:56
25	know that it was going to make its way into the	02:55:01

1 8(C) (2) statement as a basis for the 02:55:05
2 determination of the commission until you saw 02:55:10
3 that statement sometime during the recess on 02:55:12
4 the 15th. 02:55:16

5 A. Yeah, and your timing is correct. 02:55:17

6 I would just say as this was a "fact" 02:55:20
7 for consideration. I don't know that I would 02:55:24
8 say "basis." That means something a little bit 02:55:26
9 different to me. 02:55:28

10 But that is correct. I didn't know it 02:55:29
11 was going to go into the statement until the 02:55:31
12 afternoon of the 15th because, to be very 02:55:32
13 honest with you, if I ever knew that the 02:55:35
14 statement was necessary, nobody really 02:55:37
15 explained that to me until: Oh, yeah, we 02:55:39
16 actually have to do this, don't we? Let's 02:55:43
17 start preparing a statement in case we don't 02:55:45
18 get a four-year map. 02:55:47

19 Q. So who was the actual decision-maker 02:55:49
20 that made the decision to put that metric, 02:55:53
21 statewide elections won, into the 8(C) (2) 02:55:56
22 statement? 02:56:01

23 A. All seven members of the commission. 02:56:02

24 Q. All seven of the commission voted for 02:56:05
25 it. 02:56:07

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1	A. Right.	02:56:07
2	Q. But I understand from earlier testimony	02:56:08
3	and the testimony at the hearing, public	02:56:10
4	hearing, that it was presented to them with not	02:56:13
5	much notice. And many of them put that on the	02:56:17
6	record. They were unhappy about that. It's	02:56:23
7	kind of been unanimous testimony that the	02:56:25
8	statement came from your office.	02:56:28
9	So my question is who made the decision	02:56:30
10	to put that metric of statewide elections won	02:56:33
11	into the 8(C)(2) statement?	02:56:38
12	A. Yeah, the proposal was made by me. The	02:56:40
13	motion was made by me. Again, the conclusion,	02:56:44
14	the decision was made by the commission.	02:56:48
15	Q. So it was you, not necessarily a member	02:56:50
16	of your staff, who decided to put that metric	02:56:58
17	into the 8(C)(2) statement?	02:57:01
18	A. It was my decision to make the motion to	02:57:02
19	propose that to the commission. The staff	02:57:06
20	doesn't make decisions. The people making the	02:57:08
21	motions do that.	02:57:11
22	Q. Right. And you have no recollection, as	02:57:12
23	I understand it, who on your staff actually	02:57:18
24	included and drafted that language of the	02:57:22
25	statewide elections won and the 81 percent into	02:57:26

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1	the statement, correct?	02:57:31
2	A. No. That's correct, yeah.	02:57:32
3	Q. Okay. Okay, give me one second, if you	02:57:34
4	would.	02:57:44
5	Madam court reporter, could you give me	02:57:44
6	a time where we are on the record?	02:57:46
7	(Discussion held off the written	02:58:17
8	record.)	02:58:17
9	BY MR. FUNARI:	02:58:28
10	Q. Mr. President, were you one of the	02:58:28
11	principal authors of the 2015 amendments to	02:58:30
12	Article XI?	02:58:35
13	A. Can you repeat that? I didn't quite	02:58:36
14	catch that.	02:58:38
15	Q. Sure. Let me back up. Were you a	02:58:38
16	member of the Senate during the negotiation and	02:58:40
17	drafting of the 2015 amendments to Article XI?	02:58:47
18	A. So I think I know what you're asking. I	02:58:58
19	was a member of the Ohio House of	02:59:00
20	Representatives when the 2014 changes, many of	02:59:02
21	which we're discussing, were drafted, and I was	02:59:06
22	a principal in that. And that went on the	02:59:10
23	ballot in 2015. So hopefully that's helpful.	02:59:13
24	Q. Yeah. I guess my mistake was you were	02:59:16
25	in the House, not the Senate, at the time,	02:59:18

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1	correct?	02:59:20
2	A. Correct.	02:59:20
3	Q. Okay.	02:59:20
4	A. As was Vern Sykes at that point. We're	02:59:22
5	now both in the Senate.	02:59:24
6	Q. And you worked with Mr. Sykes through an	02:59:33
7	organization that you and he co-founded called	02:59:36
8	the Fair Districts for Ohio group, correct?	02:59:38
9	A. Not in the drafting of that, if that's	02:59:40
10	what you're --	02:59:44
11	Q. No --	02:59:44
12	A. If you're connecting it to the previous	02:59:45
13	question, that had nothing to do with the work	02:59:47
14	on the legislation.	02:59:49
15	Q. Right. But you and Mr. Sykes joined	02:59:51
16	forces, for lack of a better term, to advocate	02:59:55
17	publicly for those amendments, correct?	02:59:59
18	A. Yeah, after the legislature placed the	03:00:03
19	issue on the ballot in two-thousand -- for the	03:00:06
20	2015 election, which was in November of 2015,	03:00:12
21	at that time private citizen Huffman and	03:00:20
22	private citizen Sykes, we did form an	03:00:22
23	organization, and we raised some money, not too	03:00:26
24	much, and we hired some folks and bought some	03:00:30
25	advertising. We did various editorial trips,	03:00:32

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1	et cetera, during that 2015 year.	03:00:40
2	Q. And what was the purpose, generally, of	03:00:50
3	that group?	03:00:52
4	A. Well, I had -- a few years before that	03:00:52
5	had -- as a -- also as a member of the House,	03:00:57
6	put an initiative on the ballot to ask the	03:00:59
7	legislature to -- we have age limits for	03:01:02
8	judges, and I tried to get it raised from 70 to	03:01:05
9	75 because I thought we were losing a lot of	03:01:08
10	people off the bench. I should have got rid of	03:01:11
11	it altogether.	03:01:14
12	It went down, and one of the things I	03:01:15
13	learned is if you want a ballot initiative,	03:01:17
14	whether it's by petition or legislature, you	03:01:19
15	need to campaign for it.	03:01:22
16	So the purpose of that was to try to get	03:01:23
17	the issue passed.	03:01:25
18	Q. Now, there was literature related to the	03:01:31
19	campaign that the organization was advocating	03:01:34
20	for. Were you involved in preparing any of	03:01:38
21	that literature, the posters or other medium,	03:01:41
22	in which the Fair Districts for Ohio was	03:01:45
23	getting its message out?	03:01:49
24	A. Well, I think one of the things that	03:01:51
25	happened in the campaign, as usually happens	03:01:55

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1	with these campaigns, is a lot of folks sort of	03:01:59
2	take their own particular ownership of it.	03:02:02
3	So I was responsible for, you know, the	03:02:08
4	things that I said and did. But there were a	03:02:09
5	lot of folks who claimed that somehow they were	03:02:11
6	responsible for this and campaigning in a	03:02:15
7	variety of different ways to support it.	03:02:19
8	So what was said and what wasn't said in	03:02:23
9	particular things, I guess I'd have to see what	03:02:27
10	specifically it is that you're talking about	03:02:30
11	and whether I sanctioned it or drafted it or	03:02:32
12	approved it.	03:02:35
13	I -- unfortunately, and we heard this in	03:02:37
14	some of the testimony, there's a lot of folks	03:02:39
15	out there that think that this went on by	03:02:42
16	virtue of petitions that were circulated.	03:02:44
17	Because they said, you know, "They circulated	03:02:46
18	petitions and that's why it got on the ballot."	03:02:48
19	They were wrong about that.	03:02:51
20	So if there are particular documents or	03:02:52
21	pieces of paper or ads or things like that, I'd	03:02:56
22	have to take a look at it.	03:03:00
23	I do recall we did not -- most of what	03:03:03
24	we did were radio ads, and then we did some	03:03:06
25	editorials and things like that. We really	03:03:10

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1 didn't have enough money to go out and buy TV
2 commercials or, you know, some of the other
3 things.

4 And I don't think digital advertising
5 was in 2015 what it is today. So I'd have to
6 see if I have a recollection of what you're
7 talking about.

8 Q. Okay. In the interest of time, I'm not
9 going to pull up the various posters, but I do
10 have some excerpts that I'm going to read to
11 you and then ask you a couple of questions
12 about.

13 The first is there is a poster that came
14 out, published by Fair Districts of Ohio, that
15 noted that the amendments were to advance
16 fairness and specifically "to protect against
17 gerrymandering by prohibiting any district from
18 primarily favoring one political party and
19 require districts to closely follow the
20 statewide preferences of voters."

21 Do you recall having any part in coming
22 up with that language which appeared on the
23 materials put out by the Fair Districts of
24 Ohio?

25 A. No. I don't have any recollection of

1	that.	03:04:20
2	Q. Another was to advance the goal of	03:04:21
3	accountability, and the revisions to Article II	03:04:24
4	would "create a process for the Ohio Supreme	03:04:29
5	Court to order the commission to redraw the map	03:04:33
6	if the plan favors one political party."	03:04:36
7	Do you recall any input into the posters	03:04:40
8	or flyers of the organization including words	03:04:45
9	to that effect?	03:04:48
10	A. No.	03:04:49
11	Q. Do you agree with those statements,	03:04:50
12	though?	03:04:57
13	A. Well, the second one, since I think I	03:04:57
14	can remember that one a little better -- we can	03:05:04
15	go back to the first one -- the second one, of	03:05:06
16	course, is incorrect to the extent that if the	03:05:09
17	mandates of the constitution are met, the	03:05:12
18	Supreme Court does not or cannot order a redraw	03:05:15
19	based on the items that you've put in there. I	03:05:21
20	mean, that's pretty clear in the Constitution.	03:05:26
21	And I guess I'd have to have you read me	03:05:29
22	the first one again to see if I agreed with it.	03:05:31
23	Q. Sure. It goes to fairness. And this	03:05:35
24	one in particular says that the amendments "are	03:05:38
25	meant to protect against gerrymandering by	03:05:42

1 prohibiting any district from primarily
2 favoring one political party and require
3 districts to closely follow the statewide
4 preferences of voters."

03:05:45

03:05:49

03:05:51

03:05:54

5 A. Yeah, I mean, it sounds like, when you
6 use the word "any district," well, of course,
7 it's impossible to do that and follow the
8 mandates of the constitution.

03:05:56

03:05:58

03:06:01

03:06:06

9 You know, if we decided we're going to
10 draft -- draw every district 54-46 or 55-45,
11 whatever it is, we could do that.

03:06:07

03:06:10

03:06:15

12 Now, in theory, you could have 99
13 Republicans elected to the House, but we would
14 have all districts do that. Fact is you can't
15 do that and follow all of the mandated portions
16 of the Constitution. Just like you can't draw
17 a map that has 81 percent, you know, as --
18 because of 13 and 16, because you can't divide
19 counties, all of the other things that are in
20 there.

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03:06:45

21 So it sounds like a political consultant
22 drafting something that may have made sense to
23 them at the time or helped to get it passed,
24 but it's -- it's factually inaccurate.

