

**IN THE SUPREME COURT OF OHIO**

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**Regina C. Adams, *et al.*,**

***Relators,***

***v.***

**Governor Mike DeWine, *et al.*,**

***Respondents.***

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**Case No. 2021-1428**

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

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

***Relators,***

***v.***

**Governor Mike DeWine, *et al.*,**

***Respondents.***

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**Case No. 2021-1449**

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

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EXHIBITS APPENDIX B - OTHER GOVERNMENT MATERIALS  
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## Ohio Redistricting Commission - 10-28-2021

<https://www.ohiochannel.org/video/ohio-redistricting-commission-10-28-2021>

**Co-chair Speaker Bob Cupp** [00:00:00] We'll call to order this meeting of the Ohio Redistricting Commission. I'd ask the staff to please call the roll.

**Clerk** [00:00:07] Governor Mike DeWine (here) auditor Keith Faber (present), Secretary of State Frank LaRose (here) president Matt Huffman (here), Leader Emilia Sykes (here), Senator Vernon Sykes, Co-Chair (here), Speaker Robert Cupp, Co-Chair (here). Mr. Co-Chair, a quorum is present.

**Co-chair Speaker Bob Cupp** [00:00:23] A quorum is present and we'll been meeting as a full committee. First item of business is approval of the minutes from the last meeting. The minutes are in your folders. Do I have a motion to accept the minutes?

**co-chair Senator Vernon Sykes** [00:00:38] So moved.

**Co-chair Speaker Bob Cupp** [00:00:38] It's been moved. Is there a second?

**Senate President Matt Huffman** [00:00:41] Second.

**Co-chair Speaker Bob Cupp** [00:00:42] Moved and seconded. Are there any objections to the motion to adopt the minutes? Without objection, the minutes are accepted. Next item is the adoption of a public records policy. As commission members may recall, the commission incorporated the Ohio Department of Administrative Services General Records Retention Schedule when we adopted the Commission Rules. Pursuant to revised code 149.43 and Commission Rule seven. I move that we adopt the Attorney General's Model Public Records Policy, which are in your folder as the records policy for the Commission.

**Co-chair Senator Vernon Sykes** [00:01:27] Second.

**Co-chair Speaker Bob Cupp** [00:01:30] Are there any objections to the motion? Hearing none, the motion is approved without objection. So I would also move to that expenses incurred by commission members, their designees and their staff for mileage, lodging and supplies in conjunction with the Regional Commission meetings and hearings through October 31st, 2021, be reimbursed with the approval of both co-chairs. Is there a second?

**Co-chair Senator Vernon Sykes** [00:02:05] Second.

**Co-chair Speaker Bob Cupp** [00:02:06] It's been moved and seconded. Are there any objections to the motion? Without objection, the motion is adopted. I'll turn this over now to my co-chair.

**Co-chair Senator Vernon Sykes** [00:02:18] Thank you, Mr. Chair, the at this time, the commission will hear public testimony for sponsors of complete and statewide congressional plans. The Ohio Channel will record these proceedings so that the board, in its deliberations, may consider things presented here today. Please refrain from clapping or loud noise out of respect for the witnesses, hard to hear persons and those watching the proceedings remotely. If you are here to testify, give our staff a completed witness slip

and any written testimony that you know-- that you have not already submitted to be included in the official record of the proceedings. A plan sponsor may testify for up to 10 minutes. Subject to further limitations by the co-chairs in the interest of time. Other witnesses and commission member questions. We were using the visual timer to assist witnesses and tracking their remaining time. We will now begin the first witness for today. Gary Gail, come forward, please.

**audience member** [00:03:33] We don't think your mic's working. Gary Gale, can you hear me?

**Gary Gale** [00:03:45] Yes, sir.

**Co-chair Senator Vernon Sykes** [00:03:46] Please state and spell your name. Speak clearly and loudly enough for the panel and the audience members to hear, indicate which plan you and your organization sponsored and confirmed that it is a complete statewide congressional District plan.

**Gary Gale** [00:04:04] OK, although I'm not sure that my plan has a name. My name is Gary Gale. I live in Stark County and I am the author of this. When I testified previously in Akron, I had testified in one congressional district, which was with the support of my county Democratic Party. The map that I have today is not supported by them, not discussed with them, nor is it by any other, any other organization that I belong to and paying dues to. OK. My name is Gary Gale. I live in Stark County, which was butchered in the last congressional redistricting. Earlier this year, I testified at the commission's Akron hearing on a three county map favored by local Democratic Party leadership. I would prefer testifying today about that map only. But under the rules that we're operating under, I'm testifying about a 15 district congressional map that was done in conformance with Senate joint resolution five. And relying upon the notice released by Senate, by Speaker... Then Speaker Pro Tem. Kirk Shuring and Senate President Huffman of January 29th, 2018 for the legislative intent. I would respectfully request that you will view the testimony that I gave at the Akron hearing regarding the three county map for Stark, Mahoning and Trumbull, where all three counties are presently in the 13th Congressional District, where the residents have common educational levels, economic status, ethnicities, forms of local governance and both income and economic malaise and its concomitant population loss. But to go further, I would like to add before I get too far into this that while I am not a practicing attorney in Ohio, I do maintain my law license in Illinois. I am rated 5.0 over 5.0 by Martindale Hubbell. Speaker Cupp can explain that to anybody who doesn't know what that is. And earlier this year, in anticipation of litigation I took the NAACP's 5 hour Gerrymandering CLE course, a gerrymandering course offered by the Southern Poverty Law Center, and I attended another CLE where one of the speakers was the general counsel of the official Michigan Independent Redistricting Commission. My intent with the map I drew was to reflect the partisanship of Ohio and respect the wording of Ohio's Senate joint resolution five, which is Exhibit one in the testimony that I've submitted, as well as the announcement by Senate President Huffman and House speaker Pro Tempore Kirk Schuring on January 28th, excuse me, January 29, 2018. In so doing, I created a map that provides for six Republican leaning districts, five Democratic leaning districts and four competitive districts. Two of the competitive districts had Republican majorities of fifty one point three three percent and fifty two point five six percent, whereas the other two had Democratic votes of fifty point four four percent and fifty point two nine percent. That's Exhibit three in in what I submitted. Dave's Redistricting has rated proportionality of my proposed district at 100 percent. Selecting the letter... Regarding legislative intent, I relied

on the first two sentences of page two of Senate President Huffman's release that the reason for all for Ohio Senate joint resolution five was enhancing protections for regions, counties and setting cities by keeping counties from being split more than twice. And this is part of the code, in fact, the updated plan calls for at least 65 counties to be kept whole and allows only five counties to be split twice. While that document did not indicate which counties were which, logic dictates that the people you need to protect the people in the 65 smallest counties. I'm sure the three members of the commission from the three five from the... 65 smallest counties would concur that their people need protection more than somebody living in a county of, shall we say, half a million people. The map I drew split none of Ohio's 65 smallest counties and only 10 of Ohio's counties at all. All of them from the larger 23. The fair districts this... and this is in contrast to the firm Maps winning map, which split 40 percent more counties in my proposed map. And remarkably, split six counties with the population was less than 66,000 people. That would be Carroll, Morrow, Highland, Mercer, Marion and Union. While keeping two counties with more than half a million people intact. My interpretation of what I read in the... In Senate joint resolution five and the were release by Senate President Huffman and Speaker Pro Tempore at that time, showing that they meant to protect the people living in the smaller counties. I view this as an apparent violation of the intent of Senate joint resolution five. Additionally, 13 of 15 congressional districts in my map, Half or more of the counties each district were in districts together to begin with. I mean, today I don't mean forever, but I meant in the last reapportionment. My proposed congressional map has a population deviation of point five six percent, so that zero point five, six percent, which I believe is within the threshold allowed by the federal courts, while a fair maps coalition winner went to Herculean efforts in support of his theory that absolute district population is required. That is not supported by Exhibit two that explicitly states on Page two that one of the purposes of Senate joint resolution five was eliminating strict equal protection requirements for districts. The idea that you need to have one or two digit differences between districts for a congressional map is essentially insane. This is buttressed by the Congressional Research Services publication of September 10th, 2021, which I quote at length. I'm not going to read that to you. Additionally, my proposed congressional district had a 73 excuse me congressional map had a 73 out of 100 score and splitting based on having only split 10 counties in just one precinct. And that was my mistake. I tried not to split any precinct. I don't know where that one is. The Fair Districts winner, due to his disregard of the wording in the Huffman Schuring Jan. 29, 2018 release not only split 18 counties, he also split 38 separate precincts. Which even if you read the analysis portion in Dave's Redistricting says which could have been 14, so that is excessive. In my view, keeping rural districts is essential. Not just for the people who live in the rural districts, but for the people in urban suburban counties like mine where we were in 2011, treat it as a jigsaw puzzle piece to provide population to a world congressional district. I'm a resident of Ohio's eighth largest county, classified by both the United States Office of Management and Budget and The State of Ohio as an urban county. Regardless, the substantial majority of our precincts one hundred and seventy one out of 220 and our two largest cities, Canton and Massillon, were gerrymandered in 2011 into a primarily rural district with a congressman who seemingly neither understood nor cared about the problems of our urban and suburban residents. Then I have a paragraph here, and I attach a map as Exhibit five, because Exhibit five was supposed to show where the rural counties and the Appalachian counties were, unfortunately. The map didn't print well and nobody in my office told me until it was done. I do have it on a thumb drive, and if anyone wants to know it, I believe that I can, and tl sent it to Ms. Blessing yesterday as well. Most of them submitted maps that I have seen were oblivious to the fact that Ohio's rural urban divide is its greatest political conflict. At least when it comes to gerrymandering. My congressional map also follows the dictates

of Senate joint resolution five that the General Assembly shall not pass a plan that unduly favors or disfavors a political party or its incumbents. In this instance, the commission stands in the shoes of the General Assembly. Again, I'm sure Senator Cupp excuse me, Speaker Cupp can explain the legal significance of the phrase in the shoes of. So I believe that this commission should not pass the plan did unduly favors or just favors a political party or its incumbents. I cannot say that a map drawn by the Fair Maps contest winner meets that standard. In Congressional District 11. Senator Sykes can speak to the Senator Levin, probably better than I can speak to Congressional District live, given probably better than I can. Even though back to back in the day, I was an intern for Lou Stokes. That map who moves all of Summit County from the 11th District, and I'm not quarreling with that. But missed to be the last special election in.

**Co-chair Senator Vernon Sykes** [00:14:19] Mr. Gale?

**Gary Gale** [00:14:19] Yes.

**Co-chair Senator Vernon Sykes** [00:14:20] Just to let you know the ten minutes is expired, but we're flexible.

**Gary Gale** [00:14:27] I'm sorry. Like most lawyers, I'm enchanted with the sound of my own voice. OK. Basically, what happened in the 11th District is when they removed Summit County, and there were good reasons to do so. They, the map maker, chose to add the precincts that are currently in the 14th District and the eastern end of Cuyahoga County. Those communities also had precincts that were in the 11th. And those particular precincts are where soon to be Congresswoman Brown ran up her numbers. This this. The district as drawn favors Shontel Brown, and disfavors Nina Turner. And if you look at the numbers, you'll find the same thing I found. This will make it harder for, Miss Turner has already filed to run again in 22. And this disfavors her. Somebody is essentially putting their thumb on the scales. I will, don't know what his motivation was. I'm sure you're all familiar with him. I will let you reach your own conclusions from what they taught me in law school, I can't testify again. When I was hearing cases as well, I can't allow anybody to testify when someone else is thinking. Only what they only what they do. That pretty much covers it all. The last thing is that because there was no indication from the commission as to what number we should use for the baseline for an opportunity district. I asked the general counsel of the Michigan Independent Redistricting Commission whenever they were using the number they were using was 30 percent. My district has four districts that are in excess of 30 percent minority and we have a we have a congresswoman from this county that we're standing in right now today, who was elected in a district with thirty four point fifty five percent black. So it's not just an opportunity, it's a reality. And I believe that the map that I drew meets the requirements, and I'm sorry for writing too much. And I'm the second to last page. If you look at what the ask is and they ask is basically to protect the interest of Ohio's 65 small counties to protect regional interests. And that makes urban suburban counties like mine with rural counties and eliminate district equal population requirements for districts. As the as the Huffman Schuring memo of January 29, 2018 said to correct the apparent undue undue favoring of a soon to be incumbent in the 11th Congressional District.

**Co-chair Senator Vernon Sykes** [00:17:21] Mr. Gale, you're setting in a bad precedent, I don't want to cut you off.

**Gary Gale** [00:17:26] I can't set any precedent here. You can set a precedent, yes, but not me. And I'm sure the speaker that Speaker Cupp has set many precedents. Thank you and you have it. You can read it.

**Co-chair Senator Vernon Sykes** [00:17:38] And if you could stay just a minute. Are there any questions of the witness? President Huffman.

**Senate President Matt Huffman** [00:17:46] Thank you, thank you. Co-Chair Sykes, thanks for your testimony and obviously pretty thoughtful examination of the issue in the work that you did. I just have to ask. Ten years ago, there was someone from Illinois who submitted a map that many folks said was that it might even been the state map. That wasn't you, was it?

**Gary Gale** [00:18:10] No, that was not me. I did.

**Senate President Matt Huffman** [00:18:11] OK.

**Gary Gale** [00:18:11] I did do a series of maps in Illinois on behalf of the Illinois chapter of the University of Illinois in 1981. I did testify six times about them because I also did legislative maps.

**Senate President Matt Huffman** [00:18:24] Fair enough.

**Gary Gale** [00:18:25] OK.

**Senate President Matt Huffman** [00:18:26] And pardon me for that aside, co-chair. I'm interested in this equal population discussion because I know that there are some Supreme Court cases and other Federal District Court cases, and it appears that the Tenet case that you submitted, I guess, sets out some standards or considerations. Obviously, a court would use if a map gets challenged and if I just finish my question so and I know, for example, there was a deviation. Maybe it was in two and a half or three percent, something like that in a West Virginia case because the district would have gone to the other side of the mountain, and they said that was appropriate. Of course, we have a five percent deviation in our constitution for the state maps. So I guess how is the commission or, you know, a legislative body to know that, you know, as we're sitting here, we don't know what the court's going to say later, what deviation would be appropriate? I mean, this case does point seven nine under these circumstances. Is five percent too much?

**Gary Gale** [00:19:36] I don't know about whether five percent is too much for a legislative map. I wouldn't think so. I did rely on something that was published by the Congressional Research Service approximately two weeks ago, a month ago, September 10th of this year, and I would assume that they would have the most recent information.

**Senate President Matt Huffman** [00:19:57] Can you eliminate, excuse me, Mr. Chair. I mean, you've reviewed this.

**Gary Gale** [00:20:02] I have not give you the actual cases on that question I was. We have like two days to get this thing together. I can do so and get back with you.

**Senate President Matt Huffman** [00:20:14] Yeah. Well, I'm sure I just thought, while the commission was here. You might be able.

**Gary Gale** [00:20:17] No, I basically relied upon the Congressional Research Service.

**Senate President Matt Huffman** [00:20:21] Could I have one other question?

**Co-chair Senator Vernon Sykes** [00:20:23] President Huffman.

**Senate President Matt Huffman** [00:20:24] Thank you. So you know a lot about Illinois license to practice law there. And we've talked about what the percentages of votes are in the state of Ohio and how does that reflect in arguments about what districts should look like and what's unreasonable? And just some of the research that we did internally in this is just looking at President, Senate and governor races in Illinois. Over the last 10 years, the Democratic candidate has gotten 52 percent of the vote. But in the congressional delegation is 72 percent democratic.

**Gary Gale** [00:21:06] And the map that they've drawn now is even worse.

**Senate President Matt Huffman** [00:21:09] OK. What do you mean even worse?

**Gary Gale** [00:21:11] The Democratic majority in the Illinois House and Illinois Senate have come out with a district that will allow for two Republican members of Congress.

**Senate President Matt Huffman** [00:21:21] So that would be two out of 18.

**Gary Gale** [00:21:23] It'll be 17 this time, sir.

**Senate President Matt Huffman** [00:21:24] Oh, OK. They lose one. So 15 of 17 under that map.

**Gary Gale** [00:21:30] I haven't done that math, but it is somewhat egregious.

**Senate President Matt Huffman** [00:21:33] Yeah. OK. The we all have a different definition, I think, well, not everybody, but there are there are different definitions of gerrymandering, I guess. Does that seem to be a gerrymandered map to you?

**Gary Gale** [00:21:48] Yes, the the Illinois congressional map today. Is it is egregious the Democratic map that they have run that they have drawn that only allows for two to Republicans out of 17 is even more egregious. And I would argue that. For years, it has been egregious.

**Senate President Matt Huffman** [00:22:09] Could could I have one more question?

**Co-chair Senator Vernon Sykes** [00:22:12] Mr. President.

**Senate President Matt Huffman** [00:22:12] One final question So you used the term competitive in your testimony? And is there a range of percentages that you would consider competitive is obviously 50-50, but is a 51 percent whether it's for one party or the other competitive? And how far out would that range go on either side?

**Gary Gale** [00:22:33] Most of those things that I've read over the years tops out at around 54 on one side and 46 on the other. In my map, the ranges were if you'll give me just just a

moment so that I'm being accurate. The two districts that I considered competitive that had Republican majorities had fifty one point three three and fifty two point five six, and the two competitive districts with the Democrats were fifty point forty four and fifty point two nine. I think all of those by any rational definition, would be competitive.

**Senate President Matt Huffman** [00:23:05] All right, thank you. Thank you, Mr. co-chair.

**Gary Gale** [00:23:08] Thank you.

**Co-chair Senator Vernon Sykes** [00:23:10] Any additional questions? Thank you very much. I suppose. Yes, go ahead.

**Gary Gale** [00:23:17] Yes, Speaker?

**Co-chair Speaker Bob Cupp** [00:23:19] Thank you, Mr. Gale. I just want to kind of follow up on a couple of questions, the population deviation, and I just sort of scanned the Congressional Research Service that, excuse me, that you provided here. And one of the things that it says is that the. There has to be a justification for any population deviation. And I was wondering in your map,

**Gary Gale** [00:23:57] what is that?

**Co-chair Speaker Bob Cupp** [00:23:58] What is your what is your justification?

**Gary Gale** [00:24:05] My justification was that I was striving to reach the 45 55 split and that I was trying very hard to split as few counties, a few municipalities, and I don't understand how we split one piece in because I was trying not to do that. And that. The justification is you have you, if you are going to use lines such as counties or municipal lines, or according to the wording of a Senate joint resolution five, it gives preference to counties then townships and only then cities, which I'm not sure everybody read when they do their maps. You have to make some decisions. I this is what I came up with.

**Co-chair Speaker Bob Cupp** [00:25:00] And that's fair, it was just. In your in your in your map, are any incumbents put together in the same, you know, new congressional district?

**Gary Gale** [00:25:15] Well, I I'm only terribly familiar with the ones in northeast Ohio. Yes. Tim Ryan would be in with Dave Joyce, but Tim isn't running for the Senate. Bob Gibbs would have been in with. I'm lost, forget. I remember who, but Bob Gibbs is only raised. Less than \$100,000 this year, so I don't believe he's running for reelection.

**Co-chair Speaker Bob Cupp** [00:25:41] And so he is in with somebody else?

**Gary Gale** [00:25:43] He I believe he is, but I cannot tell help to tell you who that is.

**Co-chair Speaker Bob Cupp** [00:25:46] OK, that's fair. Thank you.

**Gary Gale** [00:25:49] Thank you very much.

**Gary Gale** [00:25:50] You're welcome. Thank you very much for listening.



**Co-chair Senator Vernon Sykes** [00:25:53] The next group of witnesses will be as Sam Gresham. Chris? He's not here yet. OK. All right. We'll moved into Katherine Turcer.

**Chris Tavenner** [00:26:12] I'm Chris Tavenner with Sam Gresham. Sam Gresham has unfortunately been delayed and is not here yet. We were going to go together, but I can go. And then if he shows up or I could wait until he gets here, what would you prefer?

**Co-chair Senator Vernon Sykes** [00:26:25] It's your preference?

**Chris Tavenner** [00:26:27] If we could wait until the end, then hopefully he can show up in time.

**Co-chair Senator Vernon Sykes** [00:26:29] Okay, thank you. All right. We'll move in to Catherine Turcer, you can come forward, pronounce and spell your name for the record, please.

**Catherine Turcer** [00:26:44] Good morning, everyone. My name is Catherine Turcer, I'm with Common Cause Ohio, and I'm here for fair districts, and I brought Vanna White with me. So let's do this. Katherine Turcer. And so I am here today with the winners of the 2021 mapping competition. I was pleased that the Senate President Huffman remembered the 2011 competition. So one of the things that you know, we've had different names over the years, our coalition. So in 2011, we were the Ohio Campaign for Accountable Redistricting, which actually made us sound so wonky we decided perhaps we should try fair districts, equal fair elections. And then before you know it, everybody shortened it. And anyway, so we are now the fair districts of Fair Districts Ohio. And in 2011, Senate President Huffman was absolutely correct that one of the winners was a man named Mike Fortner. He was a state representative. Because he was involved and was providing advice to the Republicans during the mapping they were doing in Illinois. He decided it wasn't appropriate to be part of the competition this time, and so I was kind of looking forward to his map. What I did notice is another one of the competitors is a gentleman named Tim Clarke. He's from Avon Lake. He actually submitted written testimony, so I just wanted to draw attention to that. One of the things that I think is important, and I'm so glad to have this opportunity to walk you through our competition maps and and what we've what we've been thinking about because of course, I think it's important to define what you mean by fair districts. I think we talk a lot about hey and gerrymandering and fair districts, but it's important to provide more detailed kinds of information. And so what we have we have here, this is my friend Trevor Martin and he's going to hold up maps. I had them on a jump drive, but it seemed a little bit too complicated. Vanna, will you turn around so that everybody else can see, too? There we go. All right. So this won't work completely perfectly, but it is for the folks who are in the gallery. The maps are part of my testimony. If you wanted to go and look at those links.

**Catherine Turcer** [00:29:11] All right. Well, and then once again, I just wanted to thank both the co-chairs for allowing me some time to talk about our maps, so we had we had a robust participation and the maps that scored the highest, primarily using Dave's Redistricting App and also looking at how they explain their map making. And so in the materials that you have, I also included narratives that explained, you know, the choices that the map makers made. And so I was going to highlight Paul Nieves. He actually is part of the Princeton Gerrymandering Project. And he went to a lot of detail to provide good information about every single one of these maps. And so we also have Riley Jones. Now Riley Jones is from Loveland, Ohio. So down at Hamilton County, and he is working on a

master's in structural engineering at this point. Just to give you a kind of a flavor of, you know, the folks that participated in this were citizen mapmakers, some of them are more partisan than others. But the goal was to create good maps that were reflective of the state of Ohio. And so we had competition rules. And so as I go through these maps, what I'm going to do is I'm going to talk about equal population. I'm going to talk a little bit about the Voting Rights Act and talk a little bit about opportunity for minority representation. I'm going to talk a little bit about the requirements for counties as building blocks and, you know, the benefit of splitting, you know, having as few splits as possible. I'm also going to go through some of the criteria from Dave's Redistricting App. Certainly, when we began this cycle, I did not expect that Dave's Redistricting App was going to be something that we were all talking about. But it does hit the democratization of the map making and how the maps are an opportunity for the public to weigh in on what it is that they would like to see when it comes to map making. So the gentleman before me, Mr. Gale, talked a little bit about equal population. And of course, as we know, it's really important that core of one person, one vote. We also hit upon one of the challenges. You know, they say that we want that equal population to be as close as practicable, by the way, practicable is very difficult to say. And and and the Tenet decision really says, OK, be practical about it. But the precise mathematical equality is not required. And so what I would say, the difference in the maps here for it's for John Hagler's map. John lives in Yellow Springs. He spent a lot of time and energy ensuring that the population was as close as it could possibly be. So in this case, the districts are off by about three people at the highest. So they're very close. The other ones were close. You know, we're closer to that point seven nine percent. But as we're thinking about what we want to do with population, I would highly encourage the state legislature, which is going to begin the task of doing these congressional maps to actually hear from experts about population. I am not, you know, I'm a social worker. That's my background. So. So but there are wonderful people out there that could provide really good information. And I highly encourage you to ask some experts to come in and testify so that we have a good understanding and not just the state legislators who will be the official map makers, but there's so we'll better understand the choices that are being made by the state legislature. Now, also, when it comes to experts, I do think that the state legislature should consider the Voting Rights Act and and this is another area where we actually need more information. This is not exactly settled. And so I want to highlight these three maps because there was a real focus on making sure that they comply and do not dilute minority representation. Now, currently, no court has expressly required Ohio to create majority minority districts. However, we do have a long history of taking racial data into consideration as we develop those congressional districts. These three maps protect the ability of minority voters to elect a candidate of their choice in parts of the state with high density of minority voters, while simultaneously respecting municipal and county boundaries and equal population as much as possible. Now, each of these maps has one majority minority district and two opportunity districts. Now because we didn't have an official map to contrast the competition maps with what we did and throughout my testimony is reflect back on the maps that were created in 2011. So, for example, in 2011, there was one majority minority district, 11 Congressional District and one opportunity district. And so that's Joyce Beatty's district, the 3rd Congressional District. Each of these maps creates an additional opportunity district in Cincinnati, Hamilton County. Now, each of the map makers did some research in preparation for creating the maps so that they would better understand what you know, community members. What do Ohioans actually want when it comes to the map making? And so, you know, as I talked a little bit about the democratization of map making and the tools that are available in 2021 that were not in 2011 or, for that matter, the first redistricting competition that we did was in the late 90s. So you all will remember Joan Lawrence and this was this was her brainchild. And so so that

whole idea that like if we actually get people engaged in this process of competition that we can actually provide maps and a vision for how we could actually create maps that are fairly representing us, but are also not gerrymandered and specifically what I'm saying gerrymandering. I'm talking about partisan gerrymandering in this particular case. So what's the map makers looked at as they looked at Districtr. Now, Tufts University has this project, and it's traditionally called M Triple G, which is the metric geometry and gerrymandering group at Tufts University. So this is kind of the first cycle of map making where the mathematicians have gotten involved. And what they did is they created software so that all of us could actually come together and say, Hey, I want to create a community map. Now, one of the things that Trevor led is he led a series of conversations with communities all over the state of Ohio. And, you know, because of the pandemic, many of these happened online, and they ended up creating maps, which then were submitted to Districtr. And then what happened is that the competition participants could use those to understand, Oh, well, you know, I want to try to keep this community together. So we're not just talking about county boundaries, we're not just talking about municipal boundaries. We're trying to respect what it is that, you know, the citizens that live in that area actually say that they want when it comes to a fair districts. Now we all know, you know, when we look at the state legislative maps, we focused on county and city and township as building blocks because they're much smaller. And so when we look at, you know, congressional map making, there's a real focus on keeping counties whole. And you know, there there's very specific details that are in the Ohio Constitution. But, you know, if we think about moving from little Legos to those big Legos, the ones you're less likely to, you know, trip over, stub your toe on. So those county counties present an opportunity to say, Well, how do you think about community? One way the community maps that I talked about, the other way to think about community is to think about those counties. You know, it's a good proxy for thinking about people that have shared interests. And so I did want to highlight that each of these maps had fewer county splits than you might expect. Now, the Ohio Constitution provides space for county splits because you know, our hope, of course, is when we write something and voters approve it is that the amendment will last a few years, could last 20 years, could last 30 years, could last 40 years. So there needed to be some space for additional county splits, depending on what happens with the population of Ohio. In this particular case, when you look at you, look at John Heckler's Map, 14 counties are split. That means that's a total of 14 splits. In Paul Nieve's is 12 counties are split a total of 12 times, and Riley Jones did 14 counties splits but with 15 divisions. If that makes sense where when you look at the current congressional map, there are 23 county splits with a total of 32 times. And that's that gives you a sense of kind of the difference of the way that these maps were created and the way that I am very hopeful that the state legislature will consider the map making. Now, I went through some analysis using Dave's Redistricting app. Now many of you will have seen, you know, Dave Dave's app and they provide a variety of different criteria. Now, in the materials that you have before you, you can actually see each of the maps. I included a link in the testimony. So if you want to do a deep dive, which is kind of the best way to look at districts to try to spend some time thinking about, well, how how could this look? How could this be? And hey, is this an appropriate division? I am really looking forward to the state legislature spending time considering each district because of course, one of the things that we know and I'm here with three different maps, not one map, because the process of the map making can end up with a truly representative map. And it's important to engage in that process. And I do see this as very good beginnings for creating good congressional districts. And so, you know, these are high and proportionality, all of them. They're high on minority representation. They're high and proportionality, which is sometimes understood to be representational fairness. They are also compact. And as I said, there are fewer, much