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03:06:52

03:06:54

03:06:57

25 Q. So if Fair Districts of Ohio was putting

03:07:03

1 out memorabilia and posters and other 03:07:09
2 literature that said things like that, and your 03:07:13
3 name is associated with the organization, would 03:07:18
4 you take issue with that? 03:07:19

5 A. Did you say memorabilia? 03:07:20

6 Q. Yeah, or whatever, literature. 03:07:23

7 A. Literature, oh, okay. Oh, okay. Yeah, 03:07:26
8 I mean, I suppose I would have taken issue with 03:07:30
9 it at the time if I would have sat down and 03:07:34
10 said, "Let's take this word out and put these 03:07:36
11 things in," and all of that. 03:07:39

12 But there were a lot of folks who may 03:07:40
13 have been working on this. For example, the 03:07:43
14 League of Women Voters were putting out a lot 03:07:46
15 of things and other entities, whoever they may 03:07:49
16 have been, putting things out to convince 03:07:54
17 people to vote for this. 03:07:56

18 What all they put into it -- you know, 03:07:58
19 and that -- that happens in lots of issue 03:08:01
20 campaigns and political campaigns. You have 03:08:04
21 acolytes of various stripes putting out things 03:08:07
22 about why you should vote for candidates and 03:08:11
23 shouldn't. 03:08:13

24 Everything that everybody ever said 03:08:13
25 about me when I was running for office, even if 03:08:15

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1	they were trying to do me a favor, probably I	03:08:19
2	would take issue with and the same is true in	03:08:21
3	this case.	03:08:23
4	Q. Okay. Mr. President, I think we've been	03:08:24
5	going maybe just over an hour and a half. It	03:08:27
6	would be probably a wise time to take a brief	03:08:31
7	recess, maybe five minutes or so.	03:08:33
8	Is that all right, Phil, with you?	03:08:36
9	MR. STRACH: That's fine with me. Let's	03:08:38
10	say five minutes, I guess.	03:08:40
11	MR. FUNARI: And, madam court reporter,	03:08:41
12	can you give us a time.	03:08:43
13	THE VIDEOGRAPHER: Off the record at	03:09:22
14	3:09.	03:09:24
15	(Recess ensued from 3:09 p.m.	03:16:30
16	to 3:20 p.m.)	03:20:47
17	THE VIDEOGRAPHER: We are back on the	03:20:53
18	record at 3:21.	03:20:54
19	BY MR. FUNARI:	03:20:54
20	Q. Can you hear me okay, President Huffman?	03:21:01
21	A. Yes, I can.	03:21:02
22	Q. Okay. Did any of the other	03:21:04
23	commissioners, besides yourself, have access to	03:21:12
24	Mr. DiRossi during the map drawing process?	03:21:16
25	A. I don't believe so.	03:21:19

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1	Q. Was that at your direction?	03:21:24
2	A. I don't think it was something I needed	03:21:28
3	to direct. Ray's a Senate employee. He's paid	03:21:32
4	by the Senate to do his job. The House, you	03:21:36
5	know, they have their employee that they would	03:21:39
6	work for them.	03:21:42
7	And, again, to the extent that the other	03:21:43
8	commissioners had folks. I don't think it	03:21:46
9	would be necessary, for example, Leader Yuko to	03:21:51
10	direct his employee not to interact with other	03:21:57
11	folks. It's, I guess, maybe understood that's	03:22:00
12	who you work for.	03:22:03
13	Q. I guess I was -- the individuals I had	03:22:04
14	in mind were the other commission members. So,	03:22:07
15	for example, let's use the Governor as an	03:22:09
16	example. Did Governor DeWine have access to	03:22:12
17	Mr. DiRossi during the map drawing process?	03:22:17
18	A. He shouldn't have. So, no, I don't	03:22:20
19	think the Governor or the Governor's folks	03:22:24
20	would have talked to Ray DiRossi about this.	03:22:27
21	Q. And would that be the same for each of	03:22:30
22	the statewide elected officials?	03:22:32
23	A. That's correct.	03:22:34
24	Q. Okay. Why did you not want them to have	03:22:35
25	access to Mr. DiRossi during this process?	03:22:39

1 A. Well, I don't think it's some active
2 determination of what I wanted or didn't want.

3 It's the same for any other activity.
4 If the Governor decided he wanted Frank
5 Strigari's opinion on a legal matter unrelated
6 to this, well, that's not appropriate for him
7 to call my attorney or my chief of staff or
8 someone else, just like I wouldn't to be
9 calling their attorney or chief of staff or
10 whoever it was.

11 So it wasn't a question of wanting to or
12 not wanting to. It was a question of Ray
13 DiRossi worked for me and not any of the other
14 six commissioners.

15 Q. But you knew that the statewide elected
16 officials weren't undergoing similar process,
17 that being hiring a map drawer to draw their
18 own proposal. You knew that?

19 A. I did not know that. I don't know what
20 they were doing or not doing. They had, you
21 know, had talked about perhaps getting map
22 drawing equipment or having people do it
23 internally, you know.

24 So I don't know what they were doing or
25 not doing. You know, it certainly, you know,

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1 they're free to do whatever it is that they
2 want. But I didn't sit down and talk with them
3 about what they were going to do or weren't
4 going to do in terms of drawing a map.

5 Q. Did you have any discussions with them
6 directly or through your staff to members of
7 their staff or to the Governor directly,
8 Auditor, Secretary of State, related to how
9 your map that Mr. DiRossi was drawing was
10 progressing?

11 A. I can't speak to the conversations that
12 my staff had with their staff. I had no
13 conversations with their staff.

14 In the sort of waning moments, maybe the
15 last couple of days, I did have conversations
16 with all three of the statewides, including,
17 you know, that day. "That day" being, excuse
18 me, September 15th.

19 And I think that week of meeting in my
20 office with Secretary LaRose and Auditor Faber,
21 I recall that. And then a telephone
22 conversation also while we were driving up to
23 the -- I was driving myself, and two of them
24 were in the car, we talked about how it was
25 progressing and whether we thought we could get

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03:25:01
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03:25:08
03:25:11
03:25:14

1 the ten-year map, et cetera.

03:25:17

2 Q. And tell me a little bit about those
3 conversations. Was the -- who exactly -- let
4 me back up a second.

03:25:18

03:25:21

03:25:26

5 So who was on that conversation that you
6 just referred to while you were driving to, I
7 believe, a hearing or something?

03:25:27

03:25:29

03:25:32

8 A. Yeah, it was a hearing. It was a
9 hearing in Cleveland on the evening of
10 September. Monday, September 13th. I think
11 the date's right.

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03:25:39

03:25:42

12 And this -- I was -- as I mentioned, I
13 was trying to meet with Senator Sykes and
14 perhaps Leader Sykes in Akron that day, that's
15 where I asked them but they never responded,
16 unfortunately.

03:25:44

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03:25:51

03:25:53

03:25:57

17 But as we were driving up, as I was
18 driving myself up, they were in a vehicle
19 together.

03:25:57

03:26:02

03:26:04

20 Q. "They" being -- I don't mean to
21 interrupt -- yeah, go ahead. Sorry.

03:26:06

03:26:08

22 A. "They" being Auditor Faber and Secretary
23 LaRose.

03:26:11

03:26:14

24 So that conversation, I recall
25 specifically that it took place. I don't

03:26:14

03:26:17

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1	recall everything that was said, of course.	03:26:20
2	Q. Tell me what you recall from that	03:26:22
3	conversation.	03:26:25
4	A. Well, I think they were, you know,	03:26:25
5	encouraging that we get a ten-year map. I	03:26:29
6	said: Hey, that's our goal. We want to get a	03:26:33
7	ten-year map also.	03:26:37
8	I kind of expressed my frustrations for	03:26:38
9	not being able to have conversations with the	03:26:41
10	Democrats.	03:26:44
11	I had, apparently Leader Emilia Sykes	03:26:46
12	had some event over the weekend and was not	03:26:51
13	available on Friday the 10th or Saturday	03:26:55
14	the 11th, and I had understood that Leader	03:27:00
15	Sykes was going with her, because apparently	03:27:03
16	she was getting some award at an alma mater or	03:27:05
17	something else in Florida.	03:27:08
18	And so they weren't available, in	03:27:14
19	essence, to negotiate. And I was trying to get	03:27:15
20	them to meet with me on Monday the 13th; that I	03:27:17
21	could come up early before the Cleveland	03:27:20
22	hearing. But I, again had no response.	03:27:22
23	But I think we were all sort of talking	03:27:26
24	about the same thing, what is it that	03:27:28
25	ultimately would get us a ten-year map. Which,	03:27:29

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1	of course, was contingent on those two votes,	03:27:34
2	those two Democratic votes. Which, of course,	03:27:38
3	that whole question was contingent on us having	03:27:40
4	conversations with them, which we weren't very	03:27:45
5	successful in getting them to talk to us.	03:27:51
6	Q. Did any of the other commissioners,	03:27:54
7	besides yourself, see the map that was	03:27:55
8	ultimately proposed at the September 9th	03:27:58
9	meeting or hearing?	03:28:01
10	A. Well, they saw it at the September 9th	03:28:06
11	hearing; is that what you mean?	03:28:09
12	Q. Yeah, did they see it prior to it being	03:28:11
13	introduced at the September 9th meeting?	03:28:14
14	A. Yeah, they did. I think -- I know	03:28:17
15	specifically that the map was presented by me	03:28:20
16	to Leader Sykes and Senator Sykes prior to the	03:28:23
17	meeting.	03:28:28
18	I'm trying to remember, because some of	03:28:32
19	the -- some of those meetings were conducted by	03:28:37
20	Speaker Cupp, and who might have actually	03:28:41
21	presented that to the Governor and the Auditor	03:28:46
22	and Secretary of State, I don't know.	03:28:50
23	Of course, we couldn't have more than	03:28:51
24	three of us in the room at the same time. So I	03:28:53
25	don't remember who did that.	03:28:56

1 There were also -- seems to me on
2 Saturday, because it was when Ohio State
3 football game was happening, that the staff for
4 several of the commissioners met on a Saturday,
5 went through the different proposals, tried to,
6 in essence, say where's the common ground,
7 things like that.

8 So, yeah, there were a variety of
9 conversations in different ways. So I think
10 all of the commissioners saw the map prior to
11 the September 9th meeting.

12 Q. That meeting with staff on Saturday upon
13 which there was an Ohio State game, was that
14 the weekend, the intervening weekend between
15 the 9th and 15th, or was that a weekend prior
16 to the 9th?

17 A. Well, I guess, as I'm sitting here
18 thinking about it, I think it was the
19 Saturday -- yeah, it would have had to be the
20 Saturday before the 15th. So I think Saturday
21 the 11th is when that happened.

22 Now, I will say, prior to the 11th,
23 there were a lot of conversations jointly
24 between the staff. And when I say "staff," the
25 staff are all seven commissioners. There were

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1 meetings, there were phone calls, there were
2 emails. I don't know what all of those were.
3 But that Saturday meeting that I'm discussing
4 was not the only time that that happened.

5 Q. Okay. I want to focus on --

6 A. But it would have been -- it would have
7 been the time -- and this is why it's relevant
8 to your question -- would have been the time
9 when the -- if we call it that, the
10 September 9th map existed when that
11 conversation could be about the September 9th
12 map.

13 So I guess I'm trying not to -- I'm
14 trying to stay true to your original question
15 there.

16 Q. Thank you, I appreciate that.

17 So let's talk about the meeting before
18 September 9th where you showed the
19 September 9th map to the Sykeses.

20 A. Sure. We had --

21 Q. Well, let me ask the question first.

22 MR. STRACH: Yeah, let him ask the
23 question.

24 BY MR. FUNARI:

25 Q. So that's the meeting that I'm talking

03:30:18

03:30:20

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1 about. Explain for me what you can recall
2 about that meeting where you showed them the
3 map that would be -- that would be introduced
4 on the 9th.

5 A. Sure. We had talked about -- at that
6 particular meeting, you know, we -- I was
7 present for that meeting, both Sykeses were. I
8 know that Senator Sykes -- and I can't recall
9 the -- I feel bad that I can't recall his name,
10 the longtime Senate staffer who was assisting
11 the Senate Democrats was there.

12 And we basically, in general terms, went
13 through the proposed maps so they could ask
14 questions.

15 We thought just as a matter of courtesy,
16 as we often do with other legislation and
17 issues, let's talk about this so that people
18 will be able to ask the right questions at the
19 hearings, et cetera. So we went through that.

20 I do recall, as I mentioned earlier in
21 my deposition, that Leader Sykes had asked
22 about the issue, the racial issue, and I said
23 we didn't use racial data regarding that.