fewer splits. It's the difference. There's Riley's map. It's the difference between that. And here is the current one. And the way to understand and you know, when you're hit, hit good scores, it goes further out in that circle. All right, so I know this is the thing that many of us think about, well, wait a second, how many Republican districts are there, how many Democratic districts are there? What about competitiveness? OK, so for John Hagler's map six, a Republican, three Democrat, six are competitive. For Pauls, there's six hour Republican, four are Democratic, five are competitive. For Riley Jones, six, a Republican, three are Democratic. Six are competitive and four, as we all know our current map, we're talking about 12 Republican, three Democratic and one competitive. Now this is how Dave defined competition, but it didn't. It didn't. I can. I can put this. It seemed much better to say, OK, if you're talking about such a wide range, let's look at how competitive they are within three points. That seems like a better kind of competitive range, and it gives us a different understanding of the information that's here. So in this case, if you look at the ones that are most likely to be very competitive, we have seven Republican, seven Democrat and one hyper competitive. For Paul we have eight Republican, six Democratic and one hyper competitive. Riley Jones is seven Republican, five Democratic and three hyper competitive. Now, as we think about as we think about representation, it's important to think about, well, what is it that we want? Now obviously, you're not going to want a skewed skew, the districts, you know, unintentionally. When I look at gerrymandering, it's the manipulation of district lines to manipulate elections. And so one of the things that pleases me about these maps and I'm so pleased to be here is that there's a focus on creating districts that keep those counties whole. And yes, it's great to have a competitive districts. But no matter what, there are areas of the state that are not terribly competitive. What is important is that those district lines are not moved or manipulated so that you're manipulating elections. And so I want to just highlight the importance of keeping those counties together is a way to look at. There's going to be a natural preference for one party over the other. What we want and encourage you all to avoid is an unnatural preference or the manipulation of district lines or gerrymandering. Now. I talked a little bit about minority representation. I did want to provide a little bit more information about that. I wanted to highlight this, highlight this that all three maps create what are called coalition majority minority districts. This means that they're not 50 percent of of African-American or black voting age population, but rather all minority populations in the district. So I just wanted to be sure that I highlighted that there's some additional information. There's a chart that's located in here, so you can get a little bit more information about that. I also wanted to highlight, you know, once I started going through all this analysis, I thought, All right, we also should talk about the efficiency gap. Now a guy named Nick Stephanopoulos, he's now a professor at Harvard, came up with this notion of an efficiency gap. And I've never particularly liked how he talks about wasted votes. But I do think it's important to think about this analysis as you're looking at maps. The analysis captures a single number to the extent to which district lines waste crack and pack one political parties, voters more than the other party. So you don't send so packing and cracking more than the other party. In other words, how many votes are wasted because one candidate gets excessively more votes than are needed for a simple victory? Excessive votes are often packed districts. And then, of course, they're wasted votes because the candidate has no chance of winning. So this is considered, you know, cracking. Those are also wasted votes. Now, I think this is another metric as you are looking at the congressional maps that you're considering, and I understand there'll be a hearing coming up very soon of the state legislature. I think it's, you know, we have some really good tools for analyzing gerrymandering and considering considering how it is that we want to keep communities together. And I really encourage each of you to take advantage of those tools, whether you're using M Triple G's Districtr or whether you're looking at how plan score actually

assesses the maps, it gives you additional information much the way I'm highly encouraging you to get expertise from folks that do, you know, do work and have gone to court and spend a lot of time really thinking about the Voting Rights Act. All right. So am I running out of time?

**Co-chair Senator Vernon Sykes** [00:46:04] No, you are presenting Ms. Turcer, you are presenting three. So you have a little bit. You have more time then.

**Catherine Turcer** [00:46:12] Oh, OK, thank you. I just. And my apologies, Auditor Faber. I did want to highlight some notable features of John Hagler's map. He purposely keeps on Appalachian region in a single congressional district. I do think, you know, one of the the districts that is worth looking at has to do with the the 3rd District, which focuses on opportunity districts for minority representation while respecting county boundaries. And what we would think of as kind of the legal population requirements because John got down so, you know, a difference of three Ohioans. The other thing that I wanted to highlight then this has to do with Paul Nieve's Map. Remember, Paul is part of the Princeton Gerrymandering Project. The Princeton Gerrymandering Project is another way to get some assessment of maps and to better understand, you know, the consequences are likely consequences of the maps that you create. So I highly encourage you to use Princeton Gerrymandering Project as a resource. OK, so you know, when you look at Paul's map, the districts are visibly compact and I just, you know, you can certainly see how that contrasts with the existing congressional map. No county is split, you know, more than once. And then I also, like Paul, provided some really detailed he his narrative report really invites you to take a peek behind the curtain of the choices that he made. And you know, one of the things we know is that the choices that that are made could make the maps. How can I put this? It's important to clearly understand the choices that you're making, especially if there are any fluctuations in population. And so and finally, I wanted to highlight Riley Jones map. I think it does exceptionally well. He did this thing where he really focused on keeping municipal boundaries together. So especially the ones in Franklin County, he was really focused on making sure that, you know, weren't just represent, you know, keeping those counties together. But there was a real focus on keeping municipal units together as well. And then, you know, I also wanted to highlight a highlight. He unified the Akron Canton corridor by keeping them in a single district. Now each of these participants in the competition, each of these winners, they participated in two webinars this month. And I do think, you know, it gives you it's another way to look at the kinds of maps that have been created. This is another opportunity for a deep dive. And and for this, and you can actually for the first webinar, you have the map makers going through and explaining the choices that they made in really specific detail. At the second webinar, they they had heard in that first webinar for about, you know, recommendations. So, for example, let's make sure you keep this community together. Oh no, you divided Gahanna when you shouldn't have done that. And so it provided an opportunity for them to respond and create new maps. And so it was really, you know, that's what we're looking forward to is an opportunity to respond and and to participate in the map making as the public. Now I just wanted to thank you all for inviting me to come. And I wanted to highlight that the changes that were made in that second webinar, they created better maps and it takes time to make good maps. Some of you were members of the Legislature, your leaders of the Legislature, I highly encourage us all to get started. Let's get cracking in November. We need to get moving. Now, in conclusion, with dedication, time. Attention to detail. Respect for voters. And necessary expertise. It's clear that it is possible to create fair, functional and constitutionally compliant maps. And and we are here to be a resource for you and we look forward to the official mapmaking commencing. Thank you.

**Co-chair Senator Vernon Sykes** [00:50:35] Thank you. Thank you very much for your. I don't know if my Mike is on. Thank you very much for a very comprehensive presentation and we do have copies of your presentation before we were able to get those before us today. Are there any questions? Senator Huffman.

**Senate President Matt Huffman** [00:50:57] Thank you. Senator Sykes, thanks for the presentation and nice work on the maps are you must work out so you don't know if your arms are tired or not there, but couple couple of things and I the the range for competitiveness, at least a page nine at your testimony. I think if I have this right, I mean, maybe that's not what that's referring to is is 55 to 45. But I also thought you said there should be a three percent range on either side of 50. Or could you just talk about what you consider a range of competitive? And of course, all of this is subject to what we whatever we want to put in to decide what the index may be. But assuming we all agreed on that standard, what is that?

**Catherine Turcer** [00:51:48] So I thank you so much for your question. Through the co-chairs to Senate President Huffman, one of the things that I wanted to be sure that we understood is there are a couple of different ways of looking at competition and it there's a difference between that wide range, you know where you're talking 10 points and going down to three points. And I just I thought it gave a better explanation about what the maps do to provide a sense of which ones are like are the most likely to be super hot.

**Senate President Matt Huffman** [00:52:24] I guess follow up, so I guess so my question is, is your three percent, does that mean 47 to 53 or 48 and a half to 51 and a half?

**Catherine Turcer** [00:52:35] The first one.

**Senate President Matt Huffman** [00:52:35] OK, so I think you heard Mr. Gale talk about 54 46 standards, so it sounds like generally in the same ballpark. The question. So we have you mentioned the Princeton Gerrymandering Project, and we should you're suggesting that the commission or perhaps the Legislature starting Monday use that as a resource and I kind of want to have a question, I guess the two comments one. I think that's a great idea. One, because my son played football there. But secondly, because they rated these final Senate map, which was adopted by the Commission B and B's, I guess a passing grade. So that's a good thing. But I guess my question is, how do we how do we access that prior to draft drawing a map or do we we take these maps and send them there or other proposed maps, I guess since my son graduated, I don't have any contacts at Princeton University,

**Catherine Turcer** [00:53:41] so thank you so much for the question. So I do actually have some contacts at the Princeton Gerrymandering Project and I will share them with Mrs. Blessing.

**Senate President Matt Huffman** [00:53:50] Oh, fantastic. One final follow up?

**Catherine Turcer** [00:53:54] Yes.

**Senate President Matt Huffman** [00:53:54] Mr. Co-chair? So I want to just ask about a couple of things. In Mr. Gale's testimony, I noticed he was wearing a Fair Districts Ohio

button. I'm not sure if that means he's officially speaking on behalf of you all or not, but he he had some criticisms of the winner of the map, which I think is The Hagner Map.

**Catherine Turcer** [00:54:15] Yes.

**Senate President Matt Huffman** [00:54:16] Is that right? And I won't read these all word for word, but some of the splitting of the counties, apparently, and I'm taking his testimony as accurate without having gone through this. That he was criticizing the that six small counties were split and makes reference to Summit Montgomery that were left intact in apparent violation of the Senate joint resolution five. There's a release. He's also critical that 14 counties were split, but also 38 separate precincts. He doesn't think the Fair Map Contest winner meets the standard of the General Assembly shall not pass a plan that unduly favors or disfavors a political party. This is in page three of his testimony. And finally, in his conclusions, he's asking the commission and presumably the General Assembly, starting on Monday to disregard the map drawn by the winner of the Fair Districts Map Contest due to its repeated derogation of Senate joint resolution five. So I guess and I know, you know, I have eight brothers and sisters, and we don't always agree on everything and everybody on the same side or same organization don't agree on anything. But can you help the commission and members to kind of explain those criticisms of your winning map and how that may fit in with your testimony?

**Catherine Turcer** [00:55:58] And Chairman, Senate President Huffman. So the best way to think about this is, Fair Districts fair elections is a coalition and we're we're a bunch of redistricting reformers. We've we focus first on state legislative map making and then on congressional and and, you know, we are a strong voice. We're not always unified clearly. And what I would like to highlight. I do not believe that any of these maps should be the final product. The idea is that you take these maps and use them to, you know, figure out what is it that the map maker saw and look at the narratives that they created and have conversations and discussions about each and every district. And so, you know, I would highly encourage you to look at every single, every single one of these, these maps in some detail, the district lines and some details. I'd also like to highlight because, you know, when I you know how that goes, I'm sitting in the chair and I'm going, OK. So, so Gary did talk about how he had 40 percent fewer splits in counties, but he had 10 counties that were split, but they were split 14 times. And so we need to have conversations about, well, what kind of splits are right and what makes what makes sense. Now, I think those are the kinds of conversations and discussions that would be wonderful for the state legislature to have. And I'm looking forward to seeing those in the committee because, you know, when we went through the state mapmaking process, we waited for you all to come back from ours and we didn't we didn't actually have an opportunity to understand the amendments. And so I am really hoping when we go through this congressional process that we're actually able to see some deliberation and to better understand the maps that are being created and that I hate to say this you're never, ever going to please everybody. And the map makers, the official map makers, are going to have to weigh testimony and make very important decisions. And I'm just glad that we have an opportunity today to talk about how this process could look and and I would say, should look. Thank you.

**Co-chair Senator Vernon Sykes** [00:58:19] Thank you. Auditor Faber?

**Auditor Keith Faber** [00:58:23] Thank you. I, first of all, I presume you're going to be prepared to give this testimony in front of the legislative committees, the joint committee or whatever they're doing after the 31st. And because apparently it was clear that this body's

not going to be making maps. So I go forward and ask a couple of questions, particularly about the third map, I think it was Mr. Paul Nieve's Map,

**Catherine Turcer** [00:58:51] the third winner is Riley Jones.

**Auditor Keith Faber** [00:58:53] I'm sorry, it looks like he's the second place winner.

**Catherine Turcer** [00:58:55] OK, so we're talking about Paul Nieves.

**Auditor Keith Faber** [00:58:57] So as I look through this map, I did a quick count on his competitiveness because you had a good conversation. I thought with President Huffman about what competitive it is. You indicated that we've heard as much as, you know, Paul's Dave's Redistricting is 10 points. We heard six points, eight points, whatever points we look at. And so I don't know what he used in his maps, but using his summary at the end, I could get a 12-3 map out of that. Assuming based on what we heard in prior testimony that there's some concern about competitive districts and what those require, would a 12-3 map be fair?

**Catherine Turcer** [00:59:39] So, so clearly, Auditor Faber, sorry, chairs, you know, clearly these are the kinds of conversations that we need to have. We are not, you know, the swing state that we once were. On the other hand, we should be creating districts where there is not a natural partisan advantage, and actually, that's what I'm looking for. Now, when you talk about three Democratic districts, I worry that the thumb is on the scale. But this is a good part of the conversation that we can actually have in the state legislature. And I'm really hoping that there's a robust conversation about competitiveness. I can follow up with Paul to provide additional details about how he looked at competitiveness.

**Auditor Keith Faber** [01:00:32] So, so going back, Mr Chairman?

**Co-chair Senator Vernon Sykes** [01:00:34] Yes.

**Auditor Keith Faber** [01:00:34] Follow up. I could draw it. Also, if the swing districts all flopped the other way, I could get a six nine district, nine Democrat seats, six Republican districts. Would that be fair?

**Catherine Turcer** [01:00:49] And this is so funny. And Trevor says if they ran a good campaign, all right. Oh, OK. So, so so what you're talking about is better understanding competitiveness, the partisan leaning. One of the things that I am really hoping that we have going into this are partisan indexes, you know, so that we can understand and look at the map and actually have those kinds of conversations. I do believe that we are more of, you know, 54 percent Republican, 46 percent Democratic state, and that if you were to look at representational fairness and proportionality that having it's skewed one direction or the other too heavily is a problem.

**Auditor Keith Faber** [01:01:34] I guess, Mr. Chairman, the reason I ask those questions is that if you accept the premise that you're going to have competitive seats, then you also have to accept the premise that campaigns candidates issues, political trends all also are influencing outcomes. And so if you're going to do that, it's real tough to say where you're going to land. And candidly, you know, I've looked at plenty of districts to where candidates who overcome a 10 point deficit and indexes wins the election. And I'm really concerned about this concept that if it doesn't include an eight, seven or a nine, six or 10, whatever,



it's somehow unfair and I go back to look at all these variables. And candidly, I also know another fact. I think you would agree with me that Ohioans tend to live around people that think and vote like them. Look. Am I right on that?

**Catherine Turcer** [01:02:40] Oh, absolutely.

**Auditor Keith Faber** [01:02:42] And I recall we had testimony from somebody who's been an adviser to your group that indicated that as much as a three to five point Republican advantage, because the Democrats tend to live in more concentrated urban areas and Republicans tend to be spaced out in the rural counties. Did you agree to hear that testimony?

**Catherine Turcer** [01:03:00] So, so I was actually that was Warren, Warrensville Heights. I believe it was that hearing. So, Mr. Chair, back to you. So, so in terms of, I think, the best way to think about this is we want to make sure that district lines are not created that artificially manipulate the districts to advantage one political party over the other. And I'm going to speak for myself in common cause, but I bet there are a ton of fair districts, people behind me. We would like to see greater accountability when it comes, you know, comes to the folks that we send to Washington. [applause] That means that there is.

**Co-chair Senator Vernon Sykes** [01:03:47] Quiet please.

**Catherine Turcer** [01:03:48] There is strong support for competitive districts, and does that mean at the end of the day that you have way more Republicans than Democrats? That is that is something that may happen. What we need to worry about is the artificial manipulation of district lines to advantage one political party over the other. And it is completely true. You know, this is what political scientists say. The Democrats are insufficiently distributed and basically a way of understanding it is, you know, they, you know, Democrats tend to live in the cities. They may be in the burbs, but they're there, there. There are fewer of them when you get into the rural areas. And so what I'm talking about is we want to respect those communities. We want to keep those counties together and we want to weigh the best way to have some competitive districts.

**Auditor Keith Faber** [01:04:41] Mr Chairman, if I could follow up on that because I think it's very interesting discussion and I can't agree with you more that the fact is is that if you're going to keep counties and cities and in some cases smaller communities of interest together, you're going to value the very nature, in some cases pack districts together. And we heard testimony about whether Nina Turner was going to be fairly or unfairly advantaged earlier. I don't have a clue about that. But the reality is, it's unlikely that any district that Nina Turner is running in is going to be won by a Republican. OK. It's also unlikely that any district Jim Jordan is going to run in in western Ohio is going to be run by a Democrat. So getting back to your premise of accountability, I would premise that in many of these cases, accountability is impossible to get from a to totally spectrum. You're always going to have somebody even in Nina Turner's district. Who doesn't like what a Democrat congressman is going to do? In a representative system that person is going to be fraught with an inherent dislike of who her legislator is going to be. Am I right on that?

**Catherine Turcer** [01:05:54] So clearly there are going to be some districts that favor one favor one party over the other. You know what? I guess what I always want to get back to is there's the natural thing of, Hey, I live in Cuyahoga County. My district is a majority minority district. I'm, you know, going to likely the person I vote for as a Republican is

going to be a Democrat. But it's different. I think the difference is if you think about, you know, the snake on the lake, the district that worked in its way and this is the previous congressional map. And sorry, I'm having to go back to that just because y'all don't have a map. Anyway, so that's a district that works its way from Toledo to Cleveland. So we're talking about gross manipulation. We established new rules that focused on keeping counties whole. I just want to be really clear that as you're in this process of map making that you're going to be balancing things and you are absolutely right, there are going to be tradeoffs. But just because there's a creation of a few more competitive districts, that doesn't mean that those districts aren't compact, don't keep counties together. It is a challenge to actually create these district lines so that you're valuing all the things that make for fair districts.

**Auditor Keith Faber** [01:07:19] Thank you.

**Co-chair Senator Vernon Sykes** [01:07:20] Additional questions?

**Co-chair Speaker Bob Cupp** [01:07:27] Thank you. Thank you, Senator. Can you tell me I don't think I caught it in your discussion? Why the first place map is the first place map as opposed to the third place map?

**Catherine Turcer** [01:07:42] Thank you very much. Thank you very much, Co-chair. All right, so I'm here with three maps rather than one map, and the major reason for that has to do with the fact that we have this advisory committee that looked at the maps and analyzed them. We strip names off and had multiple discussions. It took two weeks to actually decide like I was ready to give everybody a first prize. Now this was the challenge. I work for a nonprofit. We didn't have the money to give everybody a first prize. So we went through a whole process. We spent a lot of time looking at the narratives, and we actually did have conversations with the map makers to try, you know, just to understand. So to understand the map making. So I will highlight if we have a little bit more money, I would just be saying, Oh, here are three winners. And it's one of the reasons why I think it's important to learn from each of these maps, not just that first map. OK.

**Co-chair Speaker Bob Cupp** [01:08:51] I, I understand what you're saying. Let's do go back to the current map, which I think most people would say is stretching lots of things? And let's take this this let's take this the snake on the lake that's stretched. How long does it take to drive from Toledo to Cleveland?

**Catherine Turcer** [01:09:15] Two hours. Yeah. Two, I'm sorry. I live in Columbus, and that's not one that I do.

**Co-chair Speaker Bob Cupp** [01:09:22] That's not your normal route?

**Catherine Turcer** [01:09:24] To two hours. OK.

**Co-chair Speaker Bob Cupp** [01:09:26] All right. I want to then direct your attention to Mr Nieve's map. And what appears to be the fifth Congressional District that runs from Michigan to the end of Butler County in Hamilton County. Is that not a stretch?

**Catherine Turcer** [01:09:49] So, so one of the things that becomes more challenging with the congressional maps is we went from 16 to 15 districts and it does mean that these districts are just in many cases in rural areas going to be bigger. And it has to do with the

size of the population. Now I actually think this is a worthy discussion because one of the things that we do know is that 71, you know, we have 71 going this direction. But like when you start to look at the Appalachian District, which is keeping a community together, this can be very hard to like, represent people because there's not actually, you know, there's not actually a highway that goes there and it takes an incredible amount of time. I'm sure that, you know, many of you have actually gone to all 88 counties. It is. It can be a real challenge to work your way, work your way around the state. And certainly it is worth considering as you look at how these districts are made up, how it will impact those folks who want to represent their voters.

**Co-chair Speaker Bob Cupp** [01:10:57] So it is quite a stretch. All right. In in, let's just take the winning map where any incumbent members of Congress put together in the same district in the proposed map.

**Catherine Turcer** [01:11:15] So for our competition, we did not provide home addresses of incumbents. We focused on, Hey, let's make sure that we keep the counties whole. Let's see what we can do about competitiveness. Those are the kind of worrying about, you know, minority majority districts. Those kinds of those were the rules that we had. Now, I kind of assumed you weren't just going to accept the map. I mean, it would be I mean, it's so true that like in December of 2014, when the state legislature passed a state legislative redistricting reform, I remember being in the in the Ohio House and feeling like pigs are flying. But I assume that you all are not going to just accept these, that there will be a process for looking at them and considering how it could impact incumbents. And that is actually a worthy goal. That's another thing to think about is how does it impact incumbents as long as you're not heavily favoring them? It's worth understanding where folks live.

**Co-chair Speaker Bob Cupp** [01:12:20] There actually is a provision in the state constitutions, as incumbents can not either be favored or disfavored.

**Catherine Turcer** [01:12:26] Correct. But it is useful to know how they're put together. I mean, it is useful to know that.

**Co-chair Speaker Bob Cupp** [01:12:32] Very good. Thank you.

**Co-chair Senator Vernon Sykes** [01:12:34] President Huffman.

**Senate President Matt Huffman** [01:12:35] Thank you Co-Chair. And so part of the constitutional provision also anticipates negotiations and compromise between the majority party and the minority party in order to get a 10 year map. And there's percentages for the November 30th deadline that I think it's 30 percent of the minority party in each house and 50 percent of the body. So if, if the negotiations. Let me put it this way, is it appropriate to disregard some of the principles that you're testifying today about in order to achieve that compromise between the majority and the minority party and get a 10 year map?

**Catherine Turcer** [01:13:36] Chairman, Senate President Huffman. So this is one of those things that is very difficult. But I do believe that you can weigh things like keeping counties whole. You can, you know, you can address the Voting Rights Act, you can address equal population. And it is my hope that as opposed to the state legislative map, that when things move to the state legislature that there is a more public negotiation and in a more public negotiation, both political parties or both major political parties. I guess I should be

clear about that. We'll have an opportunity to talk about how they weigh things. And you know what? You know, what are the challenges here and and what you know? Why does this district look this way? And oh good heavens, I look at this. It's a district that basically goes all the way down the Indiana border. And how does that impact a candidate? What would that mean? One of the things that I hope that both political parties are focused on the voters and that both political parties put aside, [applause] let's put aside, you know, put that, put that down and just focus, you know, put aside partisan interests, put aside, Hey, you know, there's a long history of that gerrymandering cartoon goes back to 1812. There's a long history of manipulating those district lines. I highly encourage you to engage in negotiations that focus on the values that you both want and focus on the voters.

**Senate President Matt Huffman** [01:15:13] OK. Can I have a follow up?

**Co-chair Senator Vernon Sykes** [01:15:14] Yeah, sure.

**Senate President Matt Huffman** [01:15:14] So so let me try to be more precise. My question, and certainly those things that you listed, I think, are appropriate and I think those we want negotiations and public discussion and input and all of that. My question isn't about those things. My question is is it appropriate to disregard the many of the principles that you described? If 30 percent of the minority party and 50 percent in each party and 50 percent agree so that we can have a 10 year map so that we can have this compromise that's untested anticipated in the Constitution, I understand we want to talk about it. We want to have input, we want to get together, we want a public displays all the all of that. But I'm talking about making a decision that is described in the Constitution to get a 10 year map. Can we disregard some of these things in order to get that compromise done?

**Catherine Turcer** [01:16:15] Chairman Cupp, Senate President Huffman. I really hope that you do not engage in a sweetheart deal. It is my hope that you focus on the Ohio voters. And and the values that create really good maps so that we are truly represented and the folks that we send to D.C. are from our communities.

**Senate President Matt Huffman** [01:16:44] Just one follow up then.

**Co-chair Senator Vernon Sykes** [01:16:47] Yes.

**Senate President Matt Huffman** [01:16:47] So that that 30 percent, 50 percent standard, that's in the Constitution that was approved by the voters. It sounds like that's not as important or is not important at all, perhaps as the principles that you laid out in your testimony. Is that a fair statement? I can only ask one witness at a time.

**Catherine Turcer** [01:17:14] Mr. Chair, Senate President Huffman, I have to say I appreciate these kind of questions that seem insane to me at the moment [applause]

**Senate President Matt Huffman** [01:17:28] I'll take that in the spirit that it's intended.

**Catherine Turcer** [01:17:30] So the reason the reason that it it strikes me as problematic is, of course, we want bipartisan mapmaking. Of course, we want a 10 year map. But that doesn't mean that you all should somehow come up with some sweetheart deal and and leave the voters with districts that are not reflective and that we're not actually participating

in meaningful elections. The reason we worry about all these values is because we want to participate in meaningful elections. Now, I am very much hoping that Democrats and Republicans come to the map making all one hundred and thirty two of them, come to this mapmaking and with goodwill and open to hearing one another and with a focus on values that make for a good map. [applause]

**Co-chair Senator Vernon Sykes** [01:18:27] Any additional questions? This time, I would like to thank you very much.

**Catherine Turcer** [01:18:32] All right, thank you so. [applause]

**Co-chair Senator Vernon Sykes** [01:18:38] I believe Mr. Sam Gresham has arrived. Could your team come forward, please?

**Sam Gresham** [01:18:53] That sounds good. Thank you.

**Chris Tavenor** [01:19:05] Thank you. So my name is Chris Tavenor and I'm here with Sam Gresham, who will be speaking after me. He can spell his name when I when he goes.

**Co-chair Senator Vernon Sykes** [01:19:24] You have approximately 10 minutes, but give us so. Thank you.

**Chris Tavenor** [01:19:28] Co-Chair Cupp co-chair Sykes and all honorable members of the Ohio Redistricting Commission. Thank you for the opportunity to submit testimony for your consideration. I am Chris Tavenor, staff attorney for the Ohio Environmental Council. I also had the privilege and opportunity to participate in the Ohio Citizens Redistricting Commission, an independent, nonpartisan commission composed of 16 volunteers from across Ohio. I'm personally in this fight for fair districts because of climate change. I'm 27 years old, as is my wife. We couldn't vote the last time redistricting occurred. The past 10 years of gerrymandered maps have created a congressional delegation who doesn't act in the best interests of Ohioans. They do not represent us in Congress to take action on issues Ohioans care about, whether it's the climate crisis or another issue we're all facing. Before we talk about the OCRC's map and how it meets the constitutional requirements, I want to emphasize the power of our robust and thorough public engagement process. Over the past seven months, we heard from Ohioans across the state who shared how they defined their communities, not how politicians defined their communities. They drew community maps and submitted them to us. We worked with academics to aggregate the data and create a map not only constitutionally sound, but community driven. The borders follow a logic devoid of partisan interests. It was a good process, a fair process, and at least I thought it was a lot of fun to engage with Ohioans, meaningfully listen to them to think closely about what connects communities across jurisdictional boundaries and to discuss these issues through productive dialog. Ohioans deserve a redistricting process that engages them rather than listens for hours than ignores everything they have to say. Today, I'm here with Sam Gresham, another member of the commission, and I want to briefly note the frustration of this hearing being announced only two days ago. More members of our commission would have liked to be here, as I'm sure many other map draws, too. But it's difficult to pivot schedules in 48 hours, so. The Ohio Citizens Redistricting Commission's map meets all the criteria in the Ohio Constitution on equal population. Ohio's congressional districts were exactly equal in population they would have seven hundred and eighty seven thousand two hundred fifty seven people, which is obviously a impossible thing to probably pull off. The U.S. Supreme Court has interpreted

that to allow population variances as high as you've heard this number earlier today, obviously about zero point seven eight point seventy nine percent. Our districts only vary on a range of negative 0.13 percent two point thirty eight percent. Article 19, Section one 3A of the Ohio Constitution states that no district plan shall be adopted that unduly favors or disfavors a political party or its incumbents. In other words, no congressional map should include partisan gerrymandering. Our proposed map has eight districts that lean over 50 percent Republican and seven districts that lean over 50 percent Democrat. This 53 percent Republican 47 percent Democratic ratio closely aligns with the 44 54 percent 46 percent partisan makeup of Ohio's voters over the last 10 years. Now, this prohibition against partisan gerrymandering is only goes into effect if the General Assembly or the Ohio Redistricting Commission failed to pass a plan with bipartisan support. However, all district plans should take this important anti gerrymandering criterion into account, particularly since it lies at the heart of all of the redistricting reform efforts in Ohio over the past decade. Article 19, Section two of the Ohio Constitution, establishes specific rules for keeping communities together for any Congressional District plan. So in our map, both Cincinnati and Cleveland exist within their own congressional district. Columbus is too big to include in just one congressional district, but it must be split responsibly to protect communities of interest. Our map contains 69 percent of Columbus within one district, and the remaining 31 percent is in a second full district. The district boundary line splitting the portion of Columbus honors recognized neighborhood boundaries and attempts to avoid breaking apart communities of interest within Columbus. Akron, Dayton and Toledo all exist within their own respective congressional districts. While the constitutional criteria allows for 23 counties split, it should be noted that doing so is neither required nor necessary. Our map meets this requirement keeping 75 counties whole, splitting 13 counties once and splitting zero counties twice. No cities are split except for Columbus because it is too large to fit in one district. Each congressional district also should include at least one whole county unless a district exists within a county that is too big for one district. For us, we have Cuyahoga, Franklin and Hamilton counties, all having one district entirely inside the county. Our map meets this requirement. Under Article 19, Section 1F(3)(b) of the Ohio Constitution. A congressional map shall not unduly split governmental units, giving preference to keeping whole in order named counties, then townships and municipal corporations. Like the partisan Fairness Criterion. This criteria is also located in Article 19, Section 1F(3) goes into effect if a map is passed in the absence of a constitutionally mandated level of bipartisan support. Once again, that should be reflected in a map that is bipartisan as well. Thus, no congressional map should be drawn that unnecessarily cracks apart Ohio's communities. We integrated this goal throughout our map. Under Article 19, Section B(3) of the Ohio Constitution, the territory of each congressional district must be compact and contiguous with the boundary of each district being a single, not intersecting continuous line. Each district in our proposed map is 100 percent contiguous, and our map scores a 70 percent on the Dave's Redistricting App compactness analysis for a good rating. I hope when anyone looks at our congressional map, they see good things in it regarding the congressional district in which they would live. As a lifelong resident of Central Ohio, I know it's exciting to me to see two congressional districts and company encompassing the most populous region of the state because we only have ten minutes. I'll stop my explanation of our map here and turn the rest of the discussion over to Sam Gresham, another member of the Ohio Citizens Redistricting Commission.

**Sam Gresham** [01:25:23] Thank you. Good Morning. Co-Chair Cupp and co-chair Sykes. I'm honored to be here this morning to make presentation before you. I am representing, as you heard from our league professional, Ms. Turcer, chairman of Common Cause. But

I'm also a member of the Ohio Citizen Redistricting Commission, so I have a dual role. Furthermore. I am not going to talk about any statistics, lines are drawn. I'm talking about the soft part. This young man and other people are here to deal with that. So I'm going to give you that right off the bat. All right. Now. I was here in 2000. I was in the group that formed Ron in 2005. If you remember those organizations. I am. I was here and 2010. Now I'm back again. Now, I'm old, but I'm persistent. OK. And look at the role of these volunteers in this role, which serves as a heart attack. We are not going away. We are going to stay here and you see all the young people we brought with us. We are growing more until you give us what we deserve. [applause] The sad part about this and in my training and and in my experience as a professional, language tells you a whole lot about how people feel about the process and how they're going to commit themselves to the process. If I hear the language here today was, let's picket this, let's picket, that let's picket, that not understand our process with these maps that we came up with an honest process. We open ourselves up the possibility. We disagreed about things. And you heard that disagreement, but it was an honest process. It didn't come in with closed minds. OK. And the closed minds are on. Political levels now I want you to remember the world is not static, it is constantly moving. When I came here in 74, Democrats were in charge of everything. Everything in the State House was run by Democrats. Now today, that's changed. But the thing I want you to know that is not forever. So we need to create a process that we all can work in for the betterment. Of our citizens of Ohio. You've made some comments here this morning that tell me the disposition, it's all about politics. It's not about the citizens and coming up with the best solution. I've led organizations where we had honest conversation and we fought. We've looked at it from a different standpoint, but when we said it's over, we've had time for discussion. Let's do the best we can with the values and the data that we have in front of us. Now, let me tell you this, I'm not surprised by your behavior. There was a coach who coached the Minnesota Vikings and he was there you are who you are. And we know who you are. [applause] We are not surprised at your behavior. In fact, all of us anticipated. Now you'll notice some differences in the previous years. We're sophisticated now. Do we have our own members? We give you reports on our own understanding. Guess what that means? We are understanding the process as well as you do. We are giving evidence to the courts so they can see the efforts that we put forward and how citizens came to this process. You've got to take your blinders because we're gonna whoop you one day. Take them off because we're going to get what we want. I remember my people went and slavery for two hundred and forty seven years. Guess what? We got out. We were under Jim Crow and black code laws. Then we were under polite segregation. From eighteen-- sixteen nineteen to nineteen sixty five, black folks suffered. They did, and in 1812, when Eldridge Gerry came up with this idea of gerrymandering, the group that has suffered disproportionately to that. I've been people of color, man, look at Texas. I can go on. We understand that you have to be resilient. You have to struggle and fight. We're going to be here every time. I don't know if I'll be here for the next one, but I know I'm gonna have a son who's going to be here for the next one. I'm training him now. I know I have a granddaughter who's going to be here because I'm training them now. Now, I want to let you know that that eastern wall that you have in Ohio, from Michigan to Indiana, all the way down to Kentucky is going to dissipate one day, and that overperformance that you have in those districts where you turn out 80 to 90 percent of the people you don't think we understand what you do is not going to be there always. There are some trends that go against you in that regard. Mortality. Age. We understand that. Now we also don't do this proposal in isolation. John Lewis, the American Freedom Act is out there. And it will have an effect on your process and it will pass Congress. I assure you that after the president and his people get through with the infrastructure and all that stuff starting in January, they're going to be working hard to pass that legislation.

Let's be sure. I want you to understand why, because the survival of a Democratic Party is predicated upon that legislation, if it does not pass, the Democratic Party is all but gone. So you understand the level of the fight that we realize we're in. If you know your history and I'm not sure if you know your history in 1876, this happened once before. It was called a compromise of 1877, when Rutherford B. Hayes from Ohio was running for president, right? And it was so close the vote was thrown into the House of Representatives and they came up with the compromise of 1877. And that compromise was we'll take the federal troops out of the south. That was a compromise. And you know what that did to black people, little group came up called cool colored kids. KKK. Who destroyed our lives? We are at this precipice again. We understand who we are and where we're at, because we know our history. We know if you do not pass those two pieces of legislation that. We need to have passed, we are cooked. You will manipulate our lives, our economy, our families will be destroyed, all because we do not have the right to vote. I want you to be clear what you saw in the last election, a president,.

**Co-chair Senator Vernon Sykes** [01:33:33] Mr. Gresham?

**Sam Gresham** [01:33:34] A candidate, who is running our gross income.

**Co-chair Senator Vernon Sykes** [01:33:36] Yeah, your time is...

**Sam Gresham** [01:33:37] I know. Thank you.

**Co-chair Senator Vernon Sykes** [01:33:39] Anything else about the maps?

**Sam Gresham** [01:33:41] I told you I didn't come here to talk about the maps. I started the conversation. I ain't come here to talk about the maps.

**Co-chair Senator Vernon Sykes** [01:33:47] I just want to make sure we get that in if you had something.

**Sam Gresham** [01:33:50] Yeah, OK. The dynamic in which you are operating here affects your ability to achieve the map, and as a dynamic that's occurring right now where you have to take that in consideration. And the points I made earlier are important for that. You are not isolated by yourself in a corner of America. Now I'll end with this. I hope you find a way to be fair and honest about this process. Because we never thought you were going to be. And we are not giving up on that. We're going to fight until we get what we want. I want you to remember 1619 to 1964. My community fought and we're not going away. Now what you saw in the election was what's going to be the future of our country. The old America is fighting against a new America. What you saw is a Democratic candidate who had no chance until the prowess of the African-American community stepped forward and gave him the votes he needed to get in order to win. This is not new. This is the future of this country. Evidence is supported. Have you ever seen a commercial on television where you don't have an integrated couple or a black couple? Guess what? Economic leaders of our country understand who are the consumers of the future and who are going to be the people who are going to be here to such degree. Pew is already signaled to you that all the kids in public schools and private schools across this country, the majority are people of color. I can go on. To say that this world is changing and we're going to lead it now. Thank you for extending my comment time. And I also want to say to the Sykeses. Y'all, I've done a fine job of fighting I want to give you your applause. [applause] Mr. Chairman, if you have any comments or questions, I will take them now.



**Co-chair Senator Vernon Sykes** [01:35:53] Commissioners? Apparently, there's no questions at this time we'd like to thank you for your presentation, thank you very much. Thank you. [applause] Next, we have Geoff Wise. Do they have handouts?

**Geoff Wise** [01:36:32] I got a little bit of Halloween show and tell.

**Co-chair Senator Vernon Sykes** [01:36:53] State and spell your name, please.

**Geoff Wise** [01:36:55] My name is Geoff Wise. I'm handing out the maps now. If people have looked at these maps before it would be good to know, if not, I don't think my map is actually the most perfect map that we've shown today. I appreciate, especially the the high quality conversation that we had earlier around, and we're going to continue that. And for Catherine Turcer for for kind of lead up to the things that I'm talking about here. So again, I don't think I've got the best map. I think there are other maps there, but I put a map in because I want to talk about what makes a great map and the really four criteria that I think are important. The first and there's three easy ones, and then we'll get into the hard one, and that's what the show and tell is going to be about. All right. So the first one is just basic compliance with, you know, county splitting and population and things like that. I think we can all agree on those. That's not that's not hard at all. The second is to make things compact, and my rule of thumb is that if a district starts on one end of the state, it shouldn't like go past Columbus. OK, so it should be like a two two hour drive tops, if possible. And then within the urban districts, they should not be all spaghetti shape, but be reasonably compact shapes. And this is so much easier for the congressional process than it was for State House. If anyone tried to do a State House map, that was really hard, this is easy, OK? There are 15. There are 15 districts. This is pretty easy to do. The third easy criterion to do is create minority opportunity districts. African-Americans represent maybe 13 percent of Ohio's population, 13 percent of 15 is two. Conveniently, we're supposed to keep Cleveland whole, and Columbus has a large African-American community. If we try to keep that together, that would satisfy two, and then we can also have a somewhat opportunity district in Cincinnati. So I think that's going to be pretty easy to do. But the hard part. And this is where I think we've gotten stuck earlier today, and I really want to continue that conversation is how do we divvy up the candy, OK? And what we saw from the fair districts Ohio maps is that there's a general trend of typically about six rural counties that are going to be fairly strong for Republicans. Let's keep those communities together. We have again Cleveland, a minority district in Columbus and Cincinnati. Those are three natural deep blue districts. And where the problem is going to be is in deciding, what do we do with those other six districts? Where do we put them on the spectrum between Republican leaning and Democratic leaning? And that's a tough question. And throughout this whole process, even the state, how process, I've been much more focused on, how do we set the success criteria for what we're doing than, my map is awesome. And that's not what this is about. This is about how do we think through going to the right map? So let me explain my process for that because I think it's going to carry over regardless of which map you end up going with. OK. So the first thing is to note that this is not 2011. What would we do in 2011? We would dump all the candy we could into one basket. Now that was the process, right? And the reaction from the public, especially the shapes of those maps, was not to do that is to let the voters decide. So I think the first thing we need to do is, say, the remaining pieces of candy. And I've got, you know, six more pieces of candy here to represent six more districts. Let's put them into this central market of places of. Of districts. That have a chance of being competitive, and I'll get more into that a little bit later. So that's the first part. The other is to recognize if Ohio's approximately fifty four to forty six,

that ratio works out to be about eight to seven. So there should be a total of eight red pieces to light red and then four light blue to go with the four dark blue. That's eight to seven. So in a normal year, you would expect that proportionality. Now, the thing that gets a little bit trickier is saying, OK, well, what if it's not a normal year? And let's say I'm just going to say, let's start with the blue wave here. It's a year that the Democrats do well. Maybe Biden closes the borders and inflation is down. Whatever scenario you want to do nightmare or or are wishful thinking, what happens there? And so what happens generally is that this will kind of shifts. Four percent to to the left. And so the reason I put that starburst at eighth seat at 54 percent is that when Ohio shifts four percent, that that middle seat should be up for grabs should be a toss up. So that's the basic symmetry. That's what the courts have looked at. That's what I try to advise people on the State House process of what you should do. And then if it's a red wave year, then these other districts are going to be in play. So that's just going to be a natural consequence. Now, the details of exactly where you put those districts there, you should pick a map where you have the flexibility to switch those around a little bit. And so the way I think about it is if I move that plate left or right, the responsiveness as far as how many more seats the Democrats pick up or how many more seats the Republicans shift pick up. That should be equal. And so that that line on that seats the votes curve should be a smooth line, and it should be fair with matter which way you shift it. And so that's the approach I would use for doing that, and we can get more into that, into the Q&A. Before I close, I want to clear up a couple of misconceptions. And this is to be honest, this has been a tough process for all of us, we're all learning on what we're supposed to be doing here. And there's been two things that I think people have struggled with here. And the first are those I'll just read out. I'll just read out. I'll paraphrase part of the Constitution here, and this is from Article 19, Section 1B, and this is why I thought we were here today. And that says that if we don't pass a congressional map via the General Assembly process in September, then in October, this commission shall adopt a plan. That's what it says. It says shall adopt a plan. So I think of my own job, my own job. I could say, I really don't want to work today. It's easier for me not to work today, but it's my responsibility to do that job. I'm not. I'm trying to be serious here, OK, it's the responsibility to do the job. And so it's our expectation here that you follow the Constitution and make an honest effort to do that. So that's the first point. The second part of the Constitution I want to call out for is an Article 11, section 1B(1). And I think and I've talked to congressional aides on both sides, and this is where I want to clear up this confusion. Now, other than the fact that if you adopt a map, you need to have two Democrats, at least two of the five Republicans. That's clear. Any other action that the commission takes only requires a simple majority. Any other action? So even if you've set up rules in this commission that both co-chairs have to agree to something, those rules are unconstitutional. All right. The rule is a simple majority fraction. So the reason people have been picketing outside the executive group's office for Secretary LaRose, Governor DeWine and Auditor Faber, is because they have been in a position to to talk to either side, preferably with the Democrats, and say, Look, let's get this thing done. And that's one of the great strengths of the way this is organized is that the executive branch plays that sort of middle position. And the reason they do that is because they're accountable to all of Ohio's voters, not just to Akron's voters, not just to Lima's voters, but all of Ohio's voters. And so the voters expectation was that you were going to do what's right for Ohio voters and just like you did in the COVID response, which honestly, I think is a little bit more difficult. You stepped up for Ohio's voters when it came time to make sure our elections would be secure in a pandemic. You stepped up. And again, we're asking you today to step up and because only a simple majority is needed for any action, you guys can decide today. The three executive members, plus plus Senator Sykes and Emilia Sykes, you could decide. You know what? This afternoon we're going to finalize the criteria for the

maps and then what each side is going to come back with three of their best maps, and we'll bring it tomorrow morning and we'll talk about those maps. And if we come to agreement, great, Friday afternoon, we're going to adopt maps. That could still happen. You're, if you're choosing not to do that, that is an express choice you're making. I want to be perfectly clear. If one of the co-chairs says we're not going to do a map that is that one person's vote. There are seven people on this commission. I want you to show that action. All right. And. [applause] And the thing I recognize is everyone here on this commission is a political animal. I tried to wear purple today and try to be neutral, OK, but everyone and you have to weigh the political consequences and the political consequences are different. If you're representing people who want to maintain gerrymandering in your district, then you're going to do with those constituents what you want to do. If you represent all of Ohio, you are really rolling the dice. If you think your best thing to do is to sit on your hands. I don't think that's true. So at this point, I'm happy to answer any questions that people have.

**Co-chair Senator Vernon Sykes [01:46:52]** Thank you for your presentation. Are there any questions? Speaker.

**Co-chair Speaker Bob Cupp [01:47:01]** I do have a question that just to understand you have in your handout here somewhere, two maps.

**Geoff Wise [01:47:12]** Oh, those are just different colors, I put them in color so that it's easier to see them. And then the other one is the exact same map. It's just partisan lean. So there's those exact same maps. It's just I don't know if you want to look at a partisan lean or just, it's sometimes it's hard to see the kind of blend together.

**Co-chair Speaker Bob Cupp [01:47:26]** OK. That's what I was trying to figure out. The difference. Sure. Thank you. Mm-Hmm.

**Geoff Wise [01:47:31]** Really, I would. I mean, I would like to continue the conversation we had on. On how we you know what's competitive, all that. Any follow up questions from that?

**Co-chair Senator Vernon Sykes [01:47:42]** Is there something else that you wanted to share with us about.

**Geoff Wise [01:47:45]** No, I just think we have a great quality conversation before, and maybe some of those questions weren't fully answered. Do you want to have more discussion? That's all.

**Co-chair Senator Vernon Sykes [01:47:53]** What do you consider to be competitive? What percentages do you consider to be competitive?

**Geoff Wise [01:47:57]** Right? So in my mind, when a district is 50 50, that's perfectly competitive and then there's a chance as you get towards, you know, two percent off or four percent off, I would say there's no real hard line. And what I would say is around four, you know, around fifty four, fifty four, forty six is probably the edge of where I would say that's a strongly competitive, but I don't have any disagreements with the way people describe it earlier. I think we're all in the same line. But my point is that you can actually with this map with if you have a good map to start with, you can actually line up about where these things line up. And you can. It's a map is 51 versus two. It's going to be the

quality, the candidates. Let's not get into those weeds, but there are six there, there are really six pieces of candy to put in there and you can decide where they go.

**Co-chair Senator Vernon Sykes** [01:48:45] Thank you, you have another question? Speaker,.

**Co-chair Speaker Bob Cupp** [01:48:48] I thank you, Mr. Wise. I wouldn't want you to come all this way and do all this work without another question. Thank you. I appreciate it. So we talk about competitiveness. We've talked about how people that belong to different parties reside in different places. Would it in your in your view and in the work that you've done to get a competitive district, you could put essentially 50 percent Republicans and 50 percent Democrats in one district. Now you have a competitive district. But is that really a good thing? Because now you're going to your party, you're not just going to create more polarization in that district.

**Geoff Wise** [01:49:36] That's a great question, and thank you. It makes me feel better about driving from Cincinnati. So the way I think about it is there's a natural progression of districts from fairly red. I mean, strong red to a strong blue and then the ones in middle that's been fairly smooth. As long as you're not like, you'll know it when you're making the map, it's like, Do I really have to try to twist things to get fairly competitive districts? I would not put five or six districts, exactly 50 percent. I would make this smooth kind of continuum where we've got a fifty six, a fifty four a 49 or 48 or 46 45, something like that. And if I don't have to contort to do that and it looks like I'm keeping communities together, I think that's... I think that's the way to go. And I think with only 15 districts, it's pretty easy to do that. And maybe you start from my map or Paul Nieve's map you have us now for someone else's. It might be easier to shift it. Some maps you might feel like you're boxed in and you can't do that. But I feel like it's pretty easy. Does that? Does that answer your question? OK, thank you.

**Co-chair Senator Vernon Sykes** [01:50:35] Thank you, Mr. Wise. I'd like to thank you for your participation all along in this process.

**Geoff Wise** [01:50:42] Thank you.

**Co-chair Senator Vernon Sykes** [01:50:44] Next presenter is Paul Miller. Will you state and spell your name, please, for the record.

**Paul Miller** [01:50:56] Paul Miller.

**Co-chair Senator Vernon Sykes** [01:50:59] you have approximately 10 minutes for your presentation.

**Paul Miller** [01:51:03] So my name is Paul Miller. I uploaded a congressional redistricting plan proposal on behalf of the Ohioans Defending Freedom nonprofit on October 10th. But for some reason, the ORC hasn't recognized my submission after numerous attempts, but I have been cleared by the Co-Chairs Office to testify on behalf of of this plan. Please pardon the last minute changes to my written statement, as these technical difficulties haven't been resolved yet and also based on previous testimonies. Unlike the previous speaker, I think you can be fair and are actually naturally inclined to do so. On October six, I published my 105 page report on the Democrats deliberate efforts to gerrymander Ohio's districts. This report has been delivered in some form or another to the majority of the

members of the commission is open to the public at my website, PaulMillerOhio.com and is gaining traction among independent media outlets. Tens of thousands of people across the country have heard what I have to say, but to date, no one has contested any one of my claims nor the facts upon which they are based. With one possible exception, Mr. Wise, just said that Cincinnati is deep blue. I contest that it is not. If you look at the numbers, Cincinnati officially went to Joe Biden in 2020 by just 6000 votes. And if you compare that with the surrounding territory, every county, I'm sorry. Every county which borders Hamilton went to Trump by more than 40,000, including Preble, which is only five percent of the population of Hamilton. But anyway, the truth is, as I've proved in my report, Ohio's current congressional district map does not fit the definition of gerrymandering is routinely alleged, though to the untrained eye, it certainly appears so. The truth is that the question of gerrymandering can quickly and easily be resolved without any subjectivity or partisan bias by simple mathematical calculation. The formula for which I have made public. Furthermore, it can be represented graphically so that any layman can understand it, which I have also done not just for Ohio, but for all 50 states. As you can see, my map is the most compact of any of the submissions. But the fact that it is also quantitatively the least gerrymandered flies in the face of the fact that it's been called the Republican gerrymander in documents submitted through the same channels. I don't even consider myself a Republican. If such demonstrably false commentary is allowed to be presented, and it's only fair that my statistical analysis, which thoroughly debunks it, also should be. I won't bother you with all the details, as they're readily, readily available in my report and in the addendum, which shows that the OCRC are lying through their teeth with two math professors and statistics expert at their disposal. They have to know it. At best their proportional representation argument, which they only seem to want to apply to red states, is not at all better fitted to the constitutional requirement in Ohio. The voters historical statewide preferences by party be taken into account, then trying to fit the districts to the statewide average of margins is, as I have demonstrated, empirically with my uniform distribution curves. And the statistical variance of these districts margins is an objective measure of the amount of gerrymandering. Here are the numbers. The statistical variance of the current Ohio congressional districts margins is six hundred and seventy five point three. The variance of the Senate Democrats plan is seven hundred twenty point four. Put another way, the Democrats plan is demonstrably seven percent more gerrymandered than the current map could be said to be, even without accounting for the constitutional requirements, necessitating some measure variance. The variance of the OCRC's plan is seven hundred fifty two point three, which means it's 11 percent more gerrymandered than the current one could be said to be. And this increase is not a coincidence, but a mathematical necessity of taking half the districts in a state with a six point historical margin, favoring one party and handing them over to the other party. You simply can't achieve this kind of artificial competitiveness without diluting the votes of the majority party, which is to deliberately favor one party and disfavor the other. The very definition of an unlawful gerrymander in our state's constitution. And that's why Connecticut, which went less for Hillary Clinton in 2016 than Ohio did for Trump, has five Democrat districts and zero Republican. But isn't it all gerrymandered? It's not. I could stand here for hours and make the case refuting each and every one of the activist groups points, but I already have. Only know that the process which they have initiated here and have already completed elsewhere, has made Pennsylvania the second most gerrymandered state in the Union. As I have proved empirically in my report. Heed my words, members of the commission, if they have their way here, Ohio will beat Pennsylvania for this dishonor. Their goal is to make Ohio the second most gerrymandered state in the Union, and they cannot argue otherwise because they know the numbers don't lie. You've just seen for yourself how flippantly they dismiss the argument they can't contest while promising to

keep fighting you just because they can. I say, why shouldn't the democratic process entail some sort of healthy debate? Why shouldn't the truth make some shred of a difference in it? On the other hand, members of the commission, you have the opportunity to turn to turn Ohio into the blueprint for constitutional reform done right for other states to follow. My map has a variance value of six hundred and eight. Unlike the Democrats plans, which increase the amount of gerrymandering over over Ohio's current map mine reduces it by more than 10 percent. Put simply, you won't get a better map unless the limitations drafted by the same Democrat activists before you here and established by the constitutional reform referendum are lifted or replaced with something less counterproductive to the goal of ending gerrymandering. I realize this will not sit well with the activists and with Democrat voters and politicians as it means they won't have their way. Because there aren't enough judicial activists in our state Supreme Court to upend the process like there were in Pennsylvania. But it is the inevitable result of a strict adherence to the guidelines they've given us, which are now the strictest in the nation. Since no one else seems to want to follow them and everyone else is more concerned with partisan politics than with sound reasoning and empirical proofs, I don't believe the ORC has any other choice but to adopt my map for 10 years or else allow the public to see just how disingenuous the calls for fairness from the minority party are by voting along party lines and letting the General Assembly handle it. Either way of the people here today who are not elected officials, I alone am here to represent the good people of Ohio and their interests, which include fair districts, fair representation and the will of the majority over partisan concerns. Now that I've said my piece, it's up to the members of this commission, whether you are here to do the same. Thank you. I will take any questions you have.