24 I think the other thing that I
25 specifically recall -- Randall is his first

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03:32:07
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1 name -- Randall asked me about is he said, Hey, 03:32:29
2 on this proposal, Dayton, Ohio, is inside -- 03:32:33
3 excuse me, is taken outside of Montgomery 03:32:37
4 County; and in all the other major cities in 03:32:40
5 the state, it stays inside the county. And 03:32:43
6 why -- why would you do Dayton different than 03:32:46
7 Toledo, Cincinnati, et cetera? 03:32:48

8 And, you know, I had indicated that was 03:32:52
9 a fair point, fair question. And, of course, 03:32:54
10 in the map ultimately accepted, we did 03:32:57
11 incorporate that suggestion that Randall made 03:33:00
12 at that September 8th meeting, I guess it would 03:33:04
13 be. 03:33:09

14 Other than that, I don't recall any 03:33:10
15 specific details about the September 8th 03:33:12
16 meeting with the Sykeses. 03:33:14

17 Q. And you have no recollection of meeting 03:33:18
18 with the other members of the commission to 03:33:20
19 show them a preview, so to speak, of the 03:33:24
20 September 9th map; is that correct? 03:33:28

21 A. I don't have a specific recollection of 03:33:30
22 that, but I believe those meetings took place. 03:33:34
23 I think that the Governor and the Speaker and I 03:33:39
24 met to go through that. 03:33:42

25 And I also believe, and I'd have to -- I 03:33:45

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1	think that I met maybe at least with Senator	03:33:54
2	LaRose, and maybe the Speaker met with Auditor	03:33:58
3	Faber, or both of them, but those meetings all	03:34:02
4	took place with different commission members	03:34:06
5	prior to the September 9th meeting.	03:34:09
6	Q. Did they have any input that made its	03:34:12
7	way into the September 9th map?	03:34:15
8	A. I guess I can't remember any specific	03:34:17
9	input that they had at those -- at those	03:34:23
10	meetings.	03:34:28
11	Q. Do you recall the map that Senator Sykes	03:34:29
12	introduced at the August 31st hearing?	03:34:32
13	A. In general terms, yeah. I knew that	03:34:35
14	that -- remembered that happened, right.	03:34:38
15	Q. Did you analyze or review any analyses	03:34:41
16	of that map?	03:34:47
17	A. Well, at the hearing itself, I looked at	03:34:48
18	the map and realized that there were some -- on	03:34:57
19	its face, some constitutional infirmities.	03:35:00
20	It actually had my -- the Senate	03:35:04
21	district I would be serving would be downtown	03:35:06
22	Akron, Ohio, because under the Constitution I'm	03:35:09
23	elected to a four-year term, and I'm entitled	03:35:13
24	to serve the entire four years in the 12th	03:35:16
25	District, and the 12th District was in Akron.	03:35:19

1 So to the extent that that was an
2 analysis which is part of the public record, I
3 said, well, this is unconstitutional on its
4 face because of all of these infirmities.

5 Apparently what happened between the
6 time of the hearing when I said that publicly
7 and the time that they actually filed it with
8 the commission's website is they changed it and
9 tried to conform some of those -- those obvious
10 constitutional infirmities. Those are things
11 that I -- that they, so to speak, tried to fix.

12 Now, they didn't fix all the
13 constitutional infirmities with what they
14 filed. And they still aren't fixed, for that
15 matter. But after my sort of looking at it
16 that day, I didn't personally analyze what I'll
17 call the August 31 or Senate Democrat map.

18 Q. So I guess the same is true with the
19 version they ultimately filed, you didn't
20 conduct any further analysis of what you've
21 described as a slightly differing map that
22 sought to fix some constitutional infirmities,
23 as you put it?

24 A. I did not analyze the map after it was
25 filed with the changes that they made,

1 apparently made that day. One of my staff told
2 me that, hey, what they talked about at the
3 hearing is different than what they filed with
4 the -- with the commission's website.

5 But subsequently then we did have, I
6 guess, an explanation and analysis at the
7 Cleveland hearing by Mr. Glassburn. We had
8 some questions about it. When I say "we,"
9 commission members. I know I did, I know
10 Auditor Faber did, as I recall. So to that
11 extent there was some analysis.

12 We were asking questions and what he
13 considered and how he came to his conclusions.

14 Q. Was it ever your intention to work with
15 the Democratic leadership, the Democratic
16 members of the commission, from their map?

17 A. Well, I don't know what you mean by
18 "from their map." It was always my intention
19 to work with not only the Democratic leaders,
20 but the other Republican members of the
21 commission to get a ten-year map. That was
22 certainly my goal.

23 We discussed briefly my role in enacting
24 this back in 2014 and '15. So it was my goal
25 to get a ten-year map. And to the extent

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1 that -- you know, this reform has worked 03:38:20
2 because the majority only gets to have its map 03:38:21
3 for four years, and that's part of the reform 03:38:23
4 that's in this. So it's always my intention to 03:38:26
5 work with the Democrats. 03:38:28

6 Q. As a drafter of the amendments to 03:38:29
7 Article XI, and now having gone through the 03:38:36
8 process as a member of the commission, did the 03:38:37
9 process play out as you intended as a draft and 03:38:41
10 sponsor of the amendment? 03:38:46

11 A. Well, I think the process is going to be 03:38:48
12 determined from time to time by -- as all 03:38:55
13 processes are, by the facts that are before you 03:39:01
14 at a particular time and the willingness and 03:39:03
15 the abilities of the participants. 03:39:06

16 I think the process anticipated that 03:39:12
17 there would be various incentives on both 03:39:16
18 sides, and the incentives of the majority would 03:39:19
19 be to draft a map or put a map together that 03:39:24
20 would be acceptable to the Democrats. And, in 03:39:28
21 fact, the original map adopted did, in fact, 03:39:31
22 come fairly close to the Democratic position. 03:39:37

23 I'm surprised -- when you're asking 03:39:43
24 about my anticipation, I'm surprised at the 03:39:45
25 lack of participation by the Democratic members 03:39:48

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1 of the commission in the last five or six days.

03:39:52

2 You know, if Leader Sykes had something
3 she had to be at for three days, I guess I
4 can't complain about that, but that was a
5 crucial time. I'm surprised that they didn't
6 respond to my request to meet with them two
7 days before the 15th. I'm surprised that they
8 didn't issue alternative proposals as they
9 indicated they would on several occasions on
10 the 15th.

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11 And I, you know -- a cynic may conclude
12 that they didn't want to have a ten-year map,
13 that they'd rather take a shot at getting ahold
14 of the apportionment board in next year's
15 election. But I don't know what's in the minds
16 and hearts of everybody.

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17 So to the extent that the majority can't
18 simply do what it wants and move on, and that's
19 what this reform is also about, that worked,
20 because we don't have a ten-year map, we have a
21 four year map.

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22 And that's not good for -- ultimately
23 for -- I don't know if it's necessarily good
24 for anybody.

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25 But, you know, when you draft something

03:40:58

1 like that, you hope that it's going to work.

03:41:05

2 And in many respects it did, and we don't have
3 a ten-year map, and I guess that's the biggest
4 disappointment.

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5 Q. Is it fair to say the process played out
6 in a much more partisan fashion than you
7 anticipated when you were working on the
8 amendments when you were a member of the House?

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9 A. No, I would not say that. I've been
10 involved in -- I've been in General Assembly --
11 this is my 13th year. I was in Lima City
12 Council for 15 years. I've been involved in
13 other political activities, I guess. And I've
14 seen some pretty vicious fights. Some of them
15 are not inter-party, they're intra-party.

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16 And despite the fact that we did not get
17 to a ten-year result, the members of the
18 commission, I think, were -- including the
19 Democratic members, let me make that clear --
20 were professional and they advocated
21 appropriately.

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03:42:02

22 A day or two before this, maybe the
23 13th, 14th, you know, we -- these were all
24 kind -- and by that I mean polite,
25 professional -- exchanges between members of

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03:42:08

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03:42:14

1	the commission.	03:42:16
2	Now, I can't say that for every member	03:42:16
3	of the public. There were some fairly	03:42:18
4	vociferous attacks, ad homonym attacks on	03:42:20
5	particularly Governor DeWine, which I had, you	03:42:25
6	know, spoken to both Speaker Cupp and Senator	03:42:28
7	Sykes, and I had indicated I didn't think those	03:42:33
8	should be tolerated.	03:42:35
9	But, you know, I think among the members	03:42:37
10	of the commission, I think it was pretty	03:42:39
11	professional. We just disagreed.	03:42:41
12	Q. Did any of -- did any Republican	03:42:43
13	Senators provide any input that made its way	03:42:48
14	into the map of September 9th?	03:42:52
15	A. Boy, I don't think so. None that I can	03:42:55
16	recall. We kind of -- we kind of made it clear	03:43:02
17	early on that this was a holistic decision.	03:43:06
18	And by that you mean the Republican	03:43:13
19	members of the Ohio Senate, not Rob Portman or	03:43:15
20	someone like that, right?	03:43:18
21	Q. Right. Right.	03:43:20
22	A. Yeah, so, no, not really. I don't -- it	03:43:21
23	was one of those things that, you know, this is	03:43:27
24	kind of a holistic decision. You can't try to	03:43:29
25	keep individual members, including incumbent	03:43:32

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1 members, happy.

03:43:34

2 Q. Was it circulated? Was the map
3 circulated to the Ohio Republican caucus,
4 Senate --

03:43:35

03:43:38

03:43:41

5 A. You kind of broke up. You kind of broke
6 up.

03:43:42

03:43:44

7 Q. Sorry. Was the map that was introduced
8 on the 9th circulator -- circulated to the
9 members of the Republican Senate caucus or
10 Senate Republican caucus?

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11 A. Not prior to its introduction. But, of
12 course, after its introduction, you know, a lot
13 of people -- everybody would have seen it,
14 yeah.

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15 MR. STRACH: Hey, Brad, let me ask the
16 court reporter to confirm. I think we've hit
17 the two-hour mark, maybe a little over it.

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18 MR. FUNARI: I just have one more
19 question.

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20 MR. STRACH: I'm happy with one more
21 question. I just want to make sure we wrap it
22 up.

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23 MR. FUNARI: Understood.

03:44:23

24 BY MR. FUNARI:

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25 Q. Did any of those members of the

03:44:25

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1	Republican Senate caucus have any input into	03:44:27
2	the map that was ultimately adopted on the	03:44:30
3	15th?	03:44:34
4	A. No.	03:44:34
5	Q. Okay. Thank you. Those are all the	03:44:37
6	questions that I have.	03:44:39
7	MR. STRACH: All right. Thank you,	03:44:41
8	Brad.	03:44:42
9	Do we have any questions from --	03:44:44
10	THE WITNESS: Thank you, it was a	03:44:46
11	pleasure meeting you.	03:44:47
12	MR. STRACH: Are we going to have any	03:44:48
13	questions from the Sykeses' attorneys?	03:44:49
14	MR. GILLIGAN: Yes, we will.	03:44:59
15	MR. STRACH: All right. Go ahead, John.	03:45:01
16	MR. GILLIGAN: Thank you.	03:45:06
17		03:45:03
18	EXAMINATION	03:45:08
19	BY MR. GILLIGAN:	03:45:08
20	Q. President Huffman, my name is John	03:45:09
21	Gilligan. I'm one of the lawyers representing	03:45:10
22	Senator and Leader Sykes.	03:45:17
23	We have a very limited amount of time	03:45:18
24	this afternoon, and I would ask you, sir, not	03:45:20
25	to mistake the urgency of my tone for	03:45:26

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1	disrespect. I do not mean any disrespect	03:45:29
2	whatsoever. And Phil will be watching me	03:45:32
3	carefully, I'm sure.	03:45:36
4	Used to be that people my age, you know,	03:45:41
5	they wouldn't let us out of the office. Now,	03:45:44
6	because of COVID, it's hard for me to even get	03:45:47
7	into the office. So I relish this opportunity	03:45:50
8	to go over a couple things with you about your	03:45:56
9	testimony.	03:45:58
10	Number one, to clarify a couple of	03:45:59
11	things where I think you misspoke. You said	03:46:02
12	with respect to the statement in 8(C)(2) that	03:46:06
13	there was a -- an evaluation of 19 partisan	03:46:14
14	contests statewide.	03:46:19
15	I think you meant to say 16 partisan	03:46:24
16	contests, correct?	03:46:27
17	A. That's correct.	03:46:28
18	Q. Okay. Secondly, you talked about the	03:46:30
19	approval by the commissioners. You said it was	03:46:37
20	unanimous approval of the statement in 8(C)(2)	03:46:41
21	on the night of September 15th.	03:46:49
22	And I'm happy to show you the	03:46:55
23	transcript, but let me see if I can refresh	03:46:58
24	your memory that you had a motion on the floor	03:47:01
25	to approve your statement 8(C)(2), and Senator	03:47:05

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1 Sykes said, "Since we're not voting to agree
2 with this, just to allow it to officially go
3 into the record, then I think it should go both
4 statements without objection."

5 To which you indicated you had no
6 objection to the statement by the Sykes going
7 in.

8 And then Senator Sykes went -- before
9 the roll call was called, said to the co-chair
10 Speaker Cupp: "Just to be clear, this is
11 simply to accept the report."