**Co-chair Senator Vernon Sykes** [01:58:19] Thank you for your presentation. Are there any questions? Auditor?

**Auditor Keith Faber** [01:58:26] Thank you. Just walk us through your logic on how you get to your competitive, your partisan lines and districts. Your map is very compact. I looked at it in detail both online and as we went through it. And so I guess I ask a question. How is your map better than than some of the other maps? And why do you think that this map more reflects fairness in Ohio?

**Paul Miller** [01:58:55] Well, if you've seen the work that I did on my website, you will know that I created several indices to measure the amount of gerrymandering and used a mathematical formula, so that's consistent across the board. I have applied it to district maps in about a dozen states, with the exception of Connecticut, which I was not able to bring down because there is no gerrymandering there across the board. The average is about 10 percent less gerrymandered for every state. Some states, like Iowa, has another 28 percent less. It, In essence, I just I just used a mathematical process to make sure that it was completely without any sort of subjective bias.

**Auditor Keith Faber** [01:59:40] Mr. Chairman.

**Co-chair Senator Vernon Sykes** [01:59:41] Yes,.

**Auditor Keith Faber** [01:59:42] Can can. Assuming we haven't had hours to spend at your website looking at all your underlying logic. Walk us through your mathematical process. Why is your process better than the process we hear from a bunch of other professors and university types?

**Paul Miller** [01:59:59] Well, I don't think that any of those professors were actually trying to apply math, mathematical model or even trying to, sorry, qualify much less quantify the matter of gerrymandering. As far as I know, that's I. I may not know everything, but. When statisticians and mathematicians are looking at sets of data and trying to determine whether something has been manipulated, they use a standard distribution curve, which is where I started. Now. My map has I believe it is 12 districts which are within one standard deviation of the mean which, as we know in Ohio, is about about six point margin in favor of Republicans statewide. The the Democrats and the ICRC and other activist groups involved in this process are trying to create an artificial competitiveness. They use a proportional vote representation or sorry, proportional representation argument, which doesn't have any legal or constitutional basis. But if I may just go back to Speaker Cupp's question of of competitiveness, competitiveness as a good thing, I would say absolutely not. It's not what you want. I think the argument is deeply flawed. It's counterfactual to our constitution. It's the theoretical basis for the minority party's gerrymandering efforts and invites fraud. And I've and I've demonstrated that in in two dozen states, it's become a fraud, of course, as we know it. If you've been paying attention, it has become a greater concern nationally than gerrymandering has the the idea of a of a 51 to 48 spread and ensures that no less than 48 percent of the population in that district will be disenfranchized. I think what we need to do is aim for the statewide voting margins average as prescribed in in the Constitution. This will reflect this will reflect the probability of a party's candidate to win an election based on advantages or disadvantages such as fundraising, performance, likability, name recognition that the things that you were alluding to earlier that can actually make up the gap. Otherwise, if the trend turns in favor of the minority party to all the districts that we're going to, the majority will near that margins average. And in my opinion, and I know this is just my opinion, but others have shared theirs. If the Democrats want more seats, they can win them at the ballot box by being reasonable and ending the ongoing destruction of our country and way of life with their radical socialist agenda. That's my opinion.

**Co-chair Senator Vernon Sykes** [02:02:48] Are there any other questions?

**Auditor Keith Faber** [02:02:50] Just a follow up. You mentioned statistical deviation. Can you tell me deviation from what? What is your baseline calculation? Is it how people voted in in county and city and geographical deviations to try and figure out how to assemble those together or when you're doing? I don't understand what you're doing, deviation. It just may be my ignorance, so enlighten me, I am curious.

**Paul Miller** [02:03:16] So what I do is I used Dave's Redistricting App. I I use the current Ohio congressional districts map and then and then the one that I created. And then I also looked at the ORC's I'm sorry, sorry, the OCRC's map and some others representing, for example, the League of Women Voters. And and I compared the district's margins averages. In one case, I actually created a a two party voting margins, average voting margins set so that it more accurately accurately reflects the real political landscape since independent third party candidates don't typically win. But the the margin of difference taking all of the different districts and then adding them up, I just plug them into a standard deviation calculator to come up with with the numbers. In statistics, variance represents, as I hinted at a minute ago, the departure from what you would expect from a random distribution. I'm sorry, does that answer your question?

**Auditor Keith Faber** [02:04:22] Or generally, but I, you know, Mr. Chairman, have not. I don't understand what. Give me an example of what you do did and how you came up with that calculation. Did you do it by counties? Did you do it by districts?

**Paul Miller** [02:04:34] Oh yes, our districts.

**Auditor Keith Faber** [02:04:35] OK. So that that helps me understand. So you look at a district and you'd say, OK, in this district, we would expect based on historical voting averages and in whatever time period, we look at this district to vote for a Democrat by X points.

**Paul Miller** [02:04:51] Yeah.

**Auditor Keith Faber** [02:04:52] And the map would yield. Something different. And that's your deviation.

**Paul Miller** [02:05:00] No, the the deviation is the the departure from the probability that it happens naturally by by some sort of random process, without that randomness, you have evidence of some sort of manipulation. So the manipulation is evident in the lack of randomness there. The greater the the deviation, the the variance is the square of the deviation. So the greater the deviation, the greater the the variance, the greater the variance, the more evidence there is of of artificial tampering.

**Auditor Keith Faber** [02:05:36] And so Mr. Chairman, and I want to conclude this, but so to help me understand this a little better, it appears what you're trying to do is control for the factor that Ohioans tend to live around people that think and vote like them. And by doing that, districts should reflect that is is that a summary of what you're saying?

**Paul Miller** [02:05:57] That is certainly one way of looking at it. Yes. Thank you.

**Co-chair Senator Vernon Sykes** [02:06:01] Any additional questions? If not I'd like to thank you very much for your presentation. At this time, is there anyone else that wants to testify? On the map, on the map. [laughter] Thank you, co-chair. Thank you. Seeing none, please note that we also had written testimony for plan sponsors that are submitted on the website and we'd like to thank all of those who presented here today. Is there any other items or business we need to handle today? Seeing and hearing none, the meeting is now adjourned.





**Ohio Senate**  
Senate Building  
1 Capitol Square  
Columbus, Ohio 43215  
(614) 466-4074

**Dr. Vernon Sykes**  
Ohio State Senator  
28<sup>th</sup> Senate District

October 5, 2021

The Honorable Bob Cupp  
Co-Chair, Ohio Redistricting Commission  
Ohio House of Representatives  
77 South High Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215

Dear Speaker Cupp,

As a co-chair of the Ohio Redistricting Commission, I write today to urge the scheduling of public hearings for the consideration of congressional redistricting.

As you are aware, the Ohio General Assembly failed to adopt a congressional redistricting plan by September 30, and the Ohio Redistricting Commission now has until October 31 to adopt a redistricting plan. During legislative redistricting, the Ohio Redistricting Commission held 13 hearings for members of the public to testify. During those meetings, we discouraged witnesses from testifying on congressional redistricting, as the primary purpose of our August and September meetings was to accept testimony on state legislative redistricting. We also told members of the public they would have an opportunity later to testify on congressional redistricting.

That time has now arrived. Over 40 congressional maps have been submitted to the Ohio Redistricting Commission website. Leader Yuko and I have also submitted our own congressional redistricting map. As co-chairs of the Redistricting Commission, we must schedule hearings as soon as possible so we can begin receiving public testimony on all congressional maps that have been submitted, as well as on other topics related to congressional redistricting.

I propose that, at a minimum, we hold hearings in Columbus, Cincinnati, Toledo and Cleveland. I suggest the following dates: Tuesday, October 12; Thursday, October 14; Saturday, October 16; and Tuesday, October 19. The Commission also received repeated requests that its meetings be accessible outside of normal work hours. I would suggest that some of the meetings be held in the evening.

This proposed schedule would also reserve the last week of October for additional Commission meetings, which are required under Article XIX § 1 of the Ohio Constitution, after a plan has been proposed by the Commission but before any final adoption.

I look forward to working with you to set a meeting schedule that enables the Commission to fulfill its constitutional duty and to develop a schedule that responds to the public's great desire for a meaningful, transparent process for drawing congressional districts.

Sincerely,

A handwritten signature in black ink, appearing to read "Vernon Sykes", with a stylized flourish at the end.

Vernon Sykes, Co-Chair  
Ohio Redistricting Commission

cc: Ohio Redistricting Commission members



**Ohio Senate**  
Senate Building  
1 Capitol Square  
Columbus, Ohio 43215  
(614) 466-7041

**Dr. Vernon Sykes**  
Ohio State Senator  
28<sup>th</sup> Senate District

October 18, 2021

The Honorable Bob Cupp  
Co-Chair, Ohio Redistricting Commission  
77 South High Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215

Dear Speaker Cupp,

I write to follow up on my October 5 letter, in which I urged that we schedule meetings of the Redistricting Commission to work on congressional redistricting. These meetings are essential, particularly because we promised the public they would have the opportunity to testify on congressional redistricting before the commission. It is imperative that these meetings take place as soon as possible so that members of the commission can work toward adopting a ten-year plan. I also am eager for your schedule suggestions so we may jointly decide as co-chairs when to meet.

The public expects an open process with the opportunity to offer input and suggestions about how to draw maps that represent all Ohioans. As a commission, we must demonstrate that we are using a fair, transparent process to consider and adopt maps.

As you know, last month, Leader Yuko and I submitted a Senate Democratic congressional redistricting map. I would like your input on our plan and to provide an opportunity for all commissioners and the public to formally comment. Lastly, I look forward to the majority releasing a plan for consideration by the commission and public.

I appreciate your attention to these issues and look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Vernon Sykes", with a stylized flourish at the end.

Vernon Sykes, Co-Chair  
Ohio Redistricting Commission

cc: Ohio Redistricting Commission members



## OHIO REDISTRICTING COMMISSION

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### ANNOUNCEMENT OF COMMISSION MEETING

**TO::** Members of the Ohio Redistricting Commission

**FROM:** Speaker Robert Cupp, Co-Chair  
Senator Vernon Sykes, Co-Chair

**DATE:** Thursday, October 28, 2021

**TIME:** 10 a.m. – 1 p.m.

**LOCATION:** Ohio House Finance Hearing Room (Room 313)  
Ohio Statehouse  
1 Capitol Square  
Columbus, Ohio 43215-4275

### AGENDA

- The Ohio Redistricting Commission will hear testimony only from **sponsors who submitted complete, statewide congressional district plans.**<sup>1</sup> No other testimony will be accepted.
- Plan sponsors requesting to testify in person should submit a completed witness form<sup>2</sup> to: [testimony@redistricting.ohio.gov](mailto:testimony@redistricting.ohio.gov). If testifying in person, be prepared to limit your testimony in the interest of time and other witnesses.
- Please (1) confirm that you are a plan sponsor, (2) indicate which plan you submitted and (3) confirm that your submission is a complete statewide congressional plan.
- If you have written testimony to accompany your in-person presentation, or if you are submitting written testimony only, you may send an electronic copy of your testimony to [testimony@redistricting.ohio.gov](mailto:testimony@redistricting.ohio.gov).

Senate Contact: Giulia Cambieri, (614) 644-5533  
House Contact: Aaron Mulvey, (614) 466-8759

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<sup>1</sup> <https://www.redistricting.ohio.gov/maps>

<sup>2</sup> <https://www.redistricting.ohio.gov/assets/organizations/redistricting-commission/witness-and-media-information-form.pdf>.



## ANNOUNCEMENT OF COMMITTEE MEETING

**\*1st Revision\***

**COMMITTEE:** Government Oversight  
**CHAIR:** Shane Wilkin  
**DATE:** Wednesday, November 3, 2021  
**TIME:** **11:00 AM**  
**ROOM:** Room 116  
**NOTATION:** Agenda revisions

## AGENDA

<u>BILL</u>	<u>SPONSOR</u>	<u>TITLE</u>	<u>STATUS</u>
H. B. No. 479	Rep. Oelslager	Declare intent to establish Congressional districts	1st Hearing Poss. Sub. Bill Sponsor

Cc:	House Clerk	Committee Members
	Committee Clerk	Speaker's Office
	Assistant Majority Floor Leader's Office	Caucus Staff
	Bill Sponsor	Legislative Information Systems
	LSC	Press Room
	Minority Leader's Office	



**LOCAL GOVERNMENT AND ELECTIONS**  
**COMMITTEE NOTICE**

To: Members of the Local Government and Elections Committee  
From: Theresa Gavarone, Chair  
Date: November 1, 2021

**Wednesday, November 3, 2021**  
**1:00 PM**  
**South Hearing Room**

**AGENDA**

<b>S. B. No. 237</b> <b>Yuko, Sykes</b>	Establish congressional district boundaries	1st Hearing, Sponsor
<b>S. B. No. 258</b> <b>McColley</b>	Declare intent to establish Congressional districts	1st Hearing, Sponsor



## ANNOUNCEMENT OF COMMITTEE MEETING

**\*1st Revision\***

**COMMITTEE:** Government Oversight  
**CHAIR:** Shane Wilkin  
**DATE:** Thursday, November 4, 2021  
**TIME:** **10:00 AM**  
**ROOM:** Room 116  
**NOTATION:** Agenda revisions

### AGENDA

<u>BILL</u>	<u>SPONSOR</u>	<u>TITLE</u>	<u>STATUS</u>
H. B. No. 479	Rep. Oelslager	Declare intent to establish Congressional districts	2nd Hearing Prop/Opp/IP

Cc:	House Clerk	Committee Members
	Committee Clerk	Speaker's Office
	Assistant Majority Floor Leader's Office	Caucus Staff
	Bill Sponsor	Legislative Information Systems
	LSC	Press Room
	Minority Leader's Office	



**LOCAL GOVERNMENT AND ELECTIONS**  
**COMMITTEE NOTICE**

To: Members of the Local Government and Elections Committee  
From: Theresa Gavarone, Chair  
Date: November 1, 2021

**Thursday, November 4, 2021**  
**9:30 AM**  
**South Hearing Room**

**AGENDA**

<b>S. B. No. 237</b> <b>Yuko, Sykes</b>	Establish congressional district boundaries	2nd Hearing, Proponent/Opponent/ Interested Party
<b>S. B. No. 258</b> <b>McColley</b>	Declare intent to establish Congressional districts	2nd Hearing, Proponent/Opponent/ Interested Party





**LOCAL GOVERNMENT AND ELECTIONS**  
**COMMITTEE NOTICE**

To: Members of the Local Government and Elections Committee  
From: Theresa Gavarone, Chair  
Date: November 4, 2021

**Monday, November 8, 2021**  
**2:30 PM**  
**South Hearing Room**

**AGENDA**

<b>S. B. No. 237</b> <b>Yuko, Sykes</b>	Establish congressional district boundaries	3rd Hearing, Proponent/Opponent/ Interested Party
<b>S. B. No. 258</b> <b>McColley</b>	Declare intent to establish Congressional districts	3rd Hearing, Proponent/Opponent/ Interested Party



**LOCAL GOVERNMENT AND ELECTIONS**  
**COMMITTEE NOTICE**

To: Members of the Local Government and Elections Committee  
From: Theresa Gavarone, Chair  
Date: November 4, 2021

**Tuesday, November 9, 2021**  
**9:30 AM**  
**South Hearing Room**

**AGENDA**

<b>S. B. No. 237</b> <b>Yuko, Sykes</b>	Establish congressional district boundaries	4th Hearing, Proponent/Opponent/ Interested Party
<b>S. B. No. 258</b> <b>McColley</b>	Declare intent to establish Congressional districts	4th Hearing, Proponent/Opponent/ Interested Party



## ANNOUNCEMENT OF COMMITTEE MEETING

**\*1st Revision\***

**COMMITTEE:** Government Oversight  
**CHAIR:** Shane Wilkin  
**DATE:** Wednesday, November 10, 2021  
**TIME:** **8:00 AM**  
**ROOM:** Room 114  
**NOTATION:** Agenda revisions

### AGENDA

<u>BILL</u>	<u>SPONSOR</u>	<u>TITLE</u>	<u>STATUS</u>
H. B. No. 483	Rep. Brown, Rep. Galonski	Declare intent to establish congressional districts	1st Hearing Sponsor
H. B. No. 479	Rep. Oelslager	Declare intent to establish Congressional districts	3rd Hearing Prop/Opp/IP

Cc:	House Clerk	Committee Members
	Committee Clerk	Speaker's Office
	Assistant Majority Floor Leader's Office	Caucus Staff
	Bill Sponsor	Legislative Information Systems
	LSC	Press Room
	Minority Leader's Office	



## **ANNOUNCEMENT OF COMMITTEE MEETING**

**COMMITTEE**      Joint Committee on Congressional Redistricting

**CO-CHAIRS:**      Rep. Shane Wilkin, Co-Chair  
Sen. Theresa Gavarone, Co-Chair

**DATE:**            Wednesday, November 10, 2021

**TIME:**            2:30 PM

**LOCATION:**        South Hearing Room (2<sup>nd</sup> Floor)  
Ohio Statehouse, Senate Building  
1 Capitol Square  
Columbus, Ohio 43215-4275

### **AGENDA**

Pursuant to Section 1(G), Article XIX of the Ohio Constitution, the Joint Committee on Congressional Redistricting will meet for the purposes set forth in that Section.

**S.B. No. 237 Yuko, Sykes**      Establish congressional district boundaries      1<sup>st</sup> Hearing,  
Proponent/Opponent/Interested Party

**S.B. No. 258 McColley**        Declare intent to establish Congressional districts      1st Hearing,  
Proponent/Opponent/ Interested Party

**H.B. No. 479 Oelslager**        Declare intent to establish Congressional districts      1st Hearing,  
Proponent/Opponent/ Interested Party

**H.B. No. 483 Brown, Galonski**      Declare intent to establish congressional districts      1st  
Hearing, Proponent/Opponent/ Interested Party

Cc:

House Clerk  
Senate Clerk  
Committee Members  
Speaker's Office  
Senate President's Office  
House Minority Leader's Office  
Senate Minority Leader' Office  
Caucus Staff  
LSC  
Legislative Information Systems  
Press Room



## **ANNOUNCEMENT OF COMMITTEE MEETING**

**COMMITTEE**      Joint Committee on Congressional Redistricting

**CO-CHAIRS:**      Rep. Shane Wilkin, Co-Chair  
Sen. Theresa Gavarone, Co-Chair

**DATE:**              Friday, November 12, 2021

**TIME:**              10:30 AM

**LOCATION:**        Ohio House Finance Hearing Room (Room 313)  
Ohio Statehouse  
1 Capitol Square  
Columbus, Ohio 43215-4275

### **AGENDA**

Pursuant to Section 1(G), Article XIX of the Ohio Constitution, the Joint Committee on Congressional Redistricting will meet for the purposes set forth in that Section.

**S.B. No. 237 Yuko, Sykes**      Establish congressional district boundaries      2<sup>nd</sup> Hearing,  
Proponent/Opponent/Interested Party

**S.B. No. 258 McColley**        Declare intent to establish Congressional districts      2<sup>nd</sup> Hearing,  
Proponent/Opponent/ Interested Party

**H.B. No. 479 Oelslager**        Declare intent to establish Congressional districts      2<sup>nd</sup> Hearing,  
Proponent/Opponent/ Interested Party

**H.B. No. 483 Brown, Galonski**      Declare intent to establish congressional districts      2<sup>nd</sup>  
Hearing, Proponent/Opponent/ Interested Party

Cc:

House Clerk  
Senate Clerk  
Committee Members  
Speaker's Office  
Senate President's Office  
House Minority Leader's Office

Senate Minority Leader' Office  
Caucus Staff  
LSC  
Legislative Information Systems  
Press Room



**LOCAL GOVERNMENT AND ELECTIONS**  
**COMMITTEE NOTICE**

To: Members of the Local Government and Elections Committee  
From: Theresa Gavarone, Chair  
Date: November 15, 2021

**Tuesday, November 16, 2021**  
**10:30 AM**  
**South Hearing Room**

**AGENDA**

<b>S. B. No. 258*</b> <b>McColley</b>	Declare intent to establish Congressional districts	5th Hearing, Proponent/Opponent/ Interested Party
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## ANNOUNCEMENT OF COMMITTEE MEETING

**\*1st Revision\***

**COMMITTEE:** Government Oversight  
**CHAIR:** Shane Wilkin  
**DATE:** Wednesday, November 17, 2021  
**TIME:** **10:00 AM**  
**ROOM:** Room 122  
**NOTATION:** Agenda revisions

## AGENDA

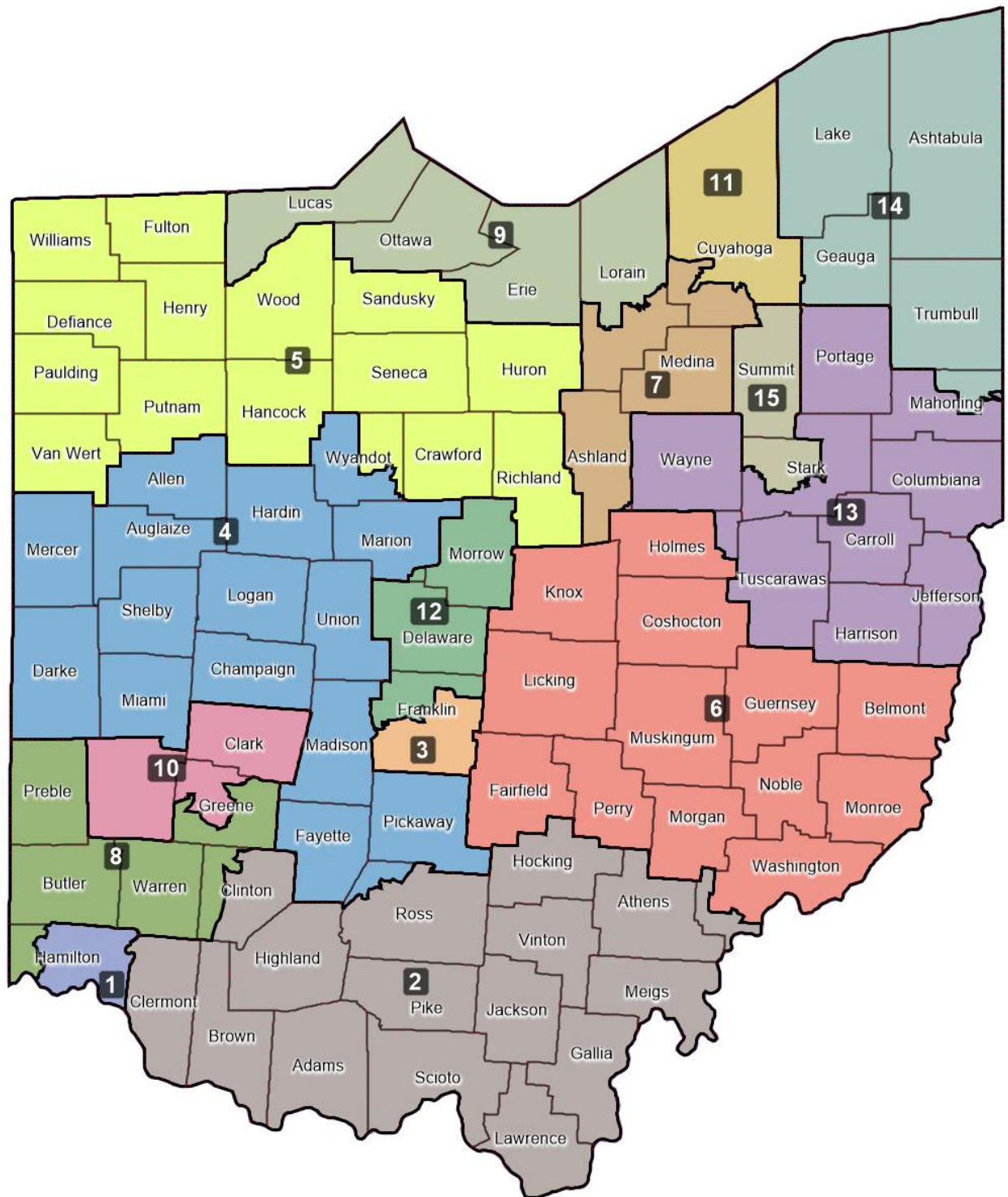
<u>BILL</u>	<u>SPONSOR</u>	<u>TITLE</u>	<u>STATUS</u>
Sub. S. B. No. 258	Sen. McColley	Declare intent to establish Congressional districts	1st Hearing Poss. Vote Sponsor

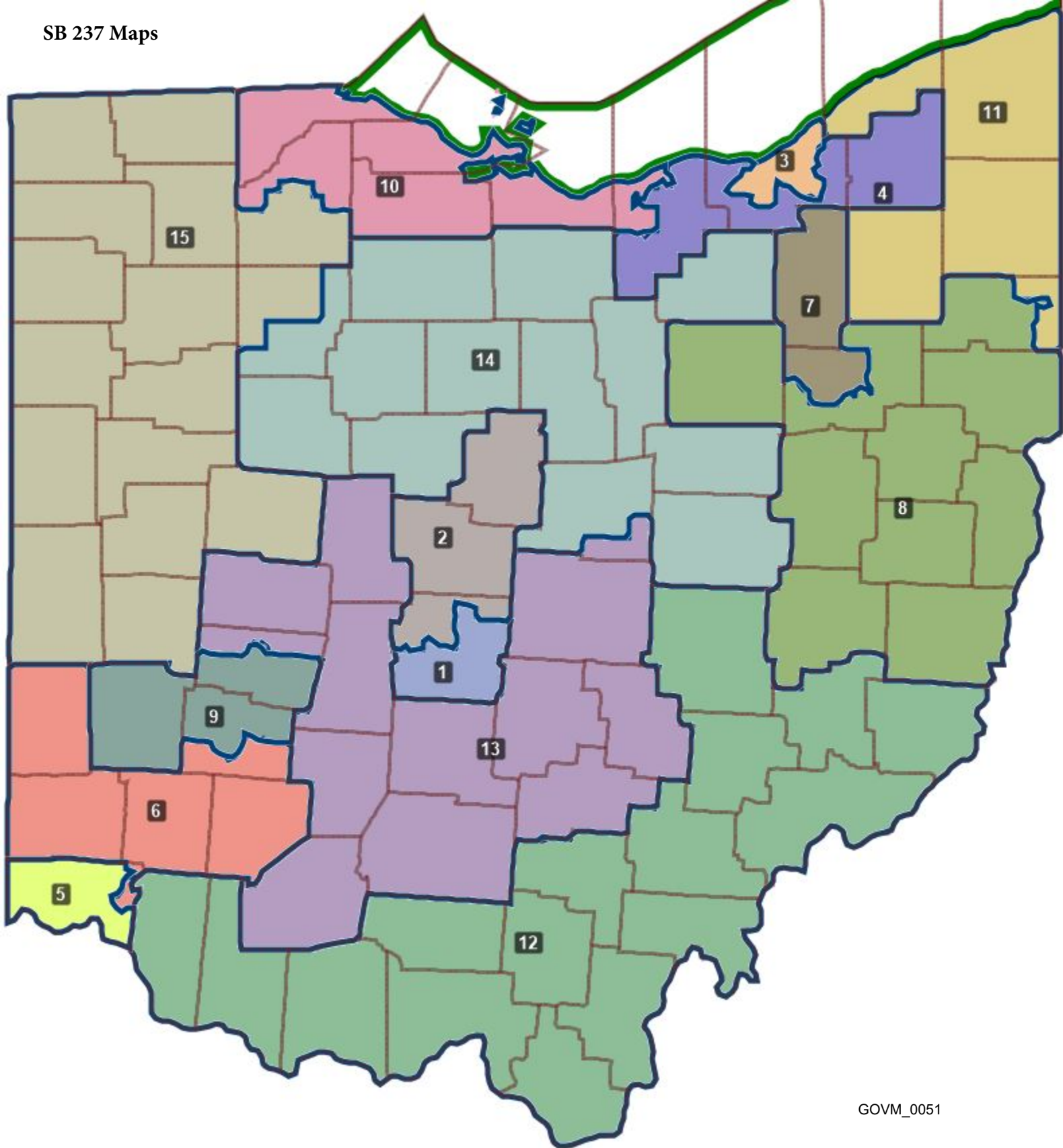
Cc:	House Clerk	Committee Members
	Committee Clerk	Speaker's Office
	Assistant Majority Floor Leader's Office	Caucus Staff
	Bill Sponsor	Legislative Information Systems
	LSC	Press Room
	Minority Leader's Office	



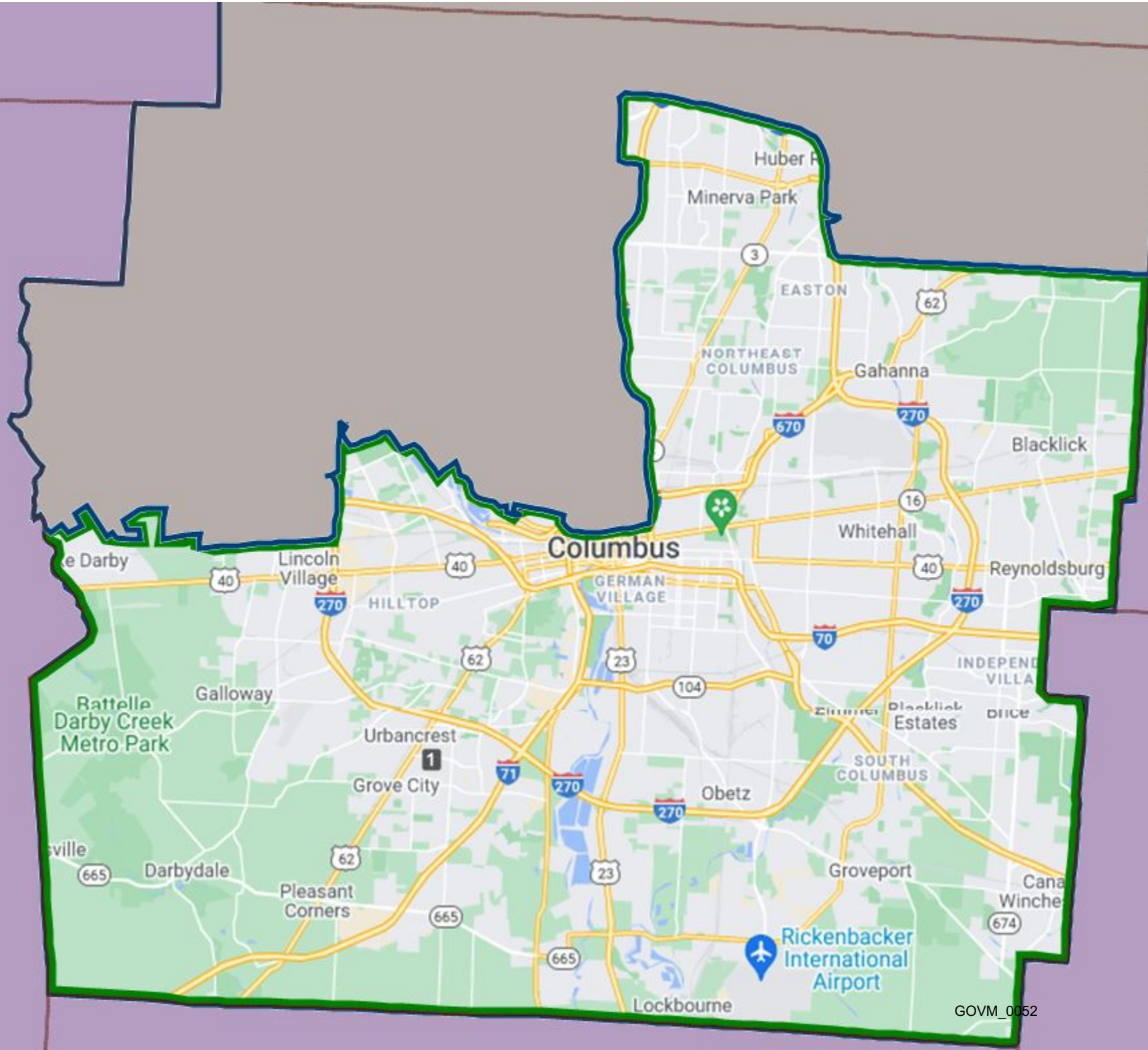
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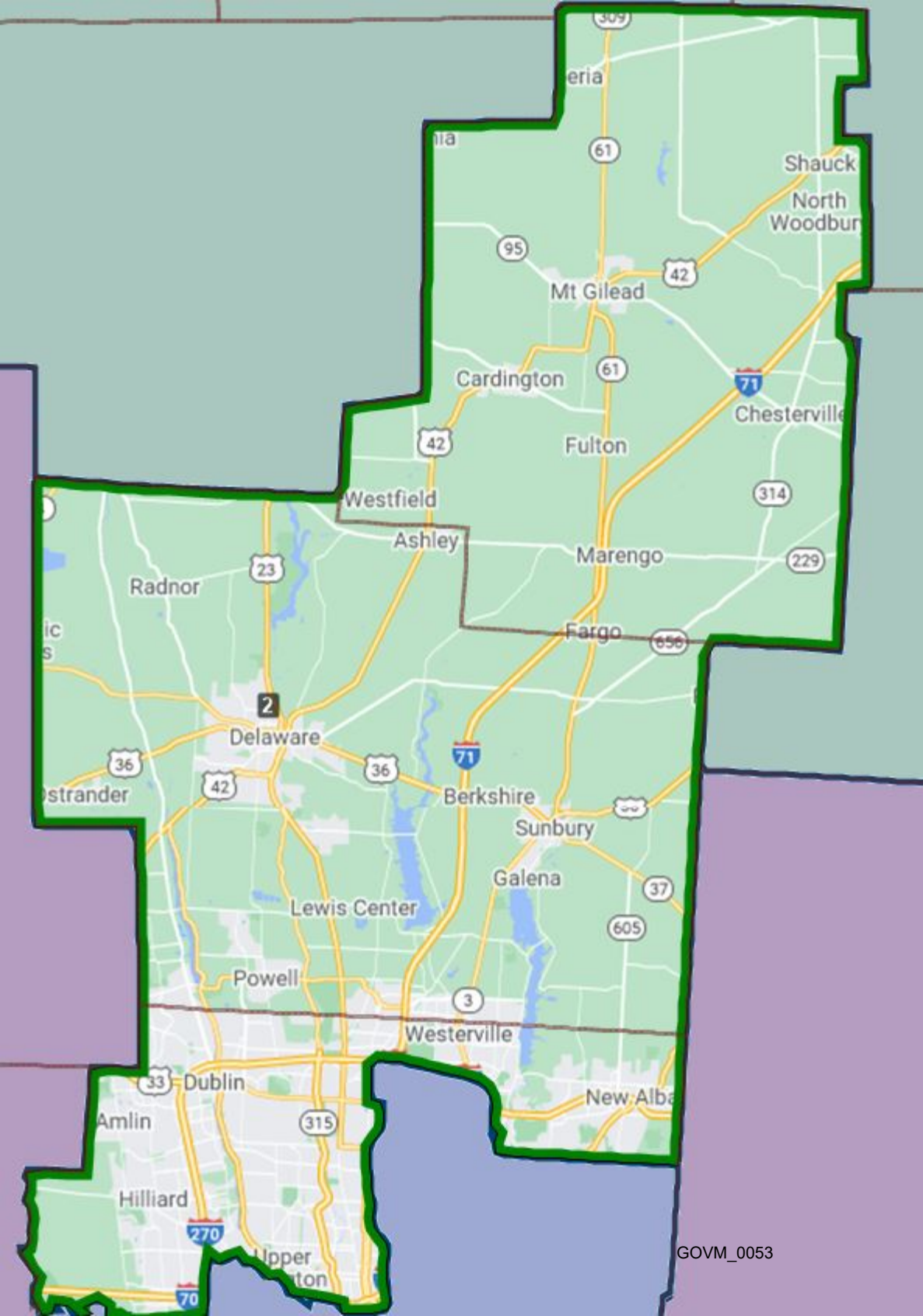
# Brown/Galonski Congressional District Proposal