12 Does that refresh your memory that the
13 vote, unanimous vote, was simply to accept the
14 8(C) report into the record, not an indication
15 of agreement with the report?

16 A. Well, I don't have the same conclusion
17 that you have. So one of the constitutional
18 requirements is that the commission adopt a
19 statement. I proposed, through motion, that
20 this be the commission's statement. It was
21 accepted without objection.

22 Now, what that means to me is it was
23 unanimously accepted, that's one thing.

24 Now, the other thing that I think was
25 slightly confusing is the minority -- according

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1 to the Constitution, the minority may submit
2 their own statement in the event of a four-year
3 map. The commission doesn't need to agree to
4 accept that. It simply goes into the record.

5 So, in fact, at that particular moment,
6 I thought I should clarify for Senator Sykes
7 that, in fact, it's not necessary for the
8 commission to accept the minority statement.
9 It comes in as a matter of course whether the
10 other non-members of the minority opinion
11 accept it or not.

12 Now, the commission itself must adopt
13 the statement in the case of a four-year map,
14 whether it's a 4-3 vote, 5-2, unanimous. So I
15 made a motion. There was no objection. It was
16 accepted. In my mind that is a unanimous
17 acceptance.

18 Now, if Senator Sykes has a statement in
19 the record that he doesn't like the statement,
20 well, I'll take that for what it's worth.

21 Q. And also Leader Sykes put a long
22 statement in the record that she did not agree
23 with the analysis in 8(C)(2); isn't that
24 correct?

25 A. Well, I think her long statement was, in

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1 fact, the minority statement that is
2 anticipated and specifically described in the
3 Constitution. And I did not object to that
4 coming into the record because I had no basis
5 for objecting to that, nor did any other
6 commission member who was not part of the
7 minority voting.

8 And, in fact, at that point it was
9 simply a matter of her reading the statement,
10 and it goes into the record whether anybody
11 objected or not.

12 Q. You understood that both the Sykeses had
13 expressed their disagreement with the analysis
14 of the 8(C)(2) statement, correct?

15 A. I'd have to go back and review the
16 transcript, but I don't think that that's
17 really a matter of contention in any way.

18 But I do think that my statement -- I'm
19 going back; you indicated I misspoke -- I do
20 think that my statement is accurate that that
21 statement was proposed, no objection, and
22 admitted into the record. So I think that's a
23 unanimous vote.

24 If someone said, "I'd like to have a
25 vote," which someone can do, they can object,

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1 "I'd like to have a vote because I want to show
2 that my vote is against it," they can do that.

3 Now, if they want to criticize it
4 separately, without objection, and that happens
5 in all sorts of contexts, certainly in the
6 General Assembly and other places.

7 Q. Let me ask you. You said that Ray
8 DiRossi was instructed by you not to use racial
9 data or any other demographic information. Do
10 you remember that testimony, sir?

11 A. Yeah, specifically the racial data. But
12 that was the significant thing. And this word
13 "demographic" may mean a variety of things.
14 But specifically as it relates to the racial
15 data or demographic data that would be similar
16 to that.

17 But certainly demographic data can
18 consist of simply population counts. So of
19 course we were using that. That's required by
20 the Constitution.

21 Q. So you understand that census data is
22 demographic data?

23 A. Some of it is. If we're simply saying
24 how many people live in a particular city, that
25 doesn't necessarily say what is the racial

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1 makeup, ethnic, religious, et cetera, makeup, 03:52:28
2 if we're just talking about numbers. So some 03:52:32
3 of the data is, and taking some of it alone, 03:52:35
4 it's not. 03:52:39

5 Q. So what is the demographic data, other 03:52:40
6 than racial data, that you were instructing 03:52:43
7 Mr. DiRossi not to use? 03:52:47

8 A. Well, yeah, the kinds of things that we 03:52:51
9 just talked about that dealt with ethnic 03:52:55
10 minorities or other things that might be 03:52:59
11 violative of the federal law. You know, we're 03:53:02
12 simply saying we're not going to take those 03:53:08
13 things into account regarding -- in drawing 03:53:11
14 these districts. 03:53:15

15 Q. And as I understood your testimony, 03:53:23
16 there was no discussion of Section 6(B) at any 03:53:33
17 commission meeting until at least after the map 03:53:37
18 was passed and you were talking about the 8(C) 03:53:43
19 statement? 03:53:47

20 A. Yeah, I don't recall the various 03:53:49
21 commission meetings. It would seem to me that 03:53:51
22 at some point somebody said something about it. 03:53:56

23 Of course, we're -- we're -- we had 03:54:01
24 commission meetings, and then there were public 03:54:03
25 hearings, which were also commission meetings, 03:54:05

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1	which, by and large, were, you know, dozens, we	03:54:07
2	may have gotten into the hundreds of people at	03:54:12
3	various hearings.	03:54:14
4	I was not at all of those hearings, so I	03:54:15
5	can't tell you each thing that was said by each	03:54:18
6	person. But at the meetings that consisted	03:54:20
7	largely of the commission adopting certain	03:54:25
8	procedures and rules -- you know, for example	03:54:30
9	at one of our meetings, we had decided to add	03:54:32
10	additional hearings at the request of the	03:54:36
11	Democratic members -- we didn't talk about that	03:54:38
12	at those times. But those concepts certainly	03:54:41
13	were covered by a variety of witnesses.	03:54:44
14	Again, I was not at each one of the	03:54:47
15	meetings.	03:54:49
16	Q. Let me ask you about Section 6, Article	03:54:50
17	XI. You've referred to it a couple of times as	03:54:56
18	not mandatory, aspirational.	03:54:59
19	The section begins: The Ohio	03:55:04
20	redistricting commission shall attempt to draw	03:55:10
21	a general assembly district plan that meets all	03:55:14
22	of the following standards.	03:55:17
23	You understand that the term "shall" is	03:55:19
24	mandatory, correct?	03:55:22
25	A. I understand, generically speaking,	03:55:23

1	that's what the word "shall" means.	03:55:27
2	But in this context as it relates to the	03:55:30
3	drawing of these districts, this section is	03:55:32
4	aspirational, just as the next section down	03:55:35
5	talks about compact districts and uses the word	03:55:39
6	"shall."	03:55:42
7	Those are things that the commission,	03:55:43
8	you know, can consider, but they're not	03:55:48
9	required to have in order to have a	03:55:50
10	constitutional map.	03:55:52
11	Q. So when you use the term "aspirational,"	03:55:53
12	do you mean it in the way Webster defines it as	03:56:01
13	ambitious, driven toward a particular goal?	03:56:05
14	A. Well, I'm not familiar with specifically	03:56:09
15	what Webster says, but when we use the term	03:56:12
16	"aspirational" in this context, it's juxtaposed	03:56:17
17	to the word "mandatory." Mandatory means you	03:56:22
18	have to do it; aspirational means you don't.	03:56:24
19	And of course that's why the word "attempt" is	03:56:28
20	in there.	03:56:30
21	I'm not going to be able to define those	03:56:31
22	in a legal or constitutional way. That's up to	03:56:34
23	the Court to try to do that.	03:56:37
24	Q. But you understood that as a	03:56:39
25	commissioner you had a mandatory obligation to	03:56:44

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1	attempt to do the items that are listed in	03:56:47
2	6(A), (B), and (C), correct?	03:56:50
3	A. No, I don't think that's correct. I	03:56:52
4	think that as a commissioner -- specifically as	03:56:56
5	a commissioner, my job was to attempt to draw a	03:56:59
6	ten-year map through sincere and active	03:57:05
7	negotiations with the other side, but most of	03:57:10
8	all to make sure that there was a mandatory --	03:57:13
9	mandatory items were followed.	03:57:18
10	And I do think, at least on my part, you	03:57:23
11	know, starting with April and calling that	03:57:26
12	meeting, calling the meeting in August, giving	03:57:28
13	the Democratic side additional money that we	03:57:31
14	didn't have to, voting for additional hearings	03:57:34
15	because the Democrat side agreed to that,	03:57:38
16	attempting to meet and not getting responses	03:57:40
17	from the Democratic side, that I attempted or	03:57:42
18	tried to get a ten-year map. And,	03:57:45
19	unfortunately, we weren't able to do that.	03:57:48
20	Q. Did you understand that you had a	03:57:53
21	mandatory obligation to attempt to make sure	03:57:55
22	that no General Assembly district plan shall be	03:57:58
23	drawn primarily to favor or disfavor a	03:58:02
24	political party?	03:58:05
25	A. Yeah, I think that's your -- it must be	03:58:05

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1 your legal conclusion about what all of that
2 means.

3 As I mentioned in my testimony here in
4 the deposition, it's impossible to draw
5 districts and follow the other mandatory
6 aspects of the constitution that don't favor or
7 disfavor a political party.

8 The regiment that you are suggesting is
9 even more onerous than what the Democratic --
10 some Democratic members have suggested. If we
11 were to draw each district 50/50 in the state
12 of Ohio, that's impossible, mathematically.
13 And it's impossible mathematically to draw them
14 all 55/45 or 54/46. It's impossible to draw
15 81 percent Republican because of the mandatory
16 provisions.

17 So, again, I would return to the fact
18 that the mandatory provisions must be followed.
19 These other provisions regarding compactness
20 are things that certainly can be considered,
21 but there is no formula of any kind. These are
22 facts that we consider for purposes of
23 ultimately exercising discretion. And also for
24 purposes of negotiation.

25 Q. So I appreciate your explanation,

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1 Mr. President, but I take it that your answer 03:59:29
2 with that explanation is no, you did not feel 03:59:33
3 that you had such a mandatory obligation to 03:59:37
4 attempt to do what is set out in A? 03:59:41

5 A. Yeah, well, I'm not going to change my 03:59:45
6 answer to a yes/no question, because that's 03:59:48
7 what you would like for me to do. I'm 03:59:51
8 interested in giving the best testimony I can 03:59:54
9 about what we -- what we tried to do and what 03:59:56
10 we did. 04:00:00

11 And we understand, again, that there are 04:00:03
12 mandatory provisions, and there are 04:00:07
13 non-mandatory provisions. And that is a non- 04:00:09
14 mandatory provision, like the compactness 04:00:11
15 provision, which I do believe that we did a 04:00:14
16 pretty good job with that too, at least by many 04:00:17
17 suggestions. 04:00:22

18 Q. And as I understand the explanation you 04:00:24
19 gave without answering "yes" or "no," you 04:00:27
20 believe that the provision in 6(A) is 04:00:31
21 impossible to fulfill; is that right? 04:00:37

22 A. No, I think -- that's not my answer. I 04:00:39
23 think your suggestion of what the provision 04:00:42
24 should be is that they should be 50/50 04:00:45
25 districts by saying it cannot favor this way or 04:00:49

1	that way. That's impossible to get.	04:00:52
2	It's not impossible for the commission	04:00:56
3	to consider those aspirational attributes in	04:00:57
4	that, in attempting a negotiation and	04:01:01
5	attempting to get a ten-year map, and that's	04:01:04
6	what we're doing.	04:01:06
7	But if you read that, I think, the way	04:01:07
8	that you're reading it, that every district	04:01:09
9	must be 50/50, I think that's mathematically	04:01:13
10	impossible without violating the mandatory	04:01:16
11	provisions of the constitution.	04:01:18
12	Q. So what is your interpretation, then, of	04:01:22
13	the provision 6(A)? What, if anything, does it	04:01:26
14	require you to do?	04:01:31
15	MR. STRACH: Objection.	04:01:32
16	THE WITNESS: Yeah, I think mandatory	04:01:34
17	means you have to do it. Aspirational in this	04:01:38
18	context means you do not. So when you use the	04:01:41
19	word "require," I think that's not applicable	04:01:43
20	to this portion of the Constitution.	04:01:49
21	So I think what it suggests is that the	04:01:50
22	parties should consider these things. They	04:01:58
23	should consider compactness, they should	04:02:00
24	consider the other things that were described	04:02:02
25	in there, and those are things that you should	04:02:04

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1	consider.	04:02:06
2	But, again, we're trying to get to a	04:02:07
3	ten-year map when we're doing that. And I	04:02:09
4	think we came fairly close, frankly. What the	04:02:11
5	Democrat Senate map was was fairly close to	04:02:14
6	ultimately what was adopted.	04:02:17
7	I'm not sure, frankly, whether the House	04:02:20
8	Democrats agreed to that or not. I really	04:02:22
9	don't know the answer to that. So, you know,	04:02:25
10	again, this is sort of a ongoing negotiation.	04:02:29
11	I think I learned a lot in this process that	04:02:34
12	may help us if I'm ever involved again.	04:02:37
13	BY MR. FUNARI:	04:02:40
14	Q. So when you directed, as you said,	04:02:40
15	Mr. DiRossi, to comply with the constitution,	04:02:43
16	you didn't expect him to comply with any of the	04:02:47
17	provisions of Section 6?	04:02:50
18	A. Yeah, to be clear, I directed Ray	04:02:51
19	DiRossi to comply with the mandatory provisions	04:02:59
20	of the constitution, and he did.	04:03:01
21	In fact, it was the only map submitted,	04:03:03
22	as far as I know, to the commission that did	04:03:05
23	that. We know the Senate Democrat map did not.	04:03:07
24	There were some other maps that we've analyzed	04:03:11
25	that did not. So that's what I told him we	04:03:13

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1	would do.	04:03:16
2	Now, certainly we're going to consider	04:03:17
3	those things. We didn't have all of that data	04:03:19
4	fully analyzed on September 9th, but ultimately	04:03:21
5	we did. And we did that for part of our -- as	04:03:24
6	part of our negotiations.	04:03:27
7	And, of course, the Senate Democrats --	04:03:28
8	and, again, I'm going to say Senate Democrats.	04:03:31
9	I'm not sure where the Senate House members --	04:03:34
10	or, excuse me, Democrat House members were.	04:03:36
11	But that was analyzed by them, and	04:03:38
12	that's where we got to this ultimately 57-62,	04:03:40
13	kind of where we were about, you know, a few	04:03:45
14	days before the 15th, where I thought we were	04:03:50
15	close, and we were still negotiating, but	04:03:53
16	ultimately didn't come to an agreement.	04:03:55
17	Q. Did you direct Mr. DiRossi to comply	04:03:59
18	with the divisions of 6(B) and draw a map that	04:04:08
19	met the proportional provisions of that	04:04:11
20	section?	04:04:15
21	A. Yeah, I directed Mr. DiRossi to comply	04:04:16
22	with the mandatory provisions. And when we do	04:04:20
23	that, we would have an analysis of how the	04:04:24
24	partisan breakdown might ultimately be.	04:04:32
25	And the reason we did that is we were	04:04:34

1	trying to negotiate to get a ten-year map.	04:04:37
2	Now, if ultimately there was a violation	04:04:38
3	of the mandatory provisions, then that would be	04:04:40
4	relevant as it related to Section 6. But	04:04:43
5	really those things sort of fell into place,	04:04:50
6	not because of -- necessarily because of	04:04:53
7	Section 6, which was not mandatory or is not	04:04:54
8	mandatory, but it's significant because that's	04:04:56
9	how -- what we were negotiating about in trying	04:04:59
10	to come to an agreement.	04:05:01
11	Q. So you never directed Mr. DiRossi to put	04:05:07
12	together a map for the General Assembly	04:05:10
13	districts which would show 54 percent of the	04:05:19
14	districts leaning Republican and 46 percent of	04:05:21
15	the districts leaning Democrat?	04:05:24
16	A. I did not. Nor did I direct him to draw	04:05:26
17	a map that was 81 percent Republican and	04:05:29
18	19 percent Democrat.	04:05:33
19	Q. And is it your understanding of	04:05:34
20	Section 6(B) that a map that was 81 percent	04:05:42
21	favoring Republicans and 19 percent favoring	04:05:47
22	Democrats would satisfy the provisions of 6(B)	04:05:51
23	in terms of proportional fairness?	04:05:56
24	A. No, no. In fact, that's not really the	04:05:59
25	concept at all. That particular item was	04:06:02

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1 simply a set of facts that the commission could 04:06:11
2 consider, as is the 54/46. I would say there 04:06:14
3 were a lot of other facts that the commission 04:06:19
4 could have considered. 04:06:19

5 They could have looked at the results of 04:06:20
6 those 16 elections over the past previous ten 04:06:22
7 years prior to 2021 and looked at how 04:06:25
8 significantly -- significant those -- those 04:06:29
9 aren't all included in the statement, of 04:06:32
10 course, but there are a lot of things that we 04:06:34
11 could have -- if you would get to that analysis 04:06:37
12 that you're talking about, there's a lot of 04:06:39
13 things that the commission could have 04:06:41
14 considered. 04:06:44

15 Q. In fact, in the 16 races, the 16 04:06:47
16 statewide partisan races, there is no race in 04:06:50
17 which a Republican got 81 percent of the vote, 04:06:52
18 right? 04:06:55

19 A. I don't know that off the top of my 04:06:55
20 head. I know that there were some Republican 04:07:00
21 races. I'm pretty sure that Governor Kasich 04:07:02
22 got somewhere in the neighborhood of 65 to 04:07:06
23 68 percent of the vote in 2014, as did several 04:07:08
24 of the other statewide officeholders in excess 04:07:11
25 of 60 percent. 04:07:14

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1 Q. So you're talking about the Governor's
2 race when Ed FitzGerald basically shut down his
3 campaign looking for his wife's driver's
4 license, and he got 34 percent of the vote; is
5 that right?

6 A. Yeah, that's the one. And, you know,
7 this is a further analysis that the commission
8 could have entered into. And, again, there's
9 no formula in here.

10 But if the commission wanted to say,
11 well, let's look at other aspects why -- if,
12 again, if we even get to Section 6, which we
13 don't. And I don't know whether Governor --
14 what the other results, but I think they were
15 in the 60s, also.

16 But somebody may say, again, if we were
17 even having this discussion, well, wait a
18 minute, Ed FitzGerald shut down his candidacy
19 so we shouldn't look at that. Of course, in
20 some cases, a Donald Trump candidacy in certain
21 parts of the state, he's going to get a lot
22 more votes than Mitt Romney may have gotten in
23 2012.

24 So -- and, of course, how he did in --
25 how Trump did in '20 was different how he did

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1 in 2016. Those are all results of statewide
2 elections which the commission could consider
3 if they wanted to.

4 And that's why, you know, if -- again,
5 if we're going to consider Section 6, which we
6 don't need to do, because it's not mandatory,
7 you know, you could look at that whole stream
8 of data that comes in regarding those results.

9 Q. So it's your understanding that you as a
10 commissioner don't even need to look at
11 Section 6 of Article XI in so long as what you
12 refer to as the mandatory provisions of
13 Article XI are complied with?

14 A. Well, yeah, and I guess that's all true,
15 but it's not just what I refer to the mandatory
16 provisions. It's what the mandatory provisions
17 are.

18 Q. Right. And did you ever -- did the
19 commission have counsel prior to this
20 litigation?

21 A. I don't think there was separate
22 counsel. Frankly, I don't know whether the
23 Attorney General was formally advising the
24 commission or not.

25 And a lot of those administrative

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1	details weren't in my bailiwick as I was not	04:09:58
2	one of co-commissioners. So I guess I --	04:10:01
3	that's probably a better question for Senator	04:10:03
4	Sykes or Speaker Cupp.	04:10:05
5	Q. I did ask Speaker Cupp, but let me just	04:10:06
6	ask you. As far as you know, there was no	04:10:10
7	separate counsel for the commission; is that	04:10:12
8	right?	04:10:14
9	A. Yeah, I'd have no reason to -- if there	04:10:14
10	was, I don't know about it.	04:10:17
11	Q. Did you ever request an interpretation	04:10:19
12	of Section 6 from the Attorney General on	04:10:22
13	behalf of the commission?	04:10:25
14	A. I did not.	04:10:26
15	Q. Did you ever ask the commission to	04:10:29
16	request an interpretation of the provisions of	04:10:34
17	Section 6 from the Legislative Services	04:10:39
18	Commission?	04:10:41
19	A. I did not.	04:10:42
20	Q. Did you ever, yourself, ask the	04:10:43
21	Legislative Services Commission what, if any,	04:10:46
22	obligations were imposed on you as a member of	04:10:49
23	the Redistricting Commission by Section 6?	04:10:53
24	A. I did not.	04:10:56
25	Q. Do you understand that proportionality	04:10:57

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1 is one of the concepts that is used to try to
2 discourage anti-gerrymandering in redistricting
3 matters?

4 MR. STRACH: Objection.

5 THE WITNESS: Yeah, I think the phrase
6 "gerrymandering," you know, one of the concerns
7 I have about this is most of the provisions
8 that are suggested, and including in the Senate
9 Democrats map, are -- are -- are -- and, again,
10 we have this sort of generic term, no pun
11 intended, that we like to use, but I'm not sure
12 whether that's a statement on behalf of the
13 world, on behalf of your client, or exactly
14 what.

15 But, you know, gerrymandering is drawing
16 a district to favor one political party or
17 another. So people like to use that term, and
18 the same people who like to use that term also
19 want to gerrymander to benefit themselves in
20 their particular issue or party.

21 BY MR. FUNARI:

22 Q. Do you believe that this map that was
23 approved by the Ohio Redistricting Commission
24 in 2021 favors the Republican party?

25 A. I think the map is constitutional. I

1 think the map follows all of the mandates. I 04:12:18
2 think this map is the same as most other maps. 04:12:23

3 For example, the map that was drawn in 04:12:27
4 2001, which produced a Republican majority, in 04:12:30
5 2002, '04, and '06 produced a Democratic 04:12:35
6 majority, in 2008, and a Republican majority in 04:12:42
7 2010 in the House. 04:12:44

8 These elections are not necessarily end 04:12:46
9 determined by how maps are drawn. Candidates, 04:12:50
10 campaigns, issues, those things all matter. 04:12:52
11 And we do know that most of the districts in 04:12:56
12 the state of Ohio, because of the geographic 04:13:00
13 makeup, are going to be either Democratic, 04:13:02
14 Republic, Republican, depending on, you know, 04:13:06
15 where it is that they're located. 04:13:10

16 So we'll know the answer to your 04:13:12
17 question when we have the next election. 04:13:14

18 Q. So are you able to answer the question 04:13:17
19 "yes" or "no"? Do you believe that the map 04:13:20
20 that was adopted by the Ohio Redistricting 04:13:23
21 Commission, 2021, by a vote of 5-2, favors the 04:13:30
22 Republican party or not? 04:13:34

23 A. We'll know the answer to that question, 04:13:37
24 depending on who the candidates and issues and 04:13:39
25 their campaigns, next time. 04:13:42

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1	This particular map is one analysis, is	04:13:44
2	that there are, in the House, for example, 62	04:13:50
3	leaning Republican districts. That was the	04:13:53
4	Republicans' last proposal. The Democratic --	04:13:56
5	Senate Democrats' proposal was 57 Democratic --	04:14:01
6	or 57 Republican leaning seats.	04:14:05
7	So really the last two offers, so to	04:14:07
8	speak, both had a Republican -- a majority of	04:14:10
9	Republican leaning seats.	04:14:14
10	Q. And how do you determine which way the	04:14:15
11	seats lean? You look at the partisan index,	04:14:22
12	right?	04:14:25
13	A. Yeah, well, generically speaking, that's	04:14:26
14	one way of doing it, yes. But I, frankly,	04:14:28
15	think a better way of doing it is look who the	04:14:32
16	candidate is.	04:14:35
17	Because in my involvement in campaigns,	04:14:35
18	I've had my candidates win in districts that	04:14:38
19	were 70 percent Democrat. Up in Lake County	04:14:41
20	right now, there's a great state rep who is a	04:14:45
21	Democrat by the name of Dan Troy who just won	04:14:47
22	in a Republican district.	04:14:49
23	Certainly, you know, when Terry Johnson	04:14:51
24	won in a 70 percent Democratic district as a	04:14:54
25	House member back in 2010, that's an anomaly.	04:14:56

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1 But if you have the right candidate and 04:15:00
2 the right -- they run a good campaign and 04:15:02
3 people know them and they like them, you know, 04:15:05
4 a Democrat can win in a 55 or 60 percent 04:15:08
5 Republican district and vice versa. 04:15:12

6 Q. But when you say that in the 04:15:14
7 negotiations you offered a map with 62 04:15:17
8 Republican leaning districts coming down from 04:15:21
9 67 Republican leaning districts, you were 04:15:25
10 basing that on partisan index, correct? 04:15:29

11 A. It was based on that. If you're saying 04:15:33
12 I personally was doing that, no, because I 04:15:37
13 don't have that data, and I don't understand 04:15:40
14 how to put all of that together. But that's 04:15:42
15 what it was based on. Some type of formula 04:15:44
16 involving election results from the past. 04:15:47

17 Q. That Mr. DiRossi had provided to you to 04:15:51
18 be able to evaluate which way the districts 04:15:54
19 were leaning, right? 04:15:57

20 A. Well, Mr. DiRossi was the person I was 04:15:58
21 talking to, that's correct. Obviously, the 04:16:04
22 Speaker had his own person. And the other 04:16:06
23 members of the commission, I'm not -- I think 04:16:10
24 there were people for the Leader Sykes in the 04:16:13
25 House that we provided money for, but I'm not 04:16:18

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1 sure ultimately what they did. And I know the
2 Senate Democrats had a similar person.