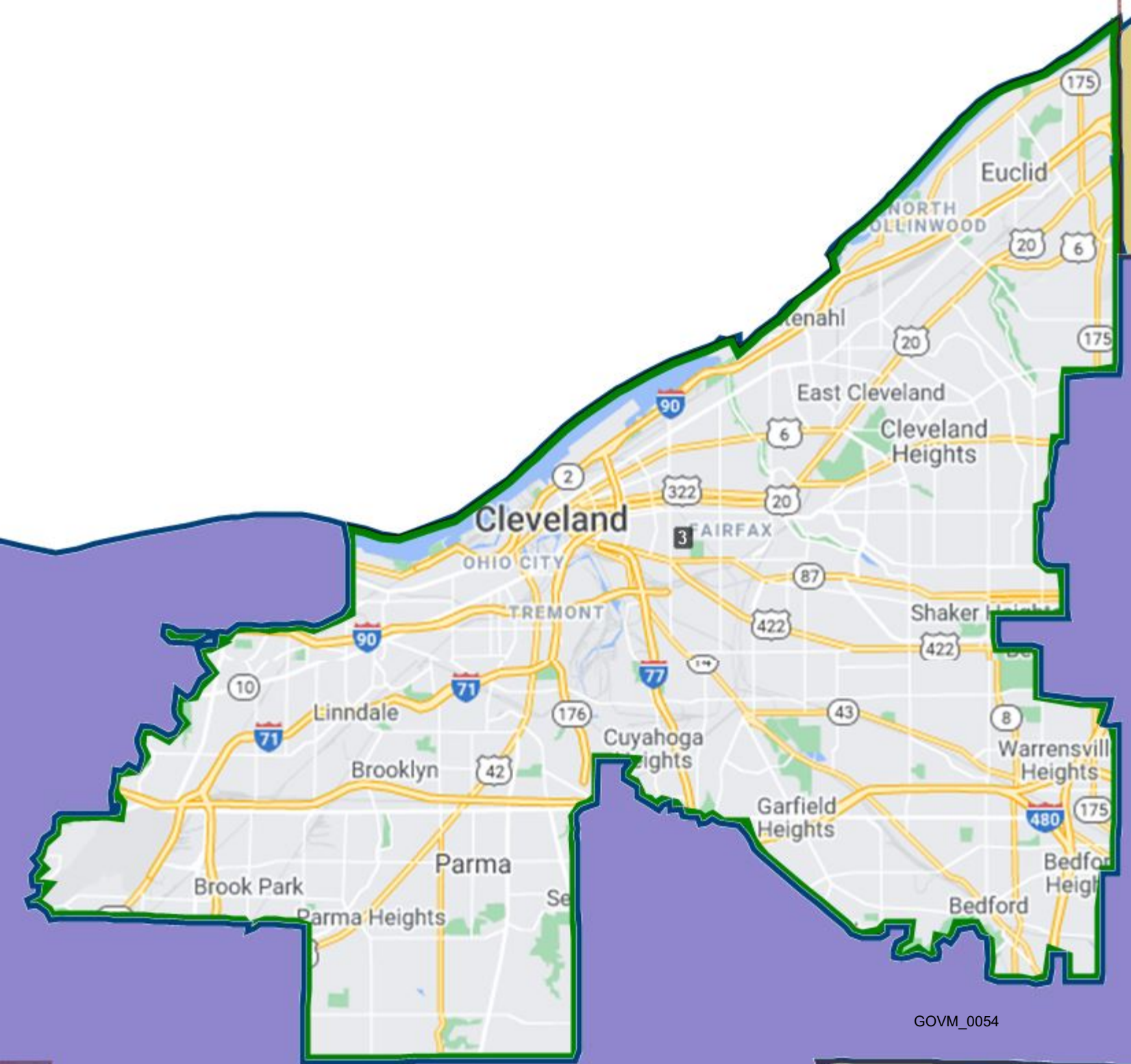


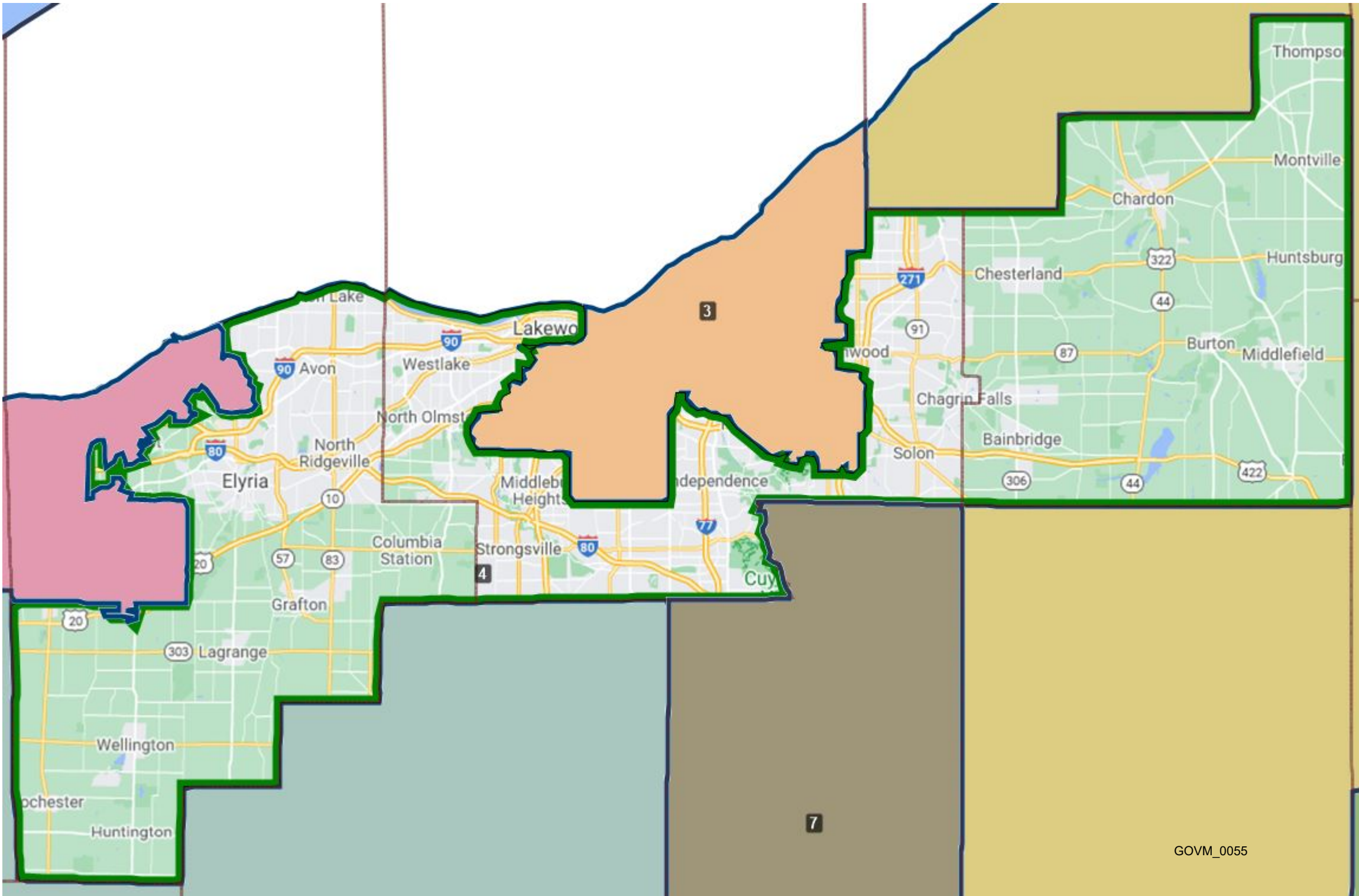




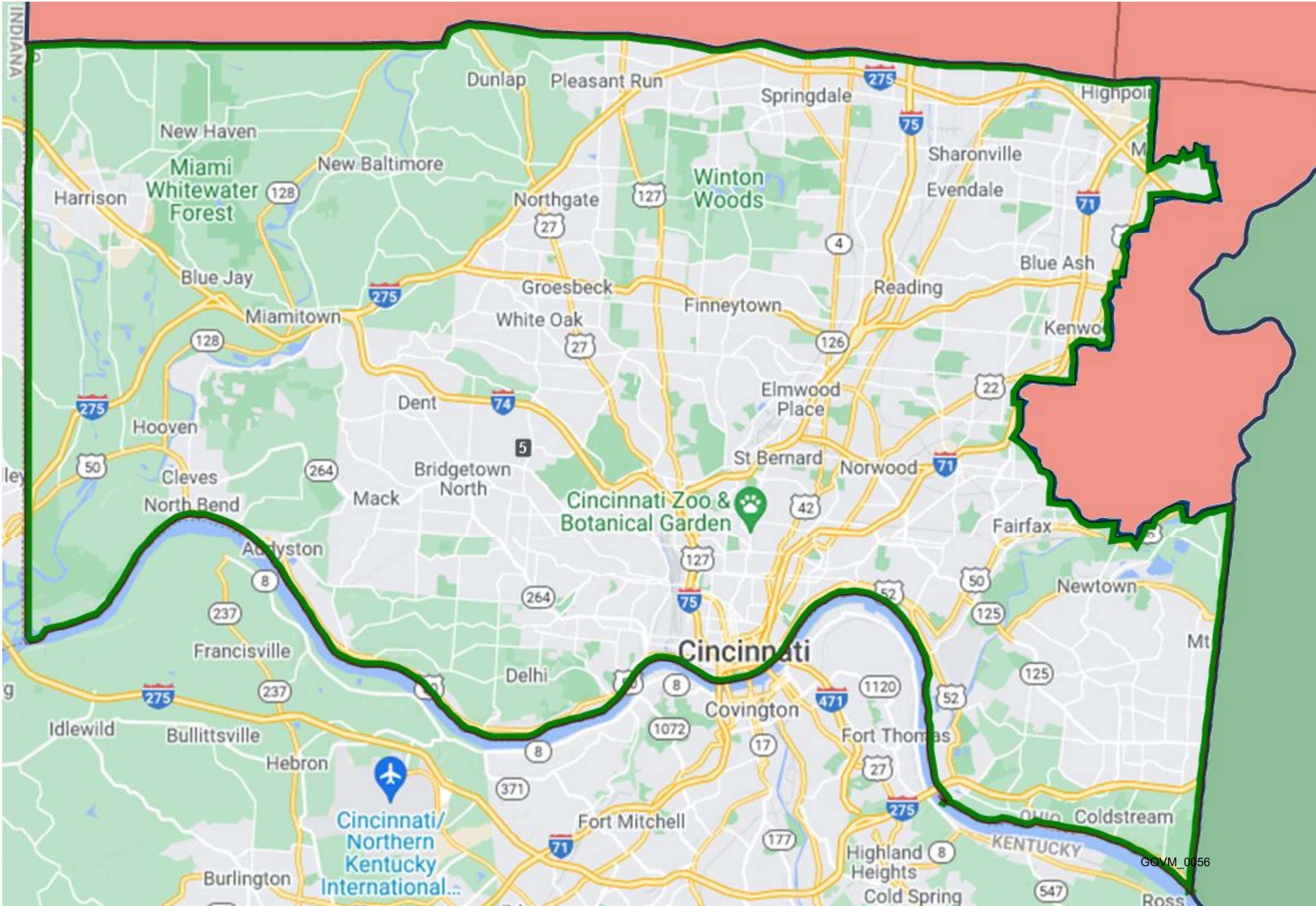




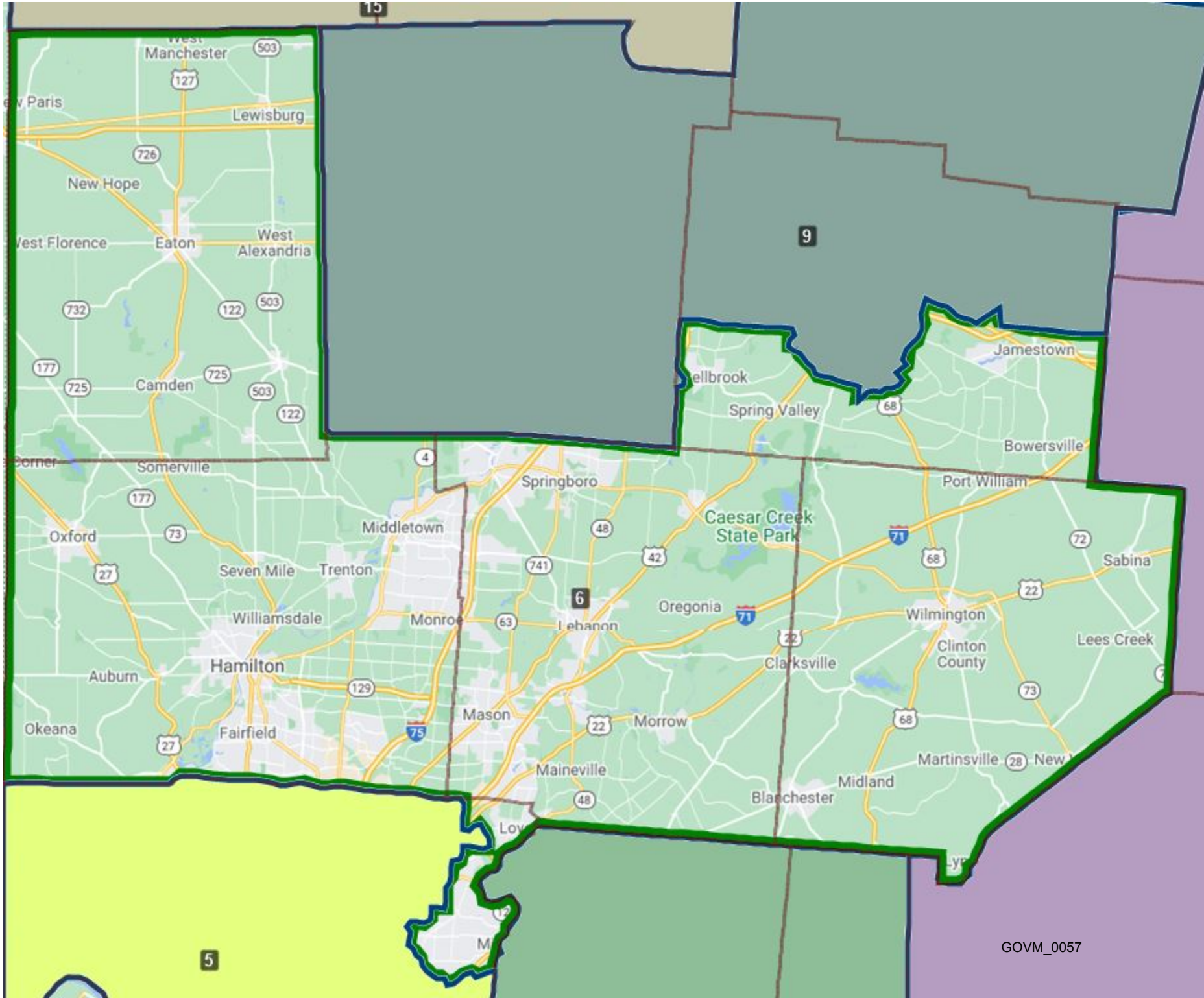


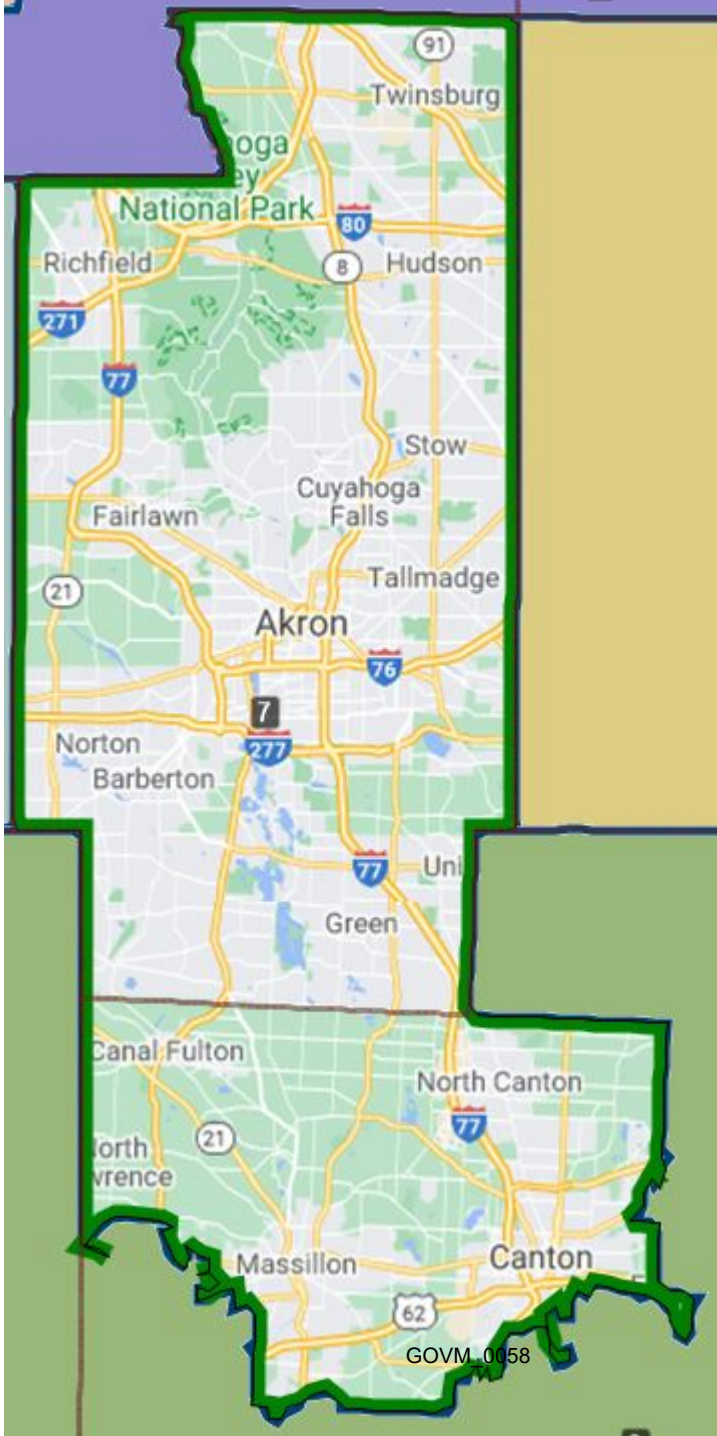




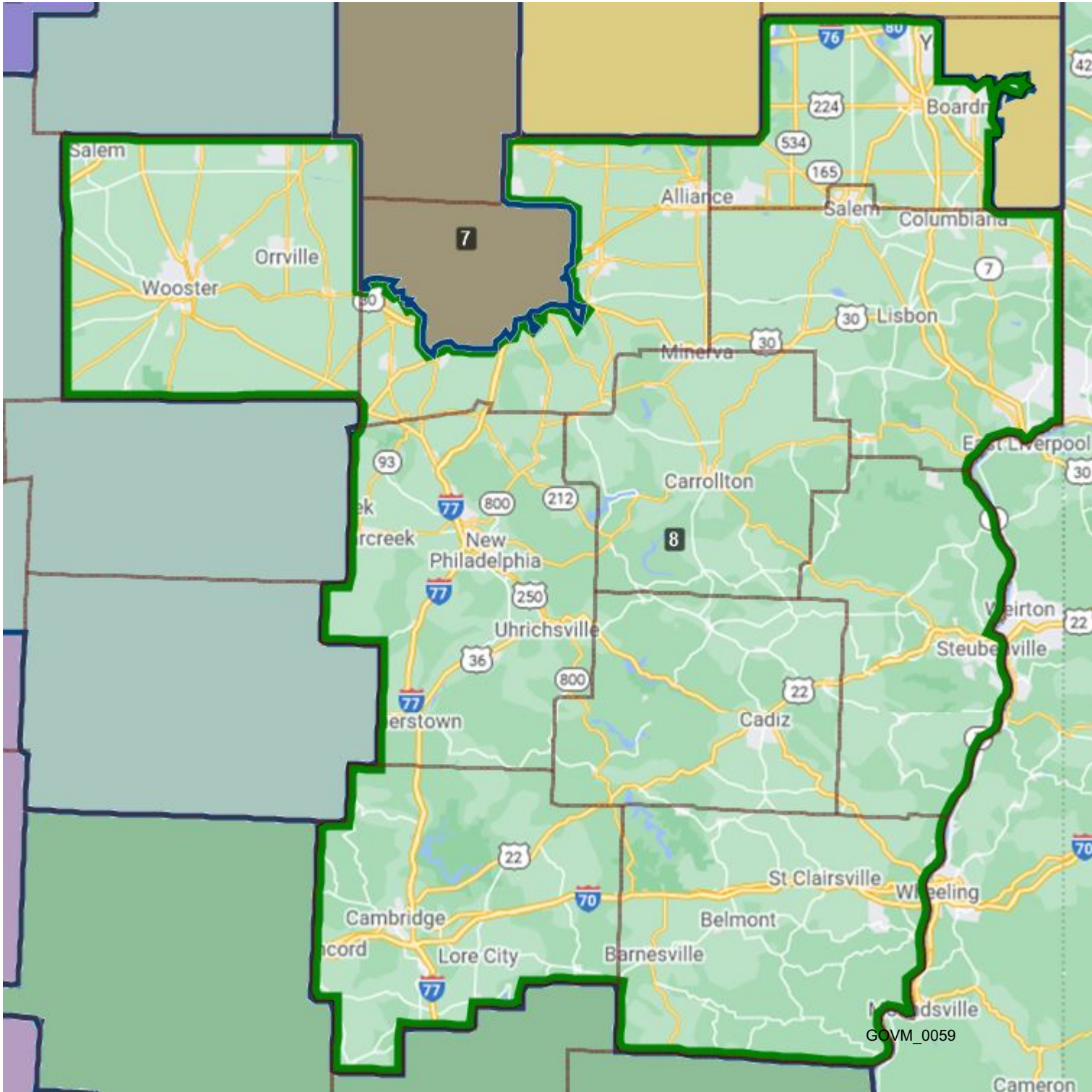




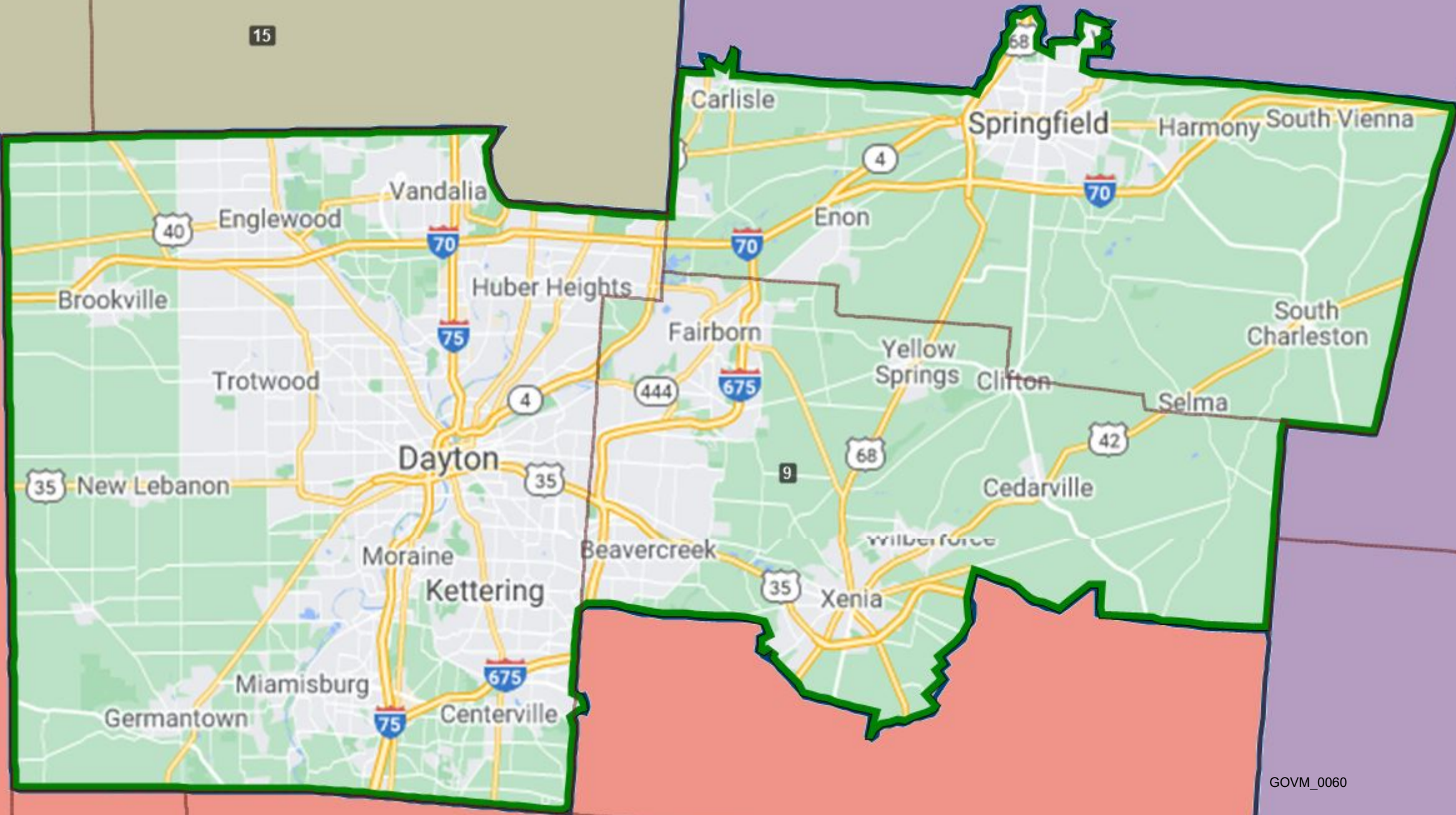




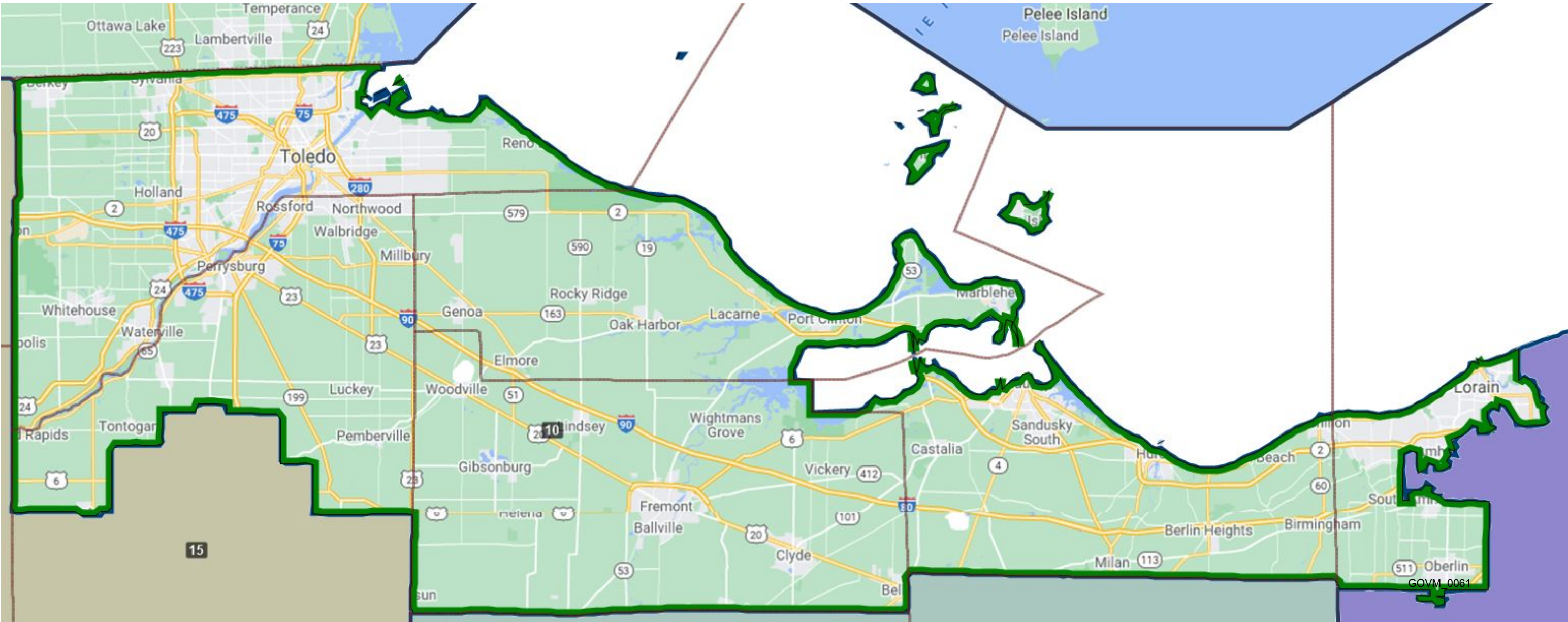


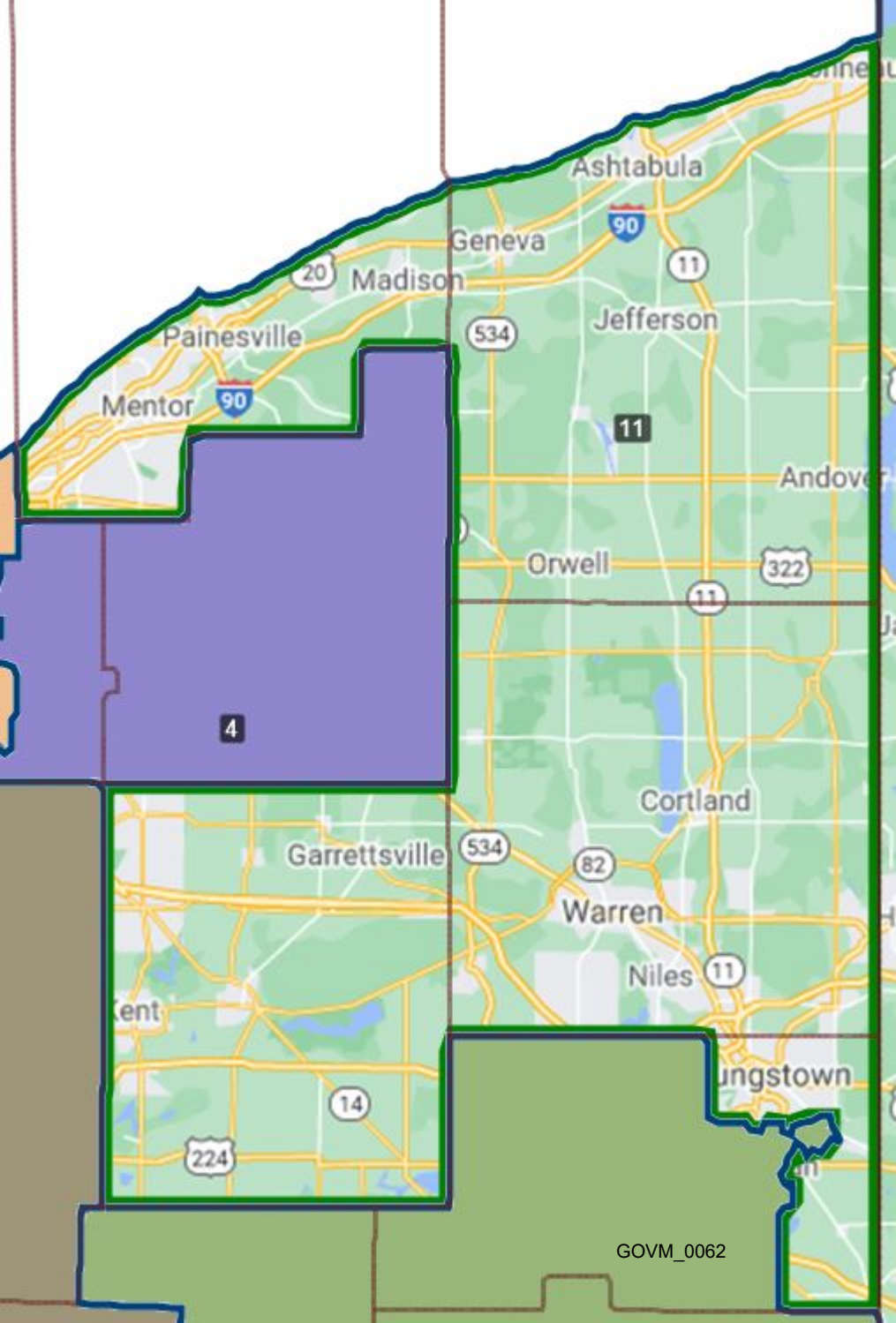


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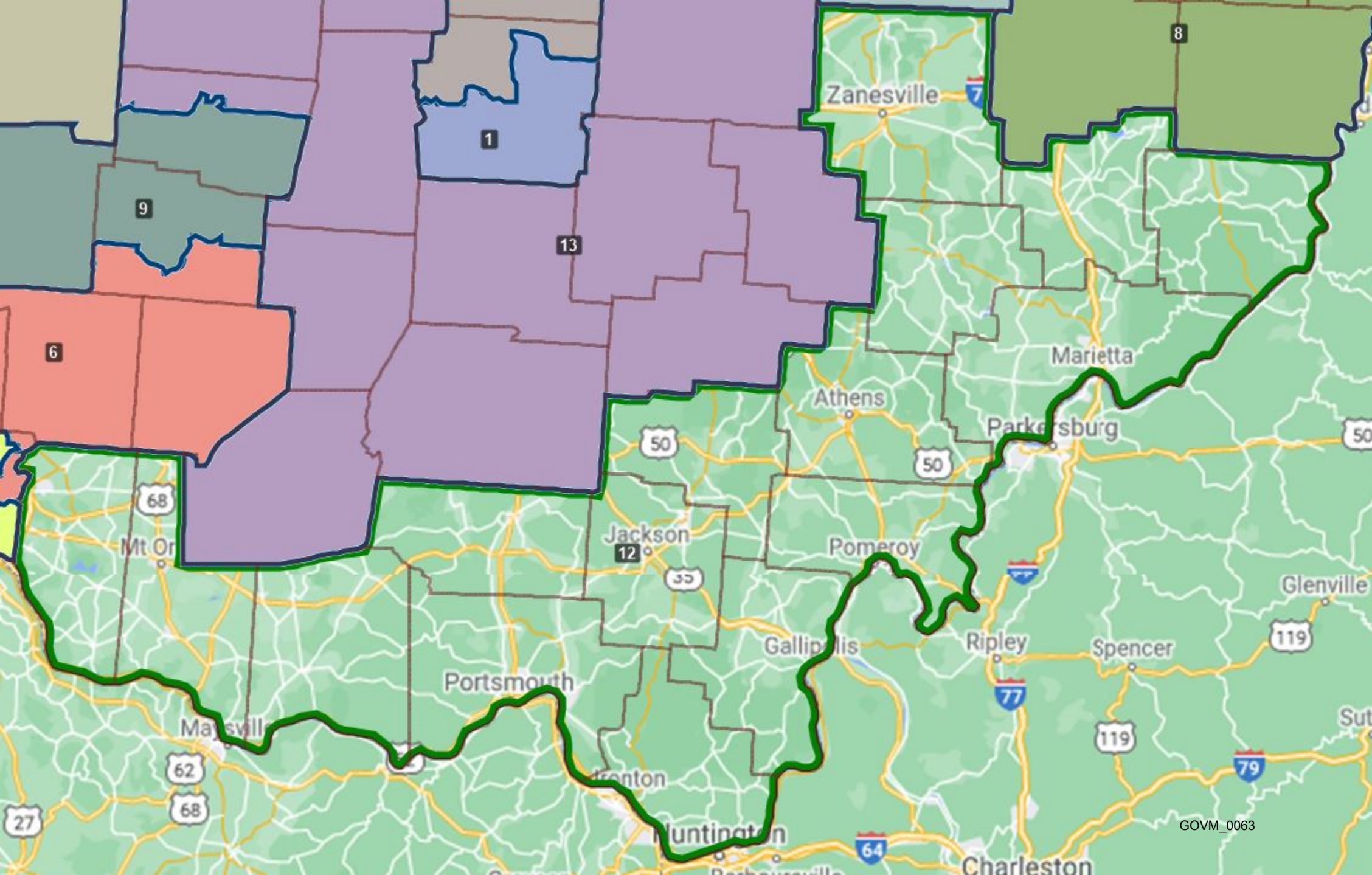






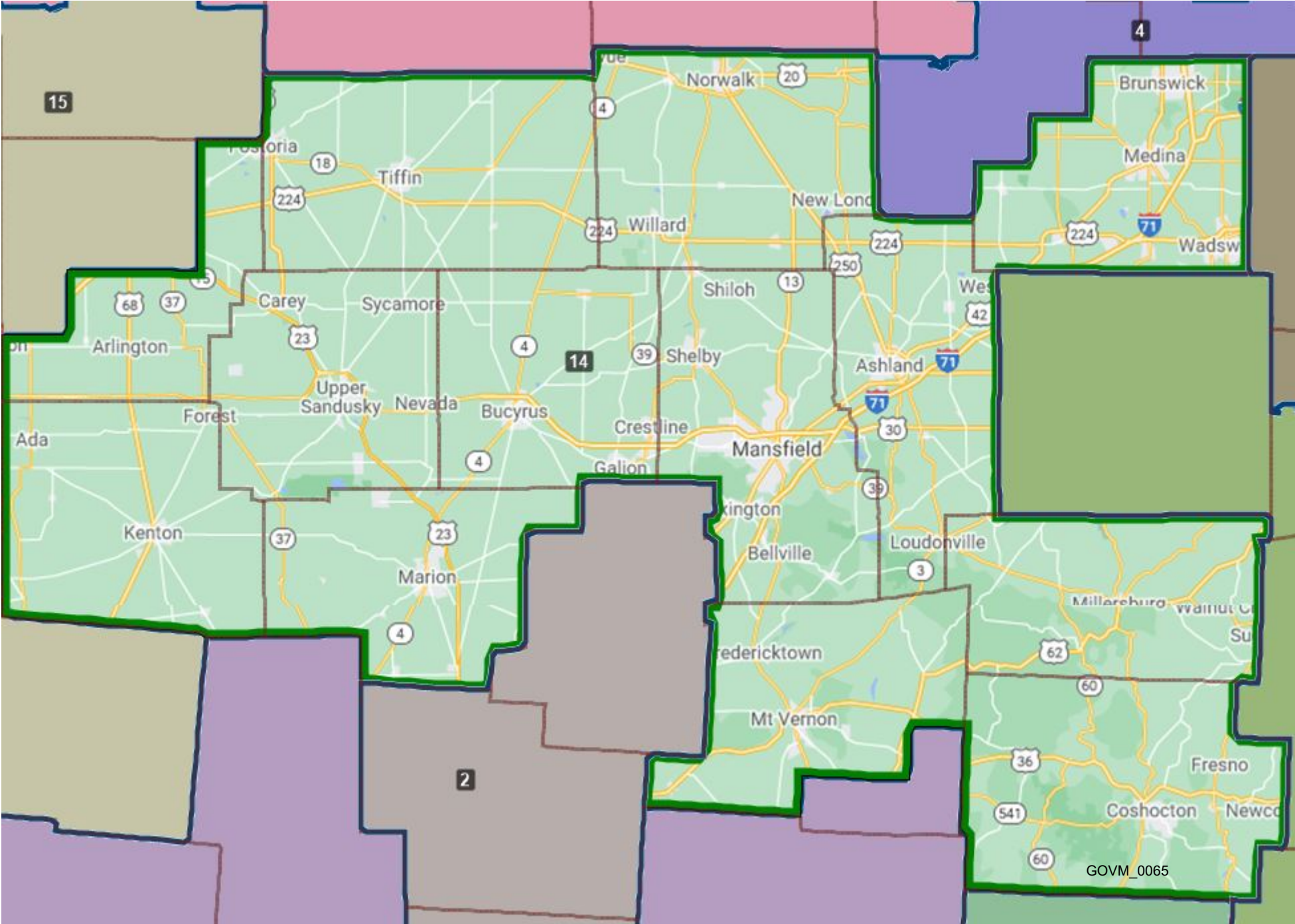












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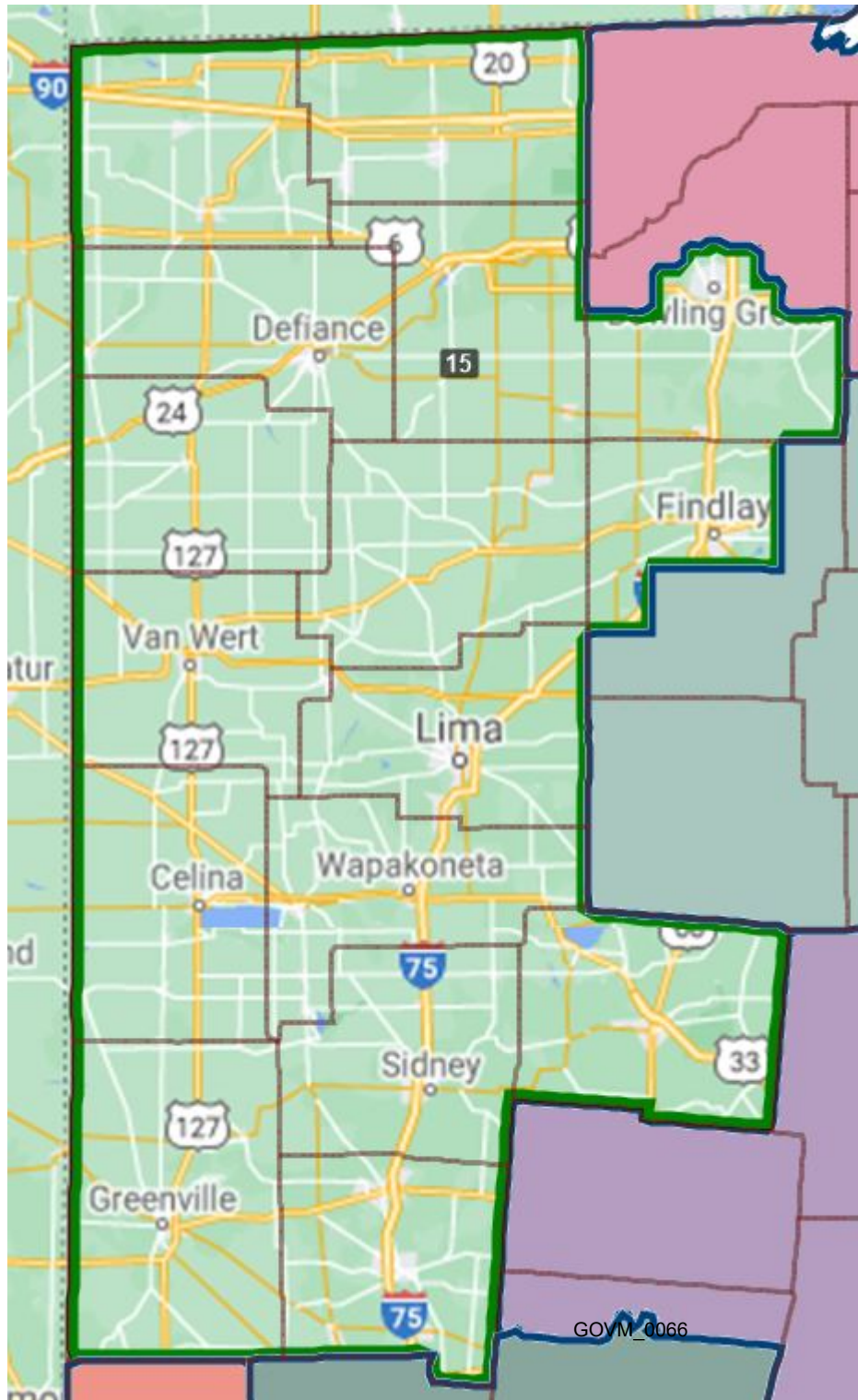
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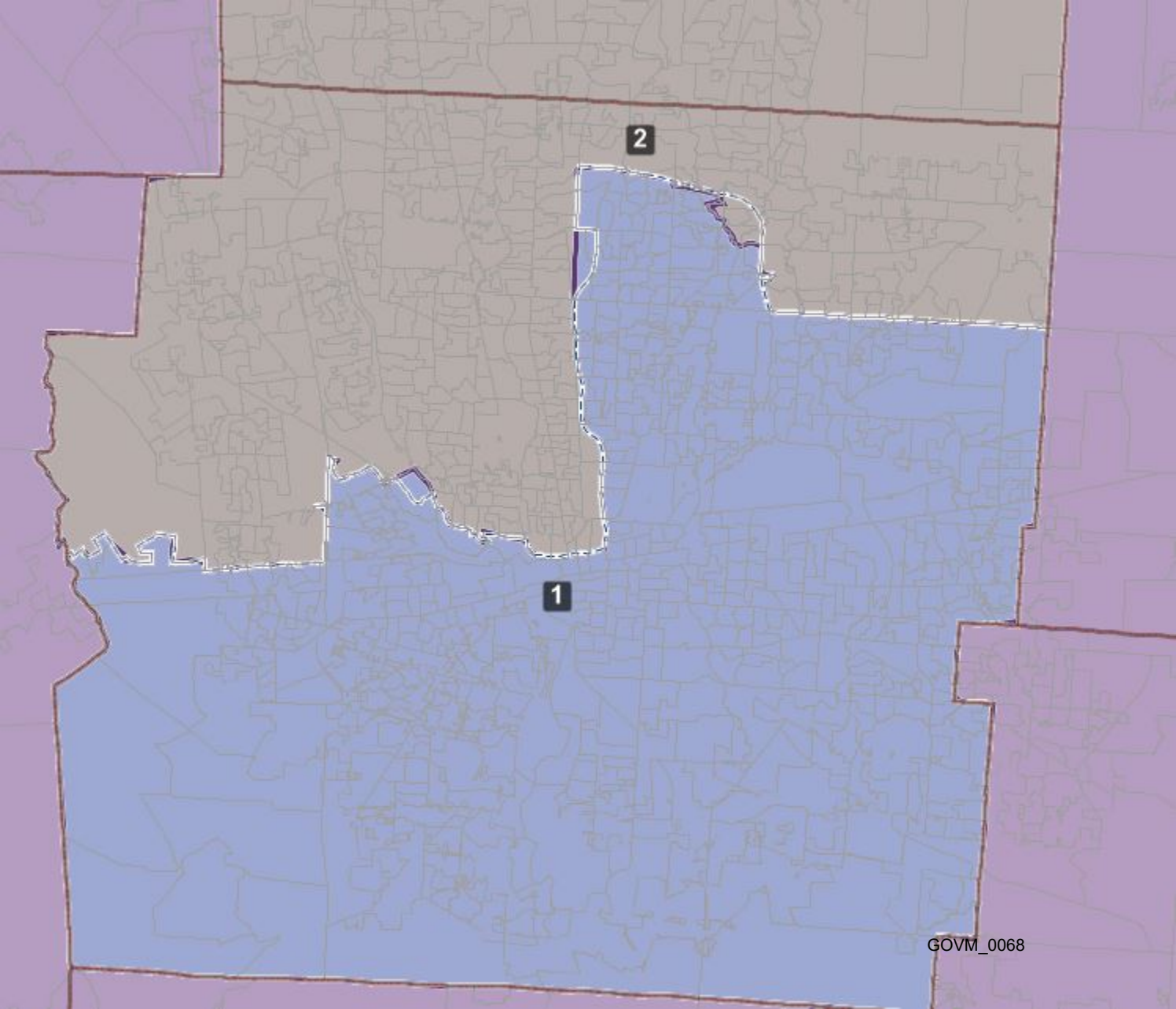