3 Q. So you indicated that you did not ask
4 the Legislative Services Commission for any
5 interpretation of the provisions of
6 Section 6(B).

7 Let me ask you whether you agree with
8 their analysis that proportionality in
9 Section 6(B) means the percentage of the
10 General Assembly districts represented by one
11 political party should approximately match the
12 percentage of voters in the state associated
13 with that political party?

14 Do you agree with that?

15 A. I don't agree with that as the only
16 definition or point of analyses. So it's
17 acceptable on its face, but that doesn't mean,
18 well, that's it, and we're not going to talk
19 about anything else.

20 Q. So if there were ten races, and each
21 race was 51 percent Republican, 49 percent
22 Democratic, that would indicate that the voters
23 in Ohio, 51 percent of them prefer Republicans,
24 49 percent of them prefer Democrats, correct?

25 A. You're talking about statewide races?

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1	Q. I'm just talking a hypothetical, yes,	04:17:58
2	statewide races.	04:18:02
3	A. Okay. So hypothetically, if there were	04:18:03
4	ten statewide races, they all ended 51-49.	04:18:06
5	Q. Right.	04:18:11
6	A. Would that say that was the preference	04:18:11
7	of the statewide voters?	04:18:13
8	Q. Would it not indicate that 51 percent of	04:18:15
9	Ohioans prefer Republican candidates,	04:18:19
10	49 percent prefer Democratic candidates?	04:18:23
11	A. That would be something that you could	04:18:25
12	consider if you were to determining this. And	04:18:30
13	the reason why there's not "because this is	04:18:33
14	true, this is true," in all of those races,	04:18:36
15	things change, especially over a ten-year	04:18:41
16	period. This is why we use the ten-year period	04:18:44
17	instead of just last year.	04:18:47
18	So in 2010, there were people voting in	04:18:48
19	that election who weren't voting in 2020	04:18:52
20	because they died or they didn't vote or they	04:18:56
21	moved out of the state. In 2010, there were	04:18:59
22	people who didn't vote because they weren't 18	04:19:03
23	yet.	04:19:06
24	So the population changes over a period	04:19:07
25	of time. So you don't simply say, "Add up the	04:19:09

1 numbers, and that's the preference." That
2 would be a fool's errand on my part.

3 What you do is say, "What are the
4 results? Let's consider these results if we
5 ever get to a Section 6 analysis," which we
6 didn't in this case.

7 So there, again, is no formula. There
8 is no 51/49 in your circumstance.

9 If you're doing a Section 6 analysis,
10 you would say, "Here's these ten. Should we do
11 it? This is something that we should
12 consider." Okay, well, let's look at the other
13 results of the other elections too.

14 Q. So when you talked about having
15 proposed, I believe it was in the August
16 timeframe, putting a constitutional initiative
17 on the ballot to try to get more time, to delay
18 the time deadlines -- do you remember that
19 testimony?

20 A. The testimony was that we had a meeting
21 in April to --

22 Q. April, I'm sorry.

23 A. -- to discuss -- that's fine -- to
24 discuss putting it on the ballot for the August
25 special election. And we would have had to

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1 take some action, I think, in maybe the first
2 week in May, 90 days before the election.

3 Q. And you said that when the Democrats
4 didn't agree with doing that, you didn't want
5 to put it on the ballot because you thought it
6 could lose without Democratic support?

7 (Court Reporter Clarification.)

8 A. Yeah, I thought it would lose if the
9 Democrats didn't support it.

10 Q. So Ohio is at least that much of a swing
11 state?

12 MR. STRACH: Objection.

13 THE WITNESS: I don't understand. Is
14 that a question?

15 BY MR. FUNARI:

16 Q. Yes, sir, that would be a question.

17 A. Is a Ohio a swing state?

18 Q. Would that indicate to you that Ohio is
19 at least that much of a swing state, that you
20 would not be able to pass such an amendment
21 without Democratic support?

22 A. Well, you'd have to define "swing state"
23 for me. But in this context, I think that if
24 the folks who opposed what I was suggesting,
25 getting the additional time, were going to say

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1 the same things for four months, it wouldn't
2 pass.

3 The League of Women Voters immediately
4 put out a press release that said that
5 President Huffman was trying to take away this
6 decision from the people and give it to the
7 legislature, and all we were trying to do is
8 give enough time for us to have negotiation,
9 which it turns out in the end we probably
10 needed.

11 We weren't changing the decision-making
12 process. So groups like the League of Women
13 Voters and All on the Line or something like
14 that, we put out a whole series of statements.

15 Again, my view of these things is if
16 you're going to pass something, either you have
17 to have a big campaign and really put it on,
18 especially if somebody's opposed to it.

19 You know, I didn't see a lot of folks
20 going to come out and support this just to get
21 another 30 days' or 60 days' worth of time.

22 And, frankly, as I sit here today, I'm
23 still amazed that everyone knew the data was
24 late, everyone knew we could use additional
25 time to negotiate, but they still said no.

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1	And I'm sitting here, I'm pretty	04:22:58
2	incredulous when I start to think about it,	04:23:00
3	that all these folks who wanted additional	04:23:02
4	hearings, et cetera, et cetera, I don't know	04:23:04
5	why you wouldn't want additional time.	04:23:07
6	So, you know, it is what it is at this	04:23:09
7	point.	04:23:12
8	Q. Let me ask you about -- you talked about	04:23:14
9	money that was appropriated and used by the	04:23:16
10	caucuses in the House and Senate on both	04:23:20
11	Democrats and Republicans. Was there any money	04:23:23
12	appropriated for the statewide commissioners	04:23:26
13	for them to have staff and mapping software?	04:23:28
14	A. Yeah, so, specifically the way this	04:23:33
15	works, there is something called the Ohio	04:23:40
16	Redistricting Commission. There is a statute.	04:23:43
17	It's a specific body. Rob McColley was the	04:23:45
18	Senate Republican appointee to that.	04:23:50
19	That body, one of their jobs is to	04:23:53
20	allocate the money at the beginning of this	04:23:56
21	process, which we did, \$150,000 to each party.	04:23:59
22	And typically the way that goes is	04:24:04
23	each -- sometimes they work together.	04:24:07
24	Sometimes -- we, of course, don't know what the	04:24:10
25	Democrat folks did. I think they bought	04:24:12

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1 computers and things like that. And that's
2 typically the way this has worked through the
3 years.

4 As far as the statewides are concerned,
5 that \$150,000 did not go to them. It went to
6 set up the House and Republican and -- the
7 Republican House and Senate and the Senate and
8 House Democrats. Of course, we gave the House
9 Democrats this additional quarter of a million
10 dollars.

11 I don't know whether they used money to
12 do redistricting. That is within their purview
13 to do that.

14 So if they did, yeah, that was money
15 that was legally appropriated to them. But I
16 didn't ask them to detail to me what they were
17 doing regarding any of the redistricting
18 matters.

19 Q. Mr. President, I think I understood the
20 focus of your answer to be on what the
21 different caucuses did with their money.

22 I was really trying to ask you about the
23 money that was appropriated for the
24 Redistricting Commission, was that also
25 available to the statewide officeholders who

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04:24:53

04:24:56

04:24:59

04:25:03

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04:25:11

04:25:15

04:25:17

04:25:19

04:25:22

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1 served on the commission?

04:25:27

2 A. I guess you're going to have to help me.

04:25:28

3 What money are you talking about that was

04:25:33

4 appropriated to the Redistricting Commission?

04:25:36

5 Q. I thought that there was some 4 to

04:25:39

6 \$5 million that had been appropriated for the

04:25:43

7 Redistricting Commission. If I'm mistaken, I

04:25:47

8 apologize. But that was my understanding.

04:25:50

9 A. Yeah, I -- I thought your previous

04:25:53

10 question was was there money appropriated for

04:25:56

11 the statewide officeholders for specifically

04:25:59

12 for map drawing.

04:26:04

13 And if that wasn't your question, if

04:26:06

14 this is of the money available to the

04:26:09

15 commission, did that go -- did that money go to

04:26:13

16 these -- to the statewides for purposes of map

04:26:18

17 drawing? Is that --

04:26:19

18 Q. Let me try to ask this a different way.

04:26:21

19 A. Okay.

04:26:25

20 Q. In Auditor Faber's deposition, he

04:26:26

21 indicated that he did not have funds to

04:26:29

22 purchase or secure mapping technology or

04:26:39

23 mapping technicians. Do you know whether

04:26:44

24 that's correct or not?

04:26:50

25 A. Well, I don't know. And, frankly, if

04:26:52

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1 Auditor Faber says that that's true, I'm
2 willing to accept that.

3 We have, you know -- in the Ohio Senate,
4 there is money that is not specifically
5 appropriated for things, but we can use for a
6 variety of purposes from time to time.

7 And each specific purchase is not a
8 specific appropriation. There may be a general
9 line item for administrative expenses. And all
10 agencies and departments have that.

11 Do I think that there's probably money
12 within the auditor's budget which he might be
13 able to use for that? Well, I would think so.

14 But if the auditor says no, then the
15 answer's probably no, since he's ultimately the
16 guy to determine that. He's the auditor.

17 Q. That's right. We're not going to argue
18 with the auditor.

19 A. Not on that issue, sure.

20 Q. Yes. Did the auditor ever request from
21 you funds for him to engage staff and to secure
22 mapping software so that he could participate
23 more actively in evaluating the maps that were
24 proposed?

25 A. The auditor never requested that of me.

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1 Q. Did Secretary LaRose request funds from
2 you for the purpose of securing mapping
3 technology, staffing, so that he could
4 participate more actively in the mapping
5 process?

6 A. Secretary LaRose never requested that of
7 me.

8 Q. If you'll just indulge me for a second.
9 Let me just look through my notes. I think I
10 am concluding here.

11 Thank you very much, Mr. President. I
12 don't have further questions.

13 A. Thank you.

14 MR. STRACH: Thank you, John. We don't
15 have any questions for President Huffman.

16 Is anyone from the AG's office on, can
17 tell us if they have any questions?

18 MS. COONTZ: No questions, thank you.

19 MR. STRACH: Okay. Great.

20 Madam court reporter, I think we can go
21 off the record.

22 THE VIDEOGRAPHER: Thank you. That
23 concludes today's proceedings. We're off the
24 record at 4:29 p.m.

25 (Deposition concluded at 4:29 p.m., 133)

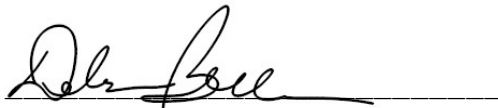
Reporter's Certificate

)
State of California)
)

I, Debra Bollman Farfan, Registered Diplomat
Reporter and CSR No. 11648, in and for the State of
California, do hereby certify:

That prior to being examined, the witness
named in the foregoing deposition was by me duly sworn
to testify to the truth, the whole truth, and nothing
but the truth; That said deposition was taken down by
me in shorthand at the time and place therein named and
thereafter reduced to typewriting under my direction,
and the same is a true, correct, and complete
transcript of said proceedings;

I further certify that I am not interested in
the event of the action. Witness my hand this 22nd day
of October, 2021.



Debra Bollman Farfan, CA CSR No. 11648

RDR, RMR, CRR, CRC

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FRANK LAROSE
Ohio Secretary of State



Constitution of the State of Ohio

Exhibit#

Huffman 1

10/21/21 - MMG

exhibitster.com



Preamble

We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

Article I: Bill of Rights

Inalienable rights.