**SB 237 As Introduced:**

District	Population	Deviation	18+ BVAP	18+ HVAP	18+ AVAP	BidenPct	TrumpPct	2016-2020DemPct	2016-2020RepPct
1	786,578	-0.01%	33.21%	6.85%	4.28%	66.22%	33.78%	65.89%	34.11%
2	786,303	-0.04%	6.54%	3.82%	8.77%	58.27%	41.73%	53.97%	46.03%
6	787,128	0.06%	6.36%	3.73%	5.10%	35.50%	64.50%	33.22%	66.78%
9	786,789	0.02%	17.89%	3.23%	3.06%	48.25%	51.75%	46.91%	53.09%

**SB 237 As Amended AM2163:**

District	Population	Deviation	18+ BVAP	18+ HVAP	18+ AVAP	BidenPct	TrumpPct	2016-2020DemPct	2016-2020RepPct
1	786,964	0.04%	33.22%	6.85%	4.31%	66.29%	33.71%	65.96%	34.04%
2	785,917	-0.09%	6.49%	3.82%	8.74%	58.22%	41.78%	53.91%	46.09%
6	786,317	-0.04%	6.37%	3.73%	5.11%	35.56%	64.44%	33.27%	66.73%
9	787,600	0.12%	17.87%	3.22%	3.05%	48.18%	51.82%	46.85%	53.15%



1

2

2

SHARON-A

WESTERVILLE 6-B

WESTERVILLE 5-B

WESTERVILLE 6-D

WESTERVILLE 5-D

WESTERVILLE 3-A

WESTERVILLE 3-A

1062  
WESTERVILLE 3-E

WESTERVILLE 3-D

WESTERVILLE 3-D

BLENDON-A

BLENDON-A

BLENDON-C

1393  
BLENDON-F

BLENDON-E

1

BLENDON-E

COLS 53-G

COL 5 53-G

COLS 53-H

COLS 53-E

COL 5 53-E

COLS 61-D

COL 5 61-D

COLS 53-B

COL 5 53-B

COLS 53-C

COL 5 53-C

COLS 61-B

COL 5 61-B

COLS 66-D

COL 5 66-D

COLS 66-F

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COL 5 53-D

COLS 53-A

COL 5 53-A

COLS 61-A

COL 5 61-A

COLS 61-C

COL 5 61-C

COLS 66-E

COL 5 66-E

COLS 66-C

COL 5 66-C

COLS 66-A

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COLS 66-B

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COLS 30-A

1274 COL 5 30-A

COLS 30-E

COLS 54-C

COL 5 54-C

COLS 54-B

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COLS 54-A

COL 5 54-A

COLS 30-D

COL 5 30-D

COLS 54-D

COL 5 54-D

COLS 54-E

COL 5 54-E

COLS 54-F

COL 5 54-F

MINERVA PARK-A

MINERVA PARK-A

COLS 81-B

COLS 62-D

COL 5 62-D

COLS 62-E

COL 5 62-E

COLS 52-C

COL 5 62-C

COLS 52-B

COL 5 62-B

COLS 52-F

COL 5 62-F

COLS 81-E

COLS 81-E

COLS 81-A

COL 5 81-A

COLS 81-C

COL 5 81-C

COLS 82-A

COL 5 82-A

COLS 52-A

COL 5 62-A

2828  
COLS 62-E

COLS 52-D

COL 5 62-D

COLS 52-G

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COLS 81-D

COL 5 81-D

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COLS 62-B

COL 5 62-B

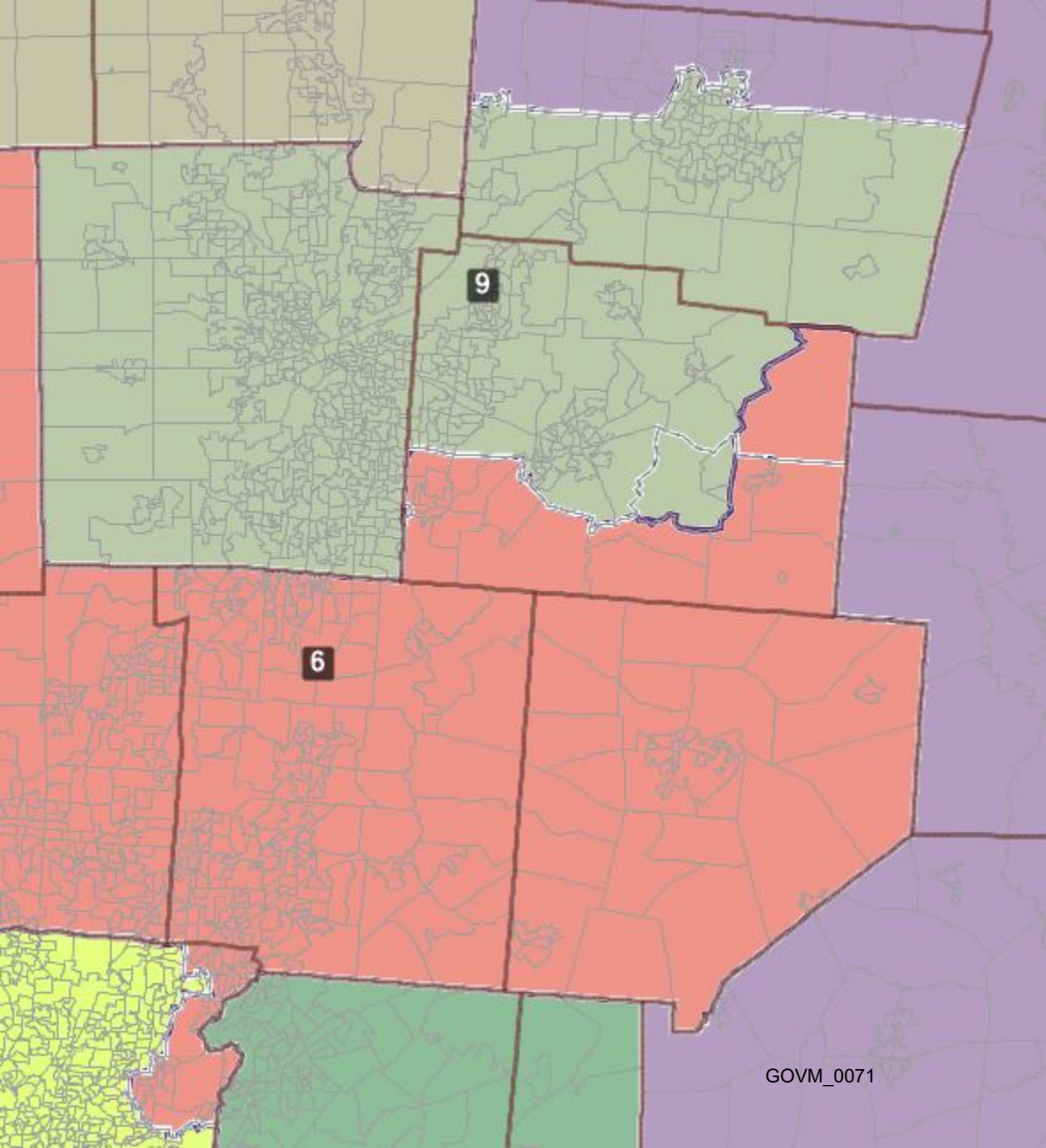
COLS 22-D

COLS 22-F

COL 5 22-F



GRAND

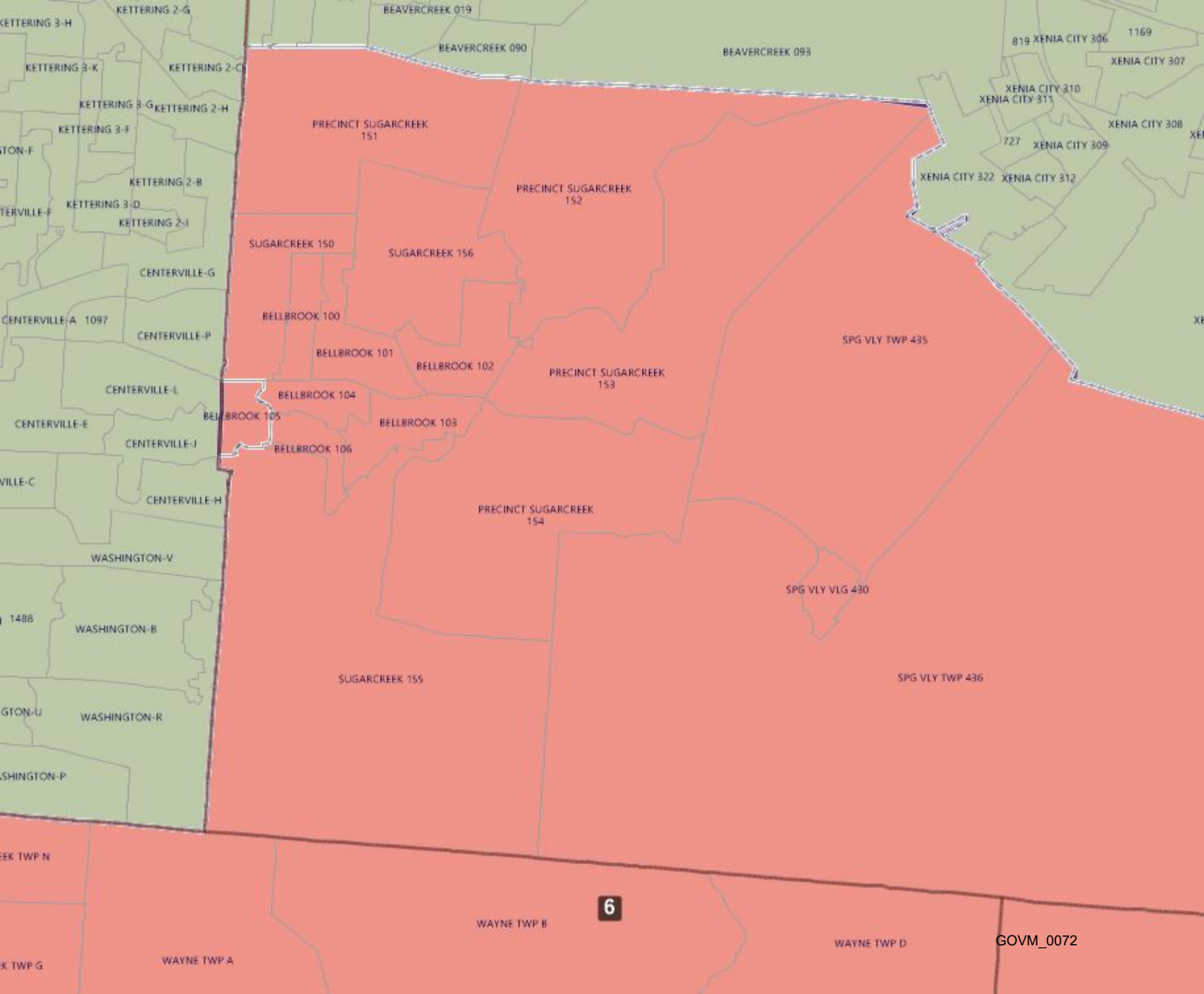


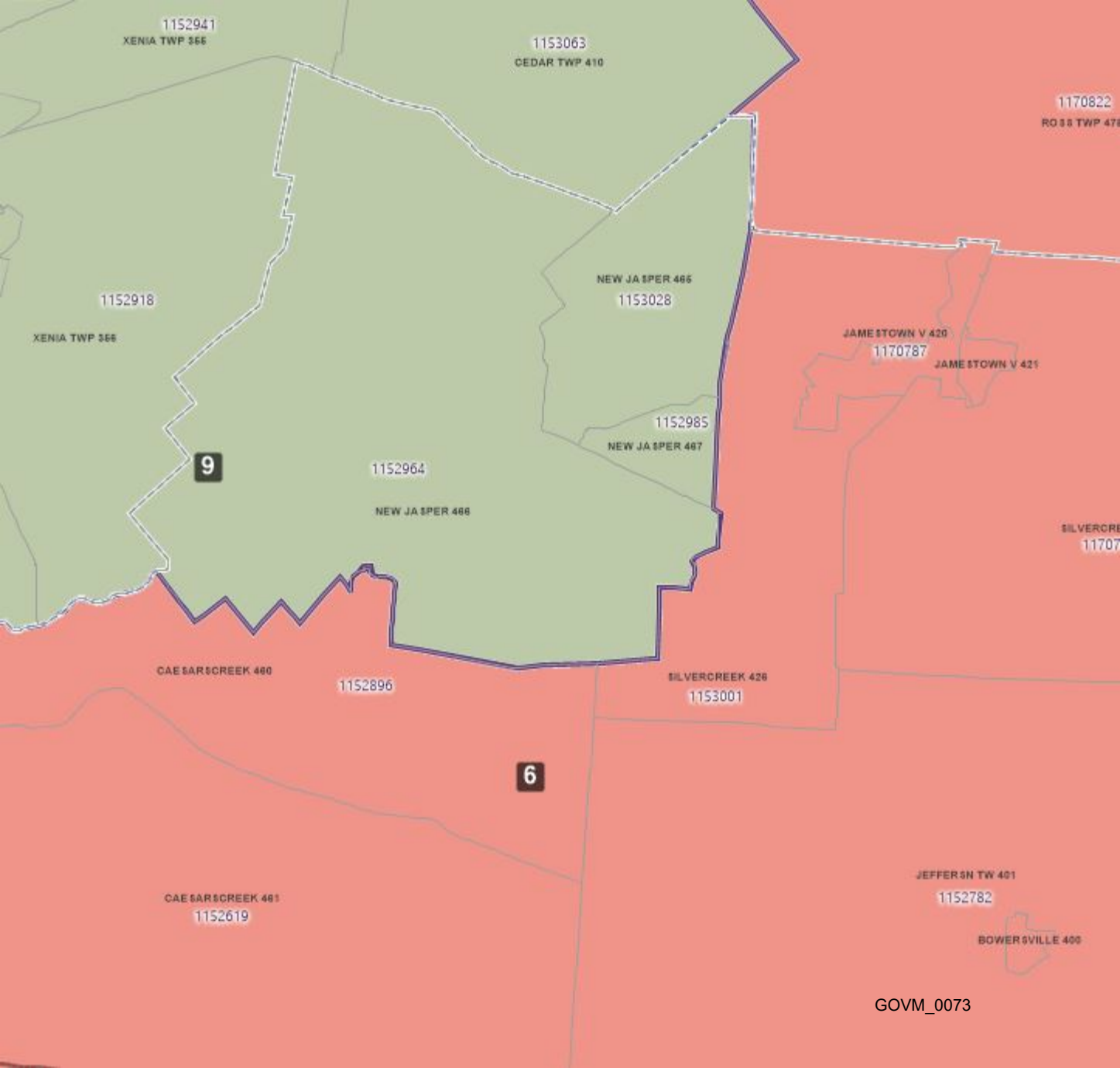
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XENIA TWP 366

1153063  
CEDAR TWP 410

1170822  
ROSS TWP 473

1152918

XENIA TWP 366

NEW JASPER 466

1153028

JAMESTOWN V 420

1170787

JAMESTOWN V 421

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1152964

NEW JASPER 468

1152985

NEW JASPER 467

SILVERCREEK 426  
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CAESARCREEK 460

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SILVERCREEK 426

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CAESARCREEK 461

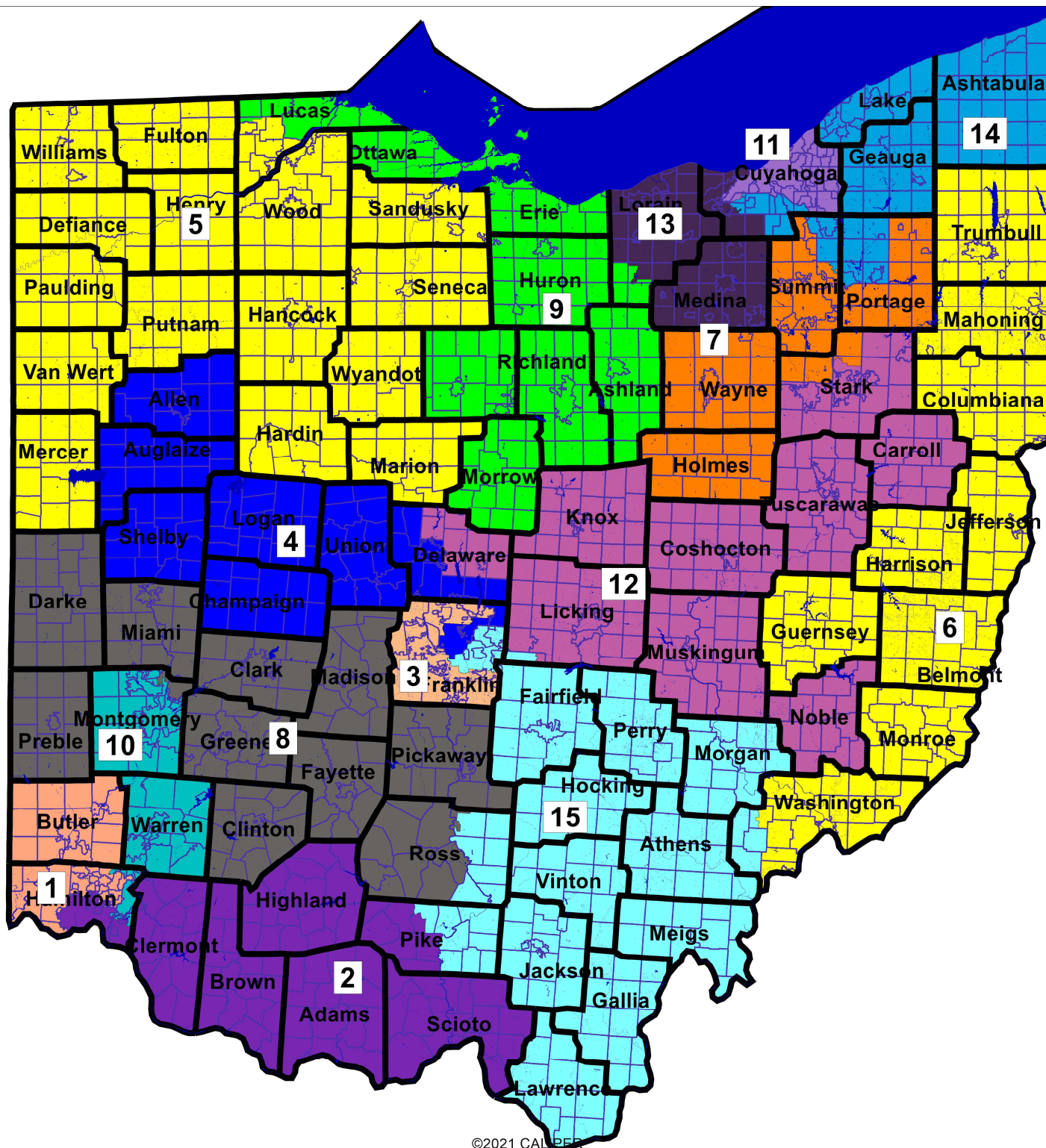
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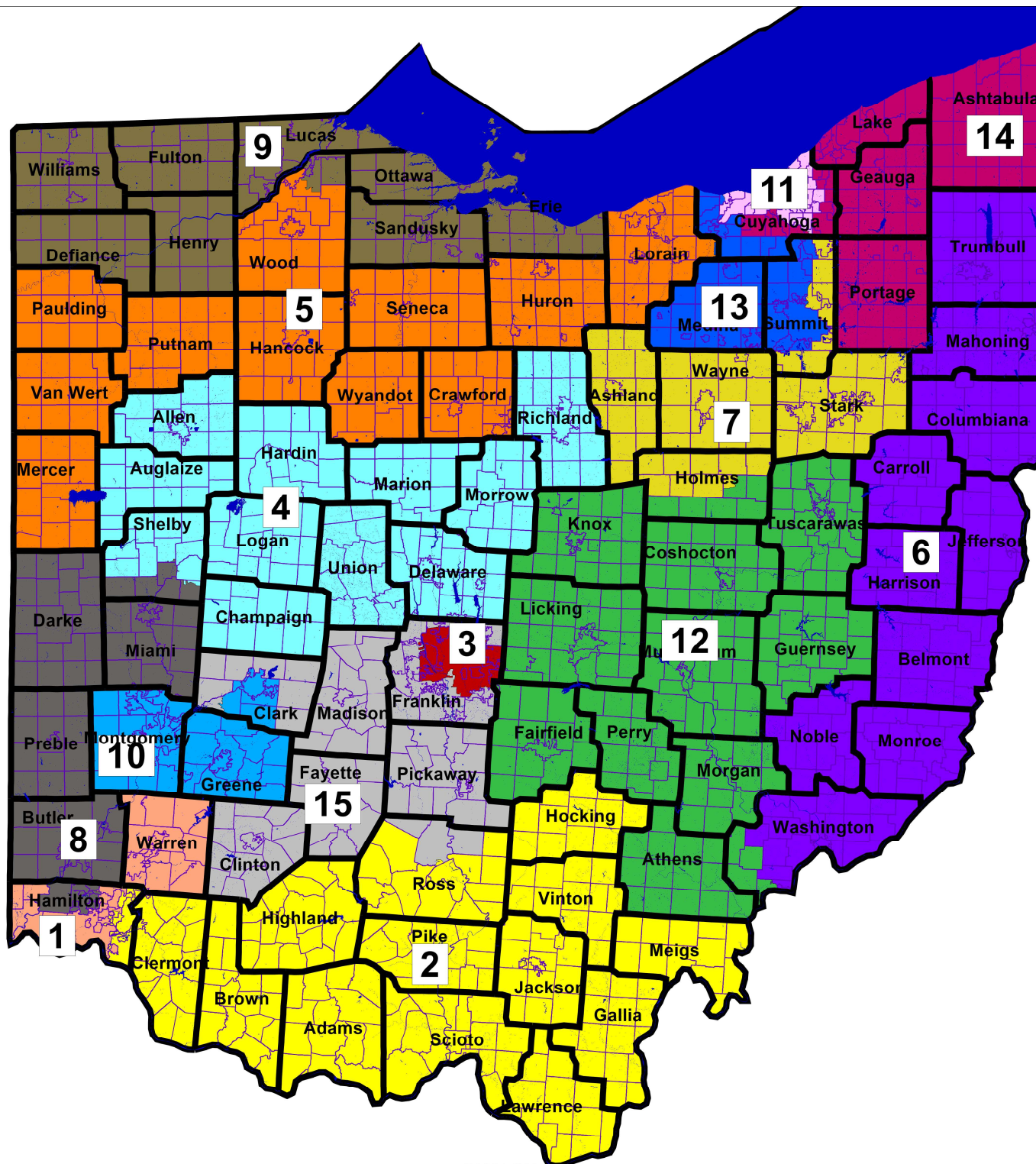
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## OHIO SENATE DEMOCRATIC CAUCUS

### **Senate Local Government and Elections Committee**

### **Senate Bill 237 Sponsor Testimony Senators Kenny Yuko and Vernon Sykes**

**November 3, 2021**

#### **Leader Yuko**

Chair Gavarone, Ranking Member Maharath, and members of the committee, thank you for allowing us to provide sponsor testimony on Senate Bill 237. Working alongside my friend Dr. Vernon Sykes, Senate Bill 237 was drafted to lay out the Senate Democratic Caucus' proposal for a congressional district map. The plan we are presenting today is fair, keeps communities together and doesn't gerrymander our state. Most importantly, it complies with all principles outlined in the Ohio Constitution, including ensuring that the map doesn't favor or disfavor any political party. I'm hopeful that it can be a starting point for the creation of a bipartisan map that will guide Ohio through the next 10 years.

The map we are presenting here today does not just represent the dedicated work of Senator Sykes and our staff, but years of hard work all across our great state. As I consider this plan, I think often of the hardworking Ohioans who voted to end gerrymandering in 2015 and again in 2018. I am also reminded of the current and former members of the General Assembly who worked so hard and in good faith to achieve our compromise on the constitutional reforms back in 2018. Over the last few months, I have also been inspired by the spirited, passionate testimony we heard from Ohioans at the Redistricting Commission meetings across the state. This process and our work here today should represent the best of us. It should reflect the will of Ohio voters, the spirit of our Constitution, and the strength of American democracy that spans hundreds of years and is a beacon across the world. As elected leaders, we owe it to our constituents to produce fair maps. Let's work together and get this mission accomplished. We have too much to lose by just complaining, or withdrawing to our separate corners. I thank you for your full and fair consideration of our plan.

## Senator Sykes

Senate Bill 237 establishes new congressional districts based on the results of the 2020 Census. Starting next year, Ohio will have 15 congressional seats, down from the current 16 members.

As you will see, our map is fair because it keeps communities together and does not unduly favor or disfavor a political party. Our map also complies with the spirit of the constitutional reforms to end gerrymandering that were overwhelmingly supported by Ohio voters in 2018.

Thank you for your time. At this point, I would like to introduce Randall Routt, policy advisor for the Senate Democratic Caucus, who will provide more details about our map proposal.

## Randall Routt, Minority Caucus Policy Advisor

As Leader Yuko and Senator Sykes have mentioned already, the congressional redistricting plan presented to you today was created in compliance with, and in the spirit of, the constitutional reforms to Ohio's congressional redistricting process that voters overwhelmingly adopted in 2018.

As such, S. B. 237 seeks to maximize compliance with Article 19 of the Ohio Constitution, which outlines the process for the creation of congressional districts in Ohio. Each district in our proposed plan also adheres to all applicable provisions of the Ohio Constitution and the United States Constitution, as well as federal laws, including federal laws protecting racial minority voting rights. Each district is compact and composed of contiguous territory. In addition, the boundary of each district is a single, nonintersecting and continuous line.

As you know, Section 2 (A) (4a) of Article 19 requires the drawing of a district that includes a significant part of the city of Columbus in Franklin County. District 1 of S. B. 237, which was the first to be drawn, fulfils this requirement.

Section 2 (A) (4b) also requires the drawing of districts to preserve municipal corporations or townships whose populations exceed 100,000 people but are less than 786,630 people. This requirement applies to the cities of Cleveland and Cincinnati. Under our plan, none of these cities are split.

Section 2 (B) (5) requires that 65 counties be contained entirely within a district; 18 counties not be split more than once; and five counties be split no more than twice. S. B. 237 significantly exceeds this standard by preserving 77 whole counties, splitting only 11 counties once and splitting zero counties twice.

Section 2 (B) (6) requires the drawing of contiguous districts within counties. All districts created by S. B. 237 satisfy this requirement.

Section 2 (B) (7) requires that no two districts can share portions of territory of more than one county, but allows for one exception. Zero districts in S. B. 237 share more than one county.

Section 2 (B) (8) requires that the congressional redistricting plan shall attempt to include at least one whole county in each congressional district, unless the district is contained entirely within one county. Once again, all districts in our plan satisfy this requirement.

Section 2 (C) (1) describes how splits are to be counted. S. B. 237 contains three districts (1, 3, and 5) which are entirely contained within a county and contain zero splits. S. B. 237 also contains 11 additional districts that split 11 counties and don't split any townships or municipalities. District 12 is composed entirely of whole counties with zero splits of any kind. Finally, there are a couple of small technical issues involving splits in one township in District 1 and one precinct in District 6 that Leader Yuko and Senator Sykes will amend at the next meeting of this committee.

Article 19 of the Ohio Constitution is silent on requirements for population variance. In *Tennant vs. Jefferson County* (2012), the U.S. Supreme Court ruled that the U.S. Constitution permits population deviations to achieve a "legitimate state objective," such as the preservation of political subdivisions. In that case, a deviation of 0.79% was deemed acceptable to preserve counties. Our amended plan contains a significantly lower population variance of 0.22% in order to preserve counties, municipalities, and townships; to promote keeping communities of interest together and to respect the anti-gerrymandering purpose of the 2018 constitutional amendment.

As you know, should the General Assembly not adopt a plan with sufficient bipartisan support, additional standards apply. Section 1 (3) of Article 19 contains provisions that "shall apply" in such circumstances. S. B. 237 satisfies all of these standards as well.

In particular, a plan that is adopted without sufficient bipartisan support is required, under Section 1 (3)(a), to not unduly favor or disfavor a political party or its incumbents. To determine what qualifies as favoring or disfavoring a political party, we used the simple vote totals of each partisan statewide election from 2012 to 2020. This resulted in a ratio of 45.9% Democratic and 54.1% Republican. This means that a congressional map that does not unduly favor or disfavor a political party would include seven likely Democratic and eight likely Republican seats. S. B. 237 includes seven districts that favor Democrats and eight districts that favor Republicans.

<b>Ratio:</b>
6.9D : 8.1R
<b>Closest Ideal Ratio</b>
7D : 8R
6D : 9R
8D : 7R
5D : 10R
9D : 6R
4D : 11R

Year	Democrat	Republican	Dem. Vote	Rep. Vote
2012	Obama	Romney	2,827,709	2,661,439
2012	Brown	Mandel	2,762,766	2,435,744
2014	FitzGerald	Kasich	1,009,359	1,944,848
2014	Pepper	DeWine	1,178,426	1,882,048
2014	Carney	Yost	1,149,305	1,711,927
2014	Turner	Husted	1,074,475	1,811,020
2014	Pillich	Mandel	1,323,325	1,724,060
2016	Clinton	Trump	2,394,164	2,841,005
2016	Strickland	Portman	1,996,908	3,118,567
2018	Cordray	DeWine	2,067,847	2,231,917
2018	Dettelbach	Yost	2,084,593	2,272,440
2018	Space	Faber	2,006,204	2,152,769
2018	Clyde	LaRose	2,049,944	2,210,356
2018	Richardson	Sprague	2,022,016	2,304,444
2018	Brown	Renacci	2,355,923	2,053,963
2020	Biden	Trump	2,603,681	3,074,418
			<b>30,906,645</b>	<b>36,430,965</b>
		<b>Ratio:</b>	<b>45.9%</b>	<b>54.1%</b>



Section 1 (3)(b) also requires that a plan adopted without sufficient bipartisan support does not unduly split governmental units with an order of preference. S. B. 237 minimizes splits to only 11 county splits and **zero** municipal or township splits.

Finally, Section 1 (3)(c) requires that maps adopted without sufficient bipartisan support shall attempt to be compact. S. B. 237 preserves governmental units and makes districts compact.

In conclusion, our proposed congressional map fulfills the spirit of the reforms passed overwhelmingly by Ohio voters in 2018. It adheres to the provisions of Article 19 of the Ohio Constitution in all possible circumstances. It complies with all applicable provisions of both the Ohio and the U.S. Constitution and to federal law, including provisions concerning the protection of minority voting rights. This is merely a starting proposal by the members of the Senate Democratic Caucus, and we welcome all improvements and suggestions. As I mentioned already, Senator Sykes will be introducing an amendment to address the technical issues I addressed earlier. At this point, I'd be happy to take any questions. Thank you.



**Ohio Senate**  
Senate Building  
1 Capitol Square  
Columbus, Ohio 43215  
(614) 466-8150

**Rob McColley**  
Senate Majority Whip  
1st Senate District

Thank you, Chairwoman Gavarone, Vice-Chair O'Brien, Ranking Member Sykes and members of the Local Government and Elections Committee for allowing me to present testimony today for Senate Bill 258, which seeks to fulfill the Ohio General Assembly's responsibility under the Ohio Constitution for redistricting of United States congressional maps within this state. I would like to start by providing an explanation of Article 19 of the Ohio Constitution regarding congressional redistricting and then I will go on to describe the proposed congressional map in Substitute Senate Bill 258.

As you will recall, Article 19 of the Ohio Constitution was added in 2018 by the voters of the State of Ohio after the Ohio General Assembly voted to put the proposed amendment on the ballot. Article 19 prescribes the process by which congressional redistricting shall occur in Ohio. The Article is divided into three sections. Of course, this process is conducted with United States census data gathered in the most recent decennial census relative to Ohio's population, which also determines how many seats the state will be apportioned under Section 2, Article 1 of the United States Constitution.

Section 1 of Article 19 describes the methods for adopting a congressional districting plan. From a timeline perspective, there are up to three opportunities to pass a congressional districting plan.

1. The first opportunity to pass a congressional redistricting plan shall occur not later than the last day of September ending in a year ending in the numeral one. In order to pass a ten-year map at this stage, the Ohio General assembly must secure the votes of three-fifths of the members of each chamber, including the affirmative vote of at least one-half of the members of each of the two largest political parties.<sup>1</sup>
2. If the General Assembly is unsuccessful at passing a map by the last day of September, the Redistricting Commission comprised of the Governor, Secretary of State, Auditor of State, and a majority party and minority party from each chamber shall have the next opportunity to pass a congressional redistricting plan. Just as with state legislative districts, a plan would require the vote of at least four members of the seven-member Commission, including two members from each of the two largest parties making up the General

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<sup>1</sup> Article 19, Section 1(A) of the Ohio Constitution

Assembly, in order to create a 10-year map. The Redistricting Commission shall have until the last day of October to do so.<sup>2</sup>

3. If the Redistricting Commission is unsuccessful, the responsibility returns to the General Assembly where a bill must be passed not later than the last day of November.<sup>3</sup> At this stage, a ten-year map can be passed with three-fifths of the members of each chamber and at least one-third of the members of the two largest political parties in the General Assembly<sup>4</sup>. Alternatively, if the General Assembly passes a congressional redistricting plan with a simple majority from each chamber, and not in accordance with the vote threshold above, there are several requirements that must be met:
  - a. The plan shall not unduly favor or disfavor a political party or its incumbents;<sup>5</sup>
  - b. The general assembly shall not unduly split governmental units.<sup>6</sup> and
  - c. The General Assembly shall attempt to draw districts that are compact.<sup>7</sup>

Additionally, Section 1 of Article 19 requires a joint committee of the General Assembly to hold at least two public committee hearings regarding a proposed plan.<sup>8</sup>

Section 2 of Article 19 specifies additional requirements for the drawing of congressional districts. First, the plan shall comply with the constitution of Ohio and the United States and federal laws, including federal laws protecting racial minority voting rights.<sup>9</sup> Second, all districts shall be compact.<sup>10</sup> Third, every district shall be contiguous and have a single nonintersecting continuous line.<sup>11</sup>

Most of the remaining requirements in the section deal with the splitting of political subdivisions in the map. One term to become familiar with is the “ratio of representation.” This is determined by dividing the state’s population determined by the census by the number of congressional seats apportioned to the state. In this case, Ohio’s population divided by the fifteen seats Ohio was apportioned turns out to be about 786,630.

Below is a description of permissive splits of political subdivisions:

1. If a county’s population exceeds the ratio of representation, it is, of course, going to be split in some fashion because it will have too many people to form one congressional district. If such a county exists, which in Ohio’s case includes only Cuyahoga, Franklin and Hamilton counties, the following rules shall apply:
  - a. If a city or township within that county also exceeds the ratio of representation, the drawing authority shall attempt to include a significant portion of that city or

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<sup>2</sup> Article 19, Section 1(B) of the Ohio Constitution

<sup>3</sup> Article 19, Section 1(C)(1) of the Ohio Constitution

<sup>4</sup> Article 19, Section 1(C)(2) of the Ohio Constitution

<sup>5</sup> Article 19, Section 1(C)(3)(a) of the Ohio Constitution

<sup>6</sup> Article 19, Section 1(C)(3)(b) of the Ohio Constitution

<sup>7</sup> Article 19, Section 1(C)(3)(c) of the Ohio Constitution

<sup>8</sup> Article 19, Section 1(G) of the Ohio Constitution

<sup>9</sup> Article 19, Section 2(B)(1) of the Ohio Constitution

<sup>10</sup> Article 19, Section 2(B)(2) of the Ohio Constitution

<sup>11</sup> Article 19, Section 2(B)(3) of the Ohio Constitution

township in a single district.<sup>12</sup> Currently, only the City of Columbus would meet this criterion.

- b. If a city or township in that county has a population of greater than one hundred thousand and it is the largest city or township in that county, that city or township cannot be split.<sup>13</sup> The two cities that meet this criterion are Cleveland and Cincinnati.
2. The remaining criteria regarding splitting of political subdivisions deal with the splitting of counties. Those requirements are as follows:
  - a. 65 of Ohio's 88 counties shall not be split. 18 counties may be split not more than once and five counties may be split not more than twice.<sup>14</sup>
  - b. The parts of a congressional district within one county shall be contiguous.<sup>15</sup>
  - c. No two counties shall be split among the same two districts, unless one of the counties has a population of greater than 400,000.<sup>16</sup>
  - d. The drawing authority shall attempt to have at least one whole county in each district where possible.<sup>17</sup>

Lastly, Section 3 of Article 19 deals with the legal process of challenging a constitutional redistricting plan.

Next, I would like to describe the proposed map in Substitute Senate Bill 258.

1. Only 14 counties are split. You will recall, we are permitted to split up to 23 counties. Comparatively speaking, the 2011 map split 23 counties. This is also the lowest number of split counties in at least fifty years. The eleven counties split once are Delaware, Licking, Lorain, Lucas, Montgomery, Pike, Portage, Ross, Stark, Summit and Washington.
2. Only three counties are split twice. We are permitted to have up to five. Comparatively speaking, the 2011 map had 5 such splits. The three counties split twice are Cuyahoga, Franklin and Hamilton. It is worth noting that each county would be required to be split at least once due to its population.
3. Every district that is not contained entirely within one county has an entire county within it.
4. This map truly balances to "one person, one vote" with 13 districts having exactly 786,630 people in them and two districts having 786,629

Our goal for this map was to draw districts that are compact, while also keeping Ohio's largest cities whole. It is worth mentioning that the compactness requirement does not apply only to districts comprised of urban and suburban areas. It also applies to rural districts. While rural districts will generally be geographically larger than those in urban and suburban areas, the primary reason we decided to split some of most populous counties in Ohio was to ensure geographic compactness of *all* districts in accordance with the Ohio Constitution. However, even though we split some of the larger counties, we made it a point to keep the largest cities in

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<sup>12</sup> Article 19, Section 2(B)(4)(a) of the Ohio Constitution

<sup>13</sup> Article 19, Section 2(B)(4)(b) of the Ohio Constitution

<sup>14</sup> Article 19, Section 2(B)(5) of the Ohio Constitution

<sup>15</sup> Article 19, Section 2(B)(6) of the Ohio Constitution

<sup>16</sup> Article 19, Section 2(B)(7) of the Ohio Constitution

<sup>17</sup> Article 19, Section 2(B)(8) of the Ohio Constitution

those counties and the state whole. With exception to Columbus, which had to be split because of its population, and Dublin and Middletown, which straddle county lines and, therefore, do not count as splits under the Ohio Constitution, each of the twenty-five most populous cities in the State of Ohio are kept whole within the proposed map. In fact, only seven municipalities and nine townships in the entire state are split in the proposed map.

The map before you complies with the requirements placed upon the General Assembly under the Ohio Constitution. It is the product of a deliberate effort to draw compact districts, while keeping Ohio's largest cities whole. Thank you Chairwoman Gavarone, Vice-Chair O'Brien, Ranking Member Sykes and members of the Local Government and Elections Committee for allowing me to present testimony on Substitute Senate Bill 258 and the proposed congressional district map contained therein. I would be happy to take any questions.



## **State Representatives Tavia Galonski & Richard Brown**

### **Sponsor Testimony on House Bill 483**

House Democratic Compromise Congressional District Map

#### ***Representative Tavia Galonski, D-Akron***

Chairman Wilkin and members of the committee, thank you for allowing us to present sponsor testimony on House Bill 483, a compromise congressional map that sets the framework for a clear path to what the voters expect of us—a bipartisan, 10-year map.

We know what Ohioans want to see because they've told us:

They demanded fair districts at the ballot box, overwhelmingly passing constitutional reforms in 2015 and 2018 that mandate how we should draw districts that fairly represent our state.

Just last week, we heard hours of testimony from Ohioans concerned with the partisan map in HB 479 that unduly favors Republican candidates 13-2, splits up our largest counties, and isn't very compact.

Ohioans want, to the extent possible under the constitution, to see our largest counties kept whole with our largest cities as anchors to those districts.

They want a map that ensures that communities that live, work and play together stay together.

They asked for a compact map with easily understood boundaries.

And, finally, Ohioans told us they want to see a map that reflects the preferences of voters. Not just the voters whose candidate wins statewide office, but also reflective of the 45% of Ohio voters who consistently prefer a different candidate.

We heard those concerns, and we believe our map under HB 483 lives up to these principles.

This map is fair, compact and keeps communities together.

It meets the requirements laid out in the constitution for drawing a congressional map.

It protects the idea of one person, one vote, with zero population deviation in nearly all districts, with 13 districts having populations of exactly 786,630 and two districts having a deviation of -1 person.

It complies with the Ohio Constitution and federal laws, including laws protecting racial and minority voting rights.

While Ohio will no longer have a majority minority district, this compromise map does include three minority opportunity districts because we drew boundaries that are compact, that keep

our largest cities whole, and do not break apart communities where Black Ohioans live as in the partisan Republican map.

At every point, we were intentional about addressing the concerns shared by Ohioans. We were thoughtful in how we approached splits, and at every step, considered how we could create a proposal that could put us on a clear path to our and Ohioans' ultimate goal of a bipartisan, 10-year map.

Our map is not partisan. It does not contort our districts to maximize partisan advantage. It is a compromise, one that ensures Ohioans who share a community can decide who represents them.

That's what Ohioans wanted when they overwhelmingly passed reforms in 2015 and 2018. That's the opportunity this map affords them. It is our hope that our final map lives up to that expectation.

The last thing we need is the majority party rushing through a partisan, four-year map that invites a veto from the governor or a referendum by the more than 70 percent of voters who twice demanded fair districts.

We have to get this right. This is the compromise to get us there.

With that, I will turn it over to my colleague and joint-sponsor, Rep. Brown, to walk through more aspects of our proposal.

***Rep. Richard Brown, D-Canal Winchester***

Chair Wilkin and members of the committee, I, too, thank you for the opportunity to testify today on our compromise map, HB 483.

As was said before, this proposal is a direct response to the many concerns Ohioans testified on during our committee hearings last week.

Red flags immediately went up when Ohioans saw that many of our largest counties were carved up, communities with many shared interests splintered away from each other in the proposal presented last week.

Ohioans told us in no uncertain terms that they wanted to see communities stay together, especially cities in our largest counties. Splitting them apart doesn't allow for better representation. In fact, it prevents communities from having the representation they deserve.

Our map corrects these issues and complies with all the requirements included in the Constitution in regard to splits.

Under our proposal, our largest cities are kept whole and anchor congressional districts as Ohioans intended.

Article XIX, Section 2 (B) (4) (a) of the Ohio Constitution requires that if a city is located in a county that exceeds the population of a congressional district, a significant portion of that city

must be contained in a single congressional district. This provision currently only applies to Franklin County.

Under our proposal, District 3 meets this requirement by including over 60 percent of Columbus, comprising 550,256 residents. Additionally, this section of the Constitution also states that the district may include other municipalities or townships within the county that have similar interests, meaning they are communities that live, work or play together.

Article XIX, Section 2 (B) (4) (b) of the Ohio Constitution requires that, based on their population, there are two cities - Cincinnati and Cleveland – that must remain whole within a congressional district.

- District 1 includes all of the City of Cincinnati as well as the surrounding communities with shared interests. Again, allowing communities that live, work and play together to stay together and be represented together.
- District 11 does the same for the City of Cleveland, again also including communities with shared interests to be represented together.

Article XIX, Section 2 (B) (5) of the Ohio Constitution requires that 65 counties not be split, 18 counties may be split once and 5 counties may be split twice. Our map exceeds these goals with 74 counties kept whole, 14 counties split once, and 0 counties split twice.

### Table of County splits

Index	Split Counties	Explanation
1	Ashland	Split once to achieve population balance between District 7 and District 13.
2	Clinton	Split once to achieve population balance and compactness between District 2 and District 8.
3	Cuyahoga	Split once to achieve population balance and compactness between District 7 and District 11. All of District 11 is kept wholly in Cuyahoga County.
4	Franklin	Split once to achieve population balance and compactness between District 3 and District 12. All of District 3 is kept wholly in Franklin County.
5	Greene	Split once to achieve population balance between District 8 and District 10.
6	Hamilton	Split once to achieve population balance between District 1 and District 8, while keeping all of Cincinnati whole along with adjacent suburbs. All of District 1 is kept wholly in Hamilton County.
7	Holmes	Split once to achieve population balance between District 6 and District 13.
8	Lorain	Split once to achieve population balance between District 7 and District 9 while keeping cities and larger municipalities whole.
9	Mahoning	Split once to achieve population balance while keeping communities in Trumbull County and in Youngstown together.
10	Marion	Split once to achieve population balance and compactness between District 4 and District 12.
11	Ross	Split once to achieve population balance and compactness between District 2 and District 4.
12	Stark	Split once to achieve population balance between District 13 and District 15. All of Canton is kept whole in District 15.
13	Washington	Split once to achieve population balance and compactness between District 2 and District 6.
14	Wyandot	Split once to achieve population balance between District 4 and District 5.



Article XIX, Section 2 (B) (6) of the Ohio Constitution requires that parts of a district within a county be contiguous. Our map complies with this requirement.

Article XIX, Section 2 (B) (7) of the Ohio Constitution requires that no two districts can have the same 2 counties split unless one of the counties has a population of 400,000. None of our districts have this.

Article XIX Section 2 (B) (8) of the Ohio Constitution requires that when possible one whole county must be included in every district. Seventy-four counties are kept whole in our map including the larger counties Lucas, Montgomery and Summit.

Article XIX, Section 1(C)(3) of the Ohio Constitution, which applies when a map does not garner adequate minority party support, prohibits unduly favoring a party and unduly splitting communities. Our map does not unduly favor parties. It favors the Republican party slightly, because that is what the Republican party is due based on the share of votes its candidates have earned in this state. Our map also does not unduly split communities. For example, Toledo is kept whole, Akron is kept whole, Dayton is kept whole and are combined with their surrounding areas to create districts that make sense.

Our map adheres to all constitutional requirements voters set for us and provides greater balance among districts according to the preferences of Ohio voters.

The map is a 9-6 Republican to Democratic map based on the Dave's Redistricting App composite index of six races from 2016 to 2020. The races included are U.S. Senate 2016, President 2016, Attorney General 2018, Governor 2018, U.S. Senate 2018, and President 2020.

Our map is also significantly more compact than the House Republican proposal, which sees a number of districts contorting themselves in unnatural directions and a sprawling district along Ohio's eastern border that clearly does not pass the eye test, or for that matter, any other measure of compactness

Every one of our districts passes the eye test. And when you get into the numbers, this is confirmed.

There are a large number of measures of compactness. Two of the most common are Reock, Polsby-Popper.

The Reock test is the ratio of the area of the district to the area of the minimum enclosing circle – that is the smallest circle that can entirely contain the district. The measure ranges from zero to one, with one being the most compact.

The Polsby-Popper test is similar. It is based on the ratio of the district area to the area of a circle with the same perimeter as the district. The measure also ranges from zero to one, with one being the most compact.

We ran compactness reports on both plans using the Maptitude for Redistricting software package, and these measures confirm what our eyes have already told us—that our map is significantly more compact than the House GOP map.

Using the Reock test, where higher scores are better, our plan has an average of 0.43 compared to 0.38 in the Republican plan. Our worst district under the Reock test is CD 9 with a score of .28, more than twice the score of the worst district in the Republican plan, CD 6, with a Reock score of 0.13.

The results are similar using the Polsby-Popper test. Again, higher scores are better. Our average score is 0.21 compared to 0.12 in the Republican plan. Our worst district using this test is CD 7 with a score of 0.21. The worst district in the Republican plan is again CD 6, with a score of 0.12.

Another commonsense way of measuring a district's compactness is computing the driving distance between the two furthest apart points in the district.

The average drive distance in our map is 95.4 miles. The average in the Republican map is 116.3 miles. In our map, the district with the longest drive distance is CD 5 at 183.5 miles. In the Republican map, the longest drive distance is in CD 6 at 286.7 miles.

We're under the gun to pass a bipartisan, 10-year map. To get there, we're going to need to compromise. The proposed map in HB 483 is a compromise. It's fair, compact and keeps communities together. Our proposal meets the constitutional standards voters set for us without unduly favoring one party over another.

Democrats listened to the voters, incorporated their feedback, and have a realistic compromise that can pass with bipartisan support.

What we do in the coming weeks will shape our politics for the next decade or more. Moving forward with a compromise map protects against a veto from the governor. It protects against voter referendum on the map. It protects against districts that unduly favor one political party at the expense of all Ohioans.

This process only works with compromise.

Again, we thank you for your time today and welcome any questions you have on this compromise proposal.



## OHIO SENATE DEMOCRATIC CAUCUS

### Joint Committee on Congressional Redistricting Sub. Senate Bill 237 Sponsor Testimony November 10, 2021

#### **Randall Routt, Minority Caucus Policy Advisor**

As you know, Article 19 of the Ohio Constitution outlines the process for the creation of congressional districts in Ohio. The plan presented today seeks to maximize compliance with these provisions while also achieving equal population in each district. All districts in our map include 786,630 people, except two, which include 786,629 people.

Our new proposal also adheres to all applicable provisions of the constitutions of Ohio and the U.S., as well as to federal law, including federal laws protecting the voting rights of racial minorities. Each district is compact and composed of contiguous territory. In addition, the boundary of each district is a single, nonintersecting and continuous line.

Section 2 (4a) of Article 19 requires the drawing of a district that includes a significant part of the city of Columbus in Franklin County. District 1 in our plan, which was the first to be drawn, fulfills this requirement.

Section 2 (4b) requires the drawing of districts to preserve municipal corporations or townships whose populations are larger than 100,000 people but smaller than 786,630 people. This requirement applies to the cities of Cleveland and Cincinnati. Under our plan, none of these cities are split.

Section 2 (B) (5) requires that 65 counties be contained entirely within a district; 18 counties not be split more than once; and five counties be split no more than twice. Our plan significantly exceeds this standard by preserving 74 whole counties; splitting only 14 counties once; and splitting zero counties twice.

Section 2 (B) (6) requires the drawing of contiguous districts within counties. All districts in our new proposal satisfy this requirement.

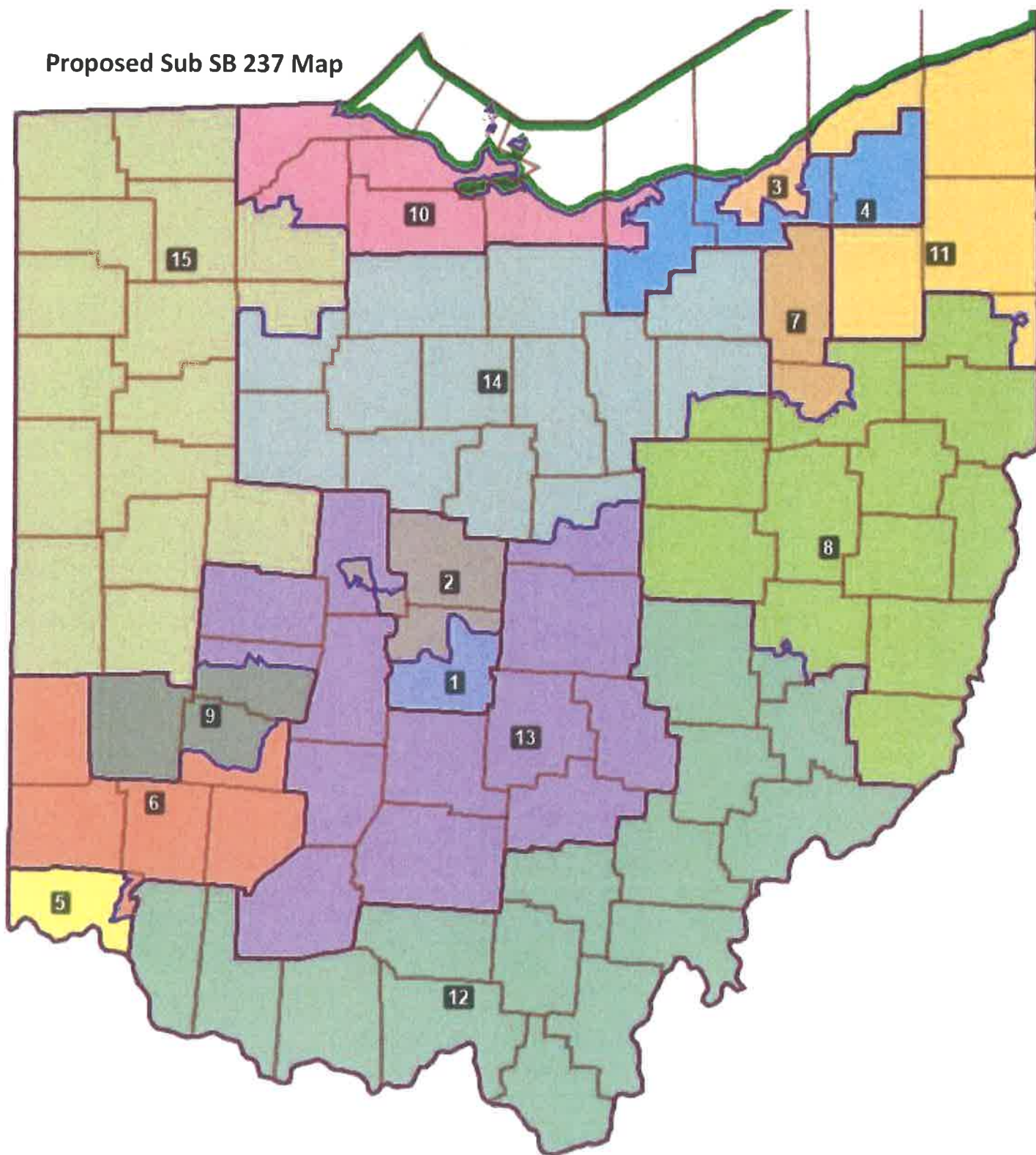
Section 2 (B) (7) requires that no two districts can share portions of territory of more than one county, but allows for one exception. Zero districts in our plan share more than one county.

Section 2 (B) (8) requires that the congressional