§1 All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

(1851)

Right to alter, reform, or abolish government, and repeal special privileges.

§2 All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the General Assembly.

(1851)

Right to assemble.

§3 The people have the right to assemble together, in a peaceable manner, to consult for the common good; to instruct their Representatives; and to petition the General Assembly for the redress of grievances.

(1851)

Bearing arms; standing armies; military power.

§4 The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.

(1851)

Trial by jury.

§5 The right of trial by jury shall be inviolate, except that, in civil cases, laws may be passed to authorize the rendering of a verdict by the concurrence of not less than three-fourths of the jury.

(1851, am. 1912)

Slavery and involuntary servitude.

§6 There shall be no slavery in this State; nor involuntary servitude, unless for the punishment of crime.

(1851)

Rights of conscience; education; the necessity of religion and knowledge.

§7 All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required, as a qualification for office, nor shall any person be

incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws, to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

(1851)

Writ of habeas corpus.

§8 The privilege of the writ of habeas corpus shall not be suspended, unless, in cases of rebellion or invasion, the public safety require it.

(1851)

Bail.

§9 All persons shall be bailable by sufficient sureties, except for a person who is charged with a capital offense where the proof is evident or the presumption great and except for a person who is charged with a felony where the proof is evident or the presumption great and who where the person poses a substantial risk of serious physical harm to any person or to the community. Where a person is charged with any offense for which the person may be incarcerated, the court may determine at any time the type, amount, and conditions of bail. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted.

The General Assembly shall fix by law

standards to determine whether a person who is charged with a felony where the proof is evident or the presumption great poses a substantial risk of serious physical harm to any person or to the community. Procedures for establishing the amount and conditions of bail shall be established pursuant to Article IV, Section 5(b) of the Constitution of the State of Ohio.

(1851, am. 1997)

Trial for crimes; witness.

§10 Except in cases of impeachment, cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and cases involving offenses for which the penalty provided is less than imprisonment in the penitentiary, no person shall be held to answer for a capital, or otherwise infamous, crime, unless on presentment or indictment of a grand jury; and the number of persons necessary to constitute such grand jury and the number thereof necessary to concur in finding such indictment shall be determined by law. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed; but provision may be made by law for the taking of the deposition by the accused or by the state, to be used for or against the accused, of any witness whose attendance can not be

had at the trial, always securing to the accused means and the opportunity to be present in person and with counsel at the taking of such deposition, and to examine the witness face to face as fully and in the same manner as if in court. No person shall be compelled, in any criminal case, to be a witness against himself; but his failure to testify may be considered by the court and jury and may be the subject of comment by counsel. No person shall be twice put in jeopardy for the same offense.

(1851, am. 1912)

Rights of victims of crimes.

§10a (A) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused:

(1) to be treated with fairness and respect for the victim's safety, dignity and privacy;

(2) upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings;

(3) to be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated;

(4) to reasonable protection from the accused or any person acting on behalf of the accused;

(5) upon request, to reasonable notice

of any release or escape of the accused;

(6) except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused;

(7) to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim;

(8) to proceedings free from unreasonable delay and a prompt conclusion of the case;

(9) upon request, to confer with the attorney for the government; and

(10) to be informed, in writing, of all rights enumerated in this section.

(B) The victim, the attorney for the government upon request of the victim, or the victim's other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim's rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim or the victim's lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.

(C) This section does not create any cause of action for damages or compensation against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any political subdivision, or any officer of the court.

(D) As used in this section, “victim” means a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term “victim” does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.

(E) All provisions of this section shall be self-executing and severable, and shall supersede all conflicting state laws.

(F) This section shall take effect ninety days after the election at which it was approved.

(1994, am. 2017)

Freedom of speech; of the press; of libels.

§11 Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

(1851)

Transportation, etc. for crime.

§12 No person shall be transported out of the state, for any offense committed within the same; and no conviction shall

work corruption of blood, or forfeiture of estate.

(1851)

Quartering troops.

§13 No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law.

(1851)

Search warrants and general warrants.

§14 The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the person and things to be seized.

(1851)

No imprisonment for debt.

§15 No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud.

(1851)

Redress for injury; Due process.

§16 All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay.

Suits may be brought against the state, in such courts and in such manner, as

may be provided by law.
(1851, am. 1912)

***Protect private property rights
in ground water, lakes and other
watercourses.***

No hereditary privileges.

§17 No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this State.

(1851)

§19b. (A) The protection of the rights of Ohio's property owners, the protection of Ohio's natural resources, and the maintenance of the stability of Ohio's economy require the recognition and protection of property interests in ground water, lakes, and watercourses.

Suspension of laws.

§18 No power of suspending laws shall ever be exercised, except by the General Assembly.

(1851)

(B) The preservation of private property interests recognized under divisions (C) and (D) of this section shall be held inviolate, but subservient to the public welfare as provided in Section 19 of Article I of the Constitution.

Eminent domain.

§19 Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency, imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money; and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

(1851)

(C) A property owner has a property interest in the reasonable use of the ground water underlying the property owner's land.

(D) An owner of riparian land has a property interest in the reasonable use of the water in a lake or watercourse located on or flowing through the owner's riparian land.

(E) Ground water underlying privately owned land and nonnavigable waters located on or flowing through privately owned land shall not be held in trust by any governmental body. The state, and a political subdivision to the extent authorized by state law, may provide for the regulation of such waters. An owner of land voluntarily may convey to a governmental body the owner's property interest held in the ground water underlying the land or nonnavigable waters located on or flowing through the land.

(F) Nothing in this section affects the application of the public trust doctrine

Damages for wrongful death.

§19a The amount of damages recoverable by civil action in the courts for death caused by the wrongful act, neglect, or default of another, shall not be limited by law.

(1912)

as it applies to Lake Erie or the navigable waters of the state.

(G) Nothing in Section 1e of Article II, Section 36 of Article II, Article VIII, Section 1 of Article X, Section 3 of Article XVIII, or Section 7 of Article XVIII of the Constitution shall impair or limit the rights established in this section.

(2008)

Powers reserved to the people.

§20 This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people.

(1851)

Preservation of the freedom to choose health care and health care coverage

§21 (A) No federal, state, or local law or rule shall compel, directly or indirectly, any person, employer, or health care provider to participate in a health care system.

(B) No federal, state, or local law or rule shall prohibit the purchase or sale of health care or health insurance.

(C) No federal, state, or local law or rule shall impose a penalty or fine for the sale or purchase of health care or health insurance.

(D) This section does not affect laws or rules in effect as of March 19, 2010; affect which services a health care provider or hospital is required to perform or provide; affect terms and

conditions of government employment; or affect any laws calculated to deter fraud or punish wrongdoing in the health care industry.

(E) As used in this Section,

(1) “Compel” includes the levying of penalties or fines.

(2) “Health care system” means any public or private entity or program whose function or purpose includes the management of, processing of, enrollment of individuals for, or payment for, in full or in part, health care services, health care data, or health care information for its participants.

(3) “Penalty or fine” means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee established by law or rule by a government established, created, or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

(2011)

Article II: Legislative

In whom power vested.

§1 The legislative power of the state shall be vested in a General Assembly consisting of a Senate and House of Representatives but the people reserve to themselves the power to propose to the General Assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided. They also reserve the power to adopt or reject any law, section of any

REPEALED. County and township treasuries.

§5

(1851, rep. 1933)

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

REPEALED. What officers may be removed.

§6

(1851, rep. 1933)

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

REPEALED. Local taxation.

§7

(1851, rep. 1933)

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

Article XI: Apportionment

Persons responsible for apportionment of state for members of General Assembly.

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

- (1) The governor;
- (2) The auditor of state;
- (3) The secretary of state;
- (4) One person appointed by the speaker of the house of representatives;
- (5) One person appointed by the legislative leader of the largest political party in the house of representatives of which the speaker of the house of representatives is not a member;
- (6) One person appointed by the president of the senate; and

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

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

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

(3) The affirmative vote of four members of the commission, including at least two members of the commission

who represent each of the two largest political parties represented in the general assembly shall be required to adopt any general assembly district plan. For the purpose of this division, a member of the commission shall be considered to represent a political party if the member was appointed to the commission by a member of that political party or if, in the case of the governor, the auditor of state, or the secretary of state, the member is a member of that political party.

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

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

The commission shall adopt a final general assembly district plan not later than the first day of September of a

year ending in the numeral one. After the commission adopts a final plan, the commission shall promptly file the plan with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

Four weeks after the adoption of a general assembly district plan, the commission shall be automatically dissolved.

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

(1967, am. 2015)

Ratio of representation in house and senate.

§2 Each house of representatives district shall be entitled to a single representative in each general assembly. Each senate district shall be entitled to a single senator in each general assembly.

(1967, am. 2015)

Population of each House of Representatives district.

§3 (A) The whole population of the state, as determined by the federal decennial census or, if such is unavailable, such other basis as the general assembly may direct, shall be divided by the number “ninety-nine” and by the number “thirty-three” and the quotients shall be the ratio of representation in the house of representatives and in the senate, respectively, for ten years next succeeding such redistricting.

(B) A general assembly district plan shall comply with all of the requirements

of division (B) of this section.

(1) The population of each house of representatives district shall be substantially equal to the ratio of representation in the house of representatives, and the population of each senate district shall be substantially equal to the ratio of representation in the senate, as provided in division (A) of this section. In no event shall any district contain a population of less than ninety-five per cent nor more than one hundred five per cent of the applicable ratio of representation.

(2) Any general assembly district plan adopted by the commission shall comply with all applicable provisions of the constitutions of Ohio and the United States and of federal law.

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

(C) House of representatives districts shall be created and numbered in the following order of priority, to the extent that such order is consistent with the foregoing standards:

(1) Proceeding in succession from the largest to the smallest, each county containing population greater than one hundred five per cent of the ratio of representation in the house of representatives shall be divided into as many house of representatives districts as it has whole ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining house of representatives district.

(2) Each county containing population of not less than ninety-five per cent of the ratio of representation in the house of representatives nor more than one hundred five per cent of the ratio shall be designated a representative district.

(3) The remaining territory of the state shall be divided into representative districts by combining the areas of counties, municipal corporations, and townships. Where feasible, no county shall be split more than once.

(D)(1)(a) Except as otherwise provided in divisions (D)(1)(b) and (c) of this section, a county, municipal corporation, or township is considered to be split if any contiguous portion of its territory is not contained entirely within one district.

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

(c) If a municipal corporation or township that is located in a county that contains a municipal corporation or township that has a population of more than one ratio of representation is split for the purpose of complying with division (E)(1)(a) or (b) of this section, each portion of that municipal corporation or township shall be considered to be a separate municipal corporation or township for the purposes of this section.

(2) Representative districts shall be drawn so as to split the smallest possible

number of municipal corporations and townships whose contiguous portions contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.

(3) Where the requirements of divisions (B), (C), and (D) of this section cannot feasibly be attained by forming a representative district from whole municipal corporations and townships, not more than one municipal corporation or township may be split per representative district.

(E)(1) If it is not possible for the commission to comply with all of the requirements of divisions (B), (C), and (D) of this section in drawing a particular representative district, the commission shall take the first action listed below that makes it possible for the commission to draw that district:

(a) Notwithstanding division (D)(3) of this section, the commission shall create the district by splitting two municipal corporations or townships whose contiguous portions do not contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.

(b) Notwithstanding division (D)(2) of this section, the commission shall create the district by splitting a municipal corporation or township whose contiguous portions contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.

(c) Notwithstanding division (C)(2) of this section, the commission shall create the district by splitting, once, a single county that contains a population

of not less than ninety-five per cent of the ratio of representation, but not more than one hundred five per cent of the ratio of representation.

(d) Notwithstanding division (C)(1) of this section, the commission shall create the district by including in two districts portions of the territory that remains after a county that contains a population of more than one hundred five per cent of the ratio of representation has been divided into as many house of representatives districts as it has whole ratios of representation.

(2) If the commission takes an action under division (E)(1) of this section, the commission shall include in the general assembly district plan a statement explaining which action the commission took under that division and the reason the commission took that action.

(3) If the commission complies with divisions (E)(1) and (2) of this section in drawing a district, the commission shall not be considered to have violated division (C)(1), (C)(2), (D)(2), or (D)(3) of this section, as applicable, in drawing that district, for the purpose of an analysis under division (D) of Section 9 of this article.

(1967, am. 2015)

Population of each Senate district.

§4 (A) Senate districts shall be composed of three contiguous house of representatives districts.

(B)(1) A county having at least one whole senate ratio of representation shall have as many senate districts wholly within the boundaries of the

county as it has whole senate ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining senate district.

(2) Counties having less than one senate ratio of representation, but at least one house of representatives ratio of representation, shall be part of only one senate district.

(3) If it is not possible for the commission to draw representative districts that comply with all of the requirements of this article and that make it possible for the commission to comply with all of the requirements of divisions (B)(1) and (2) of this section, the commission shall draw senate districts so as to commit the fewest possible violations of those divisions. If the commission complies with this division in drawing senate districts, the commission shall not be considered to have violated division (B)(1) or (2) of this section, as applicable, in drawing those districts, for the purpose of an analysis under division (D) of Section 9 of this article.

(C) The number of whole ratios of representation for a county shall be determined by dividing the population of the county by the ratio of representation in the senate determined under division (A) of Section 3 of this article.

(D) Senate districts shall be numbered from one through thirty-three and as provided in Section 5 of this article.

(1967, am. 2015)

Representation for each house and senate district.

§5 At any time the boundaries of senate districts are changed in any general assembly district plan made pursuant to any provision of this article, a senator whose term will not expire within two years of the time the plan becomes effective shall represent, for the remainder of the term for which the senator was elected, the senate district that contains the largest portion of the population of the district from which the senator was elected, and the district shall be given the number of the district from which the senator was elected. If more than one senator whose term will not so expire would represent the same district by following the provisions of this section, the plan shall designate which senator shall represent the district and shall designate which district the other senator or senators shall represent for the balance of their term or terms.

(1967, am. 2015)

Creation of district boundaries; change at end of decennial period.

§6 The Ohio redistricting commission shall attempt to draw a general assembly district plan that meets all of the following standards:

(A) No general assembly district plan shall be drawn primarily to favor or disfavor a political party.

(B) The statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party shall correspond closely to the statewide preferences of the voters of Ohio.

(C) General assembly districts shall be compact.

Nothing in this section permits the commission to violate the district standards described in Section 2, 3, 4, 5, or 7 of this article.

(1967, am. 2015)

REPEALED. Provided additional senators for districts with a ratio of representation greater than one.

§6a

(1956, rep. 1967)

Boundary lines of House of Representatives districts.

§7 Notwithstanding the fact that boundaries of counties, municipal corporations, and townships within a district may be changed, district boundaries shall be created by using the boundaries of counties, municipal corporations, and townships as they exist at the time of the federal decennial census on which the redistricting is based, or, if unavailable, on such other basis as the general assembly has directed.

(1967, am. 2015)

Determination of number of House of Representatives districts within each county.

§8 (A)(1) If the Ohio redistricting commission fails to adopt a final general assembly district plan not later than the first day of September of a year ending in the numeral one, in accordance with Section 1 of this article, the commission shall introduce a proposed general assembly district plan by a simple majority vote of the

commission.

(2) After introducing a proposed general assembly district plan under division (A)(1) of this section, the commission shall hold a public hearing concerning the proposed plan, at which the public may offer testimony and at which the commission may adopt amendments to the proposed plan. Members of the commission should attend the hearing; however, only a quorum of the members of the commission is required to conduct the hearing.

(3) After the hearing described in division (A)(2) of this section is held, and not later than the fifteenth day of September of a year ending in the numeral one, the commission shall adopt a final general assembly district plan, either by the vote required to adopt a plan under division (B)(3) of Section 1 of this article or by a simple majority vote of the commission.

(B) If the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by the vote required to adopt a plan under division (B)(3) of Section 1 of this article, the plan shall take effect upon filing with the secretary of state and shall remain effective until the next year ending in the numeral one, except as provided in Section 9 of this article.

(C)(1)(a) Except as otherwise provided in division (C)(1)(b) of this section, if the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by a simple majority vote of the commission, and not by the vote required to adopt a plan under division (B)(3) of Section 1 of this article, the plan shall take

effect upon filing with the secretary of state and shall remain effective until two general elections for the house of representatives have occurred under the plan.

(b) If the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by a simple majority vote of the commission, and not by the vote required to adopt a plan under division (B) of Section 1 of this article, and that plan is adopted to replace a plan that ceased to be effective under division (C)(1)(a) of this section before a year ending in the numeral one, the plan adopted under this division shall take effect upon filing with the secretary of state and shall remain effective until a year ending in the numeral one, except as provided in Section 9 of this article.

(2) A final general assembly district plan adopted under division (C)(1)(a) or (b) of this section shall include a statement explaining what the commission determined to be the statewide preferences of the voters of Ohio and the manner in which the statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party corresponds closely to those preferences, as described in division (B) of Section 6 of this article. At the time the plan is adopted, a member of the commission who does not vote in favor of the plan may submit a declaration of the member's opinion concerning the statement included with the plan.

(D) After a general assembly district plan adopted under division (C)(1)(a)

of this section ceases to be effective, and not earlier than the first day of July of the year following the year in which the plan ceased to be effective, the commission shall be reconstituted as provided in Section 1 of this article, convene, and adopt a new general assembly district plan in accordance with this article, to be used until the next time for redistricting under this article. The commission shall draw the new general assembly district plan using the same population and county, municipal corporation, and township boundary data as were used to draw the previous plan adopted under division (C) of this section.

(1967, am. 2015)

***When population of county is
fraction of ratio of representation.***

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

(B) In the event that any section of this constitution relating to redistricting, any general assembly district plan made by the Ohio redistricting commission, or any district is determined to be invalid by an unappealed final order of a court of competent jurisdiction then, notwithstanding any other provisions of this constitution, the commission shall be reconstituted as provided in Section 1 of this article, convene, and ascertain and determine a general assembly district plan in conformity with such provisions of this constitution as are then valid, including establishing terms of office and election of members of the general assembly from districts designated in the plan, to be used until the next time for redistricting under

this article in conformity with such provisions of this constitution as are then valid.

(C) Notwithstanding any provision of this constitution or any law regarding the residence of senators and representatives, a general assembly district plan made pursuant to this section shall allow thirty days for persons to change residence in order to be eligible for election.

(D)(1) No court shall order, in any circumstance, the implementation or enforcement of any general assembly district plan that has not been approved by the commission in the manner prescribed by this article.

(2) No court shall order the commission to adopt a particular general assembly district plan or to draw a particular district.

(3) If the supreme court of Ohio determines that a general assembly district plan adopted by the commission does not comply with the requirements of Section 2, 3, 4, 5, or 7 of this article, the available remedies shall be as follows:

(a) If the court finds that the plan contains one or more isolated violations of those requirements, the court shall order the commission to amend the plan to correct the violation.

(b) If the court finds that it is necessary to amend not fewer than six house of representatives districts to correct violations of those requirements, to amend not fewer than two senate districts to correct violations of those requirements, or both, the court shall

declare the plan invalid and shall order the commission to adopt a new general assembly district plan in accordance with this article.

(c) If, in considering a plan adopted under division (C) of Section 8 of this article, the court determines that both of the following are true, the court shall order the commission to adopt a new general assembly district plan in accordance with this article:

(i) The plan significantly violates those requirements in a manner that materially affects the ability of the plan to contain districts whose voters favor political parties in an overall proportion that corresponds closely to the statewide political party preferences of the voters of Ohio, as described in division (B) of Section 6 of this article.

(ii) The statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party does not correspond closely to the statewide preferences of the voters of Ohio.

(1967, am. 2015)

Severability provision.

§10 The various provisions of this article are intended to be severable, and the invalidity of one or more of such provisions shall not affect the validity of the remaining provisions.

(1967, am. 2015)

REPEALED. Senate districts.

§11

(1967, rep. 2015)

REPEALED. Change of district boundaries of senate districts.

§12
(1967, rep. 2015)

REPEALED. Jurisdiction of Supreme Court, effect of determination of unconstitutionality; apportionment.

§13
(1967, rep. 2015)

REPEALED. District boundaries until january 1, 1973.

§14
(1967, rep. 2015)

REPEALED. Severability provision.

§15
(1967, rep. 2015)

Article XII: Finance and Taxation

Poll taxes prohibited.

§1 No poll tax shall ever be levied in this state, or service required, which may be commuted in money or other thing of value.

(1851, am. 1912)

Limitation on tax rate; exemption.

§2 No property, taxed according to value, shall be so taxed in excess of one per cent of its true value in money for all state and local purposes, but laws may be passed authorizing additional taxes to be levied outside of such limitation, either when approved by at least a

majority of the electors of the taxing district voting on such proposition, or when provided for by the charter of a municipal corporation. Land and improvements thereon shall be taxed by uniform rule according to value, except that laws may be passed to reduce taxes by providing for a reduction in value of the homestead of permanently and totally disabled residents, residents sixty-five years of age and older, and residents sixty years of age or older who are surviving spouses of deceased residents who were sixty-five years of age or older or permanently and totally disabled and receiving a reduction in the value of their homestead at the time of death, provided the surviving spouse continues to reside in a qualifying homestead, and providing for income and other qualifications to obtain such reduction. Without limiting the general power, subject to the provisions of Article I of this constitution, to determine the subjects and methods of taxation or exemptions therefrom, general laws may be passed to exempt burying grounds, public school houses, houses used exclusively for public worship, institutions used exclusively for charitable purposes, and public property used exclusively for any public purpose, but all such laws shall be subject to alteration or repeal; and the value of all property so exempted shall, from time to time, be ascertained and published as may be directed by law.

(1851, am. 1906, 1912, 1918, 1929, 1933, 1970, 1974, 1990)

Article XI, Section 8(C)(2) Statement

Pursuant to Article XI, Section 8(C)(2) of the Ohio Constitution, the Ohio Redistricting Commission issues the following statement:

The Commission determined that the statewide preferences of the voters of Ohio predominately favor Republican candidates.

The Commission considered statewide state and federal partisan general election results during the last ten years. There were sixteen such contests. When considering the results of each of those elections, the Commission determined that Republican candidates won thirteen out of sixteen of those elections resulting in a statewide proportion of voters favoring statewide Republican candidates of 81% and a statewide proportion of voters favoring statewide Democratic candidates of 19%. When considering the number of votes cast in each of those elections for Republican and Democratic candidates, the statewide proportion of voters favoring statewide Republican candidates is 54% and the statewide proportion of voters favoring statewide Democratic candidates is 46%. Thus, the statewide proportion of voters favoring statewide Republican candidates is between 54% and 81% and the statewide proportion of voters favoring statewide Democratic candidates is between 19% and 46%. The Commission obtained publicly available geographic data for statewide partisan elections in 2016, 2018, and 2020. Publicly available geographic data for those elections was not available for elections in 2012 and 2014. Using this data, the Commission adopted the final general assembly district plan, which contains 85 districts (64.4%) favoring Republican candidates and 47 districts (35.6%) favoring Democratic candidates out of a total of 132 districts. Accordingly, the statewide proportion of districts whose voters favor each political party corresponds closely to the statewide preferences of the voters of Ohio.



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The final general assembly district plan adopted by the Commission complies with all of the mandatory requirements of Article XI, Sections 2, 3, 4, 5, and 7 of the Ohio Constitution. The Commission's attempt to meet the aspirational standards of Article XI, Section 6 of the Ohio Constitution did not result in any violation of the mandatory requirements of Article XI, Sections 2, 3, 4, 5, and 7 of the Ohio Constitution.

CERTIFICATE OF SERVICE

I, Freda J. Levenson, hereby certify that on October 22, 2021, I caused a true and correct copy of the following documents to be served by email upon the counsel listed below:

- 1. Stipulation of Evidence (Deposition Transcripts and Exhibits)**
- 2. Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 1 of 7 (pages 1 - 314)**
- 3. Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 2 of 7 (pages 315 - 451)**
- 4. Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 3 of 7 (pages 452 - 832)**
- 5. Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 4 of 7 (pages 833 - 983)**
- 6. Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 5 of 7 (pages 984 - 1250)**
- 7. Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 6 of 7 (pages 1251 - 1559)**
- 8. Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 7 of 7 (pages 1560- 1892)**

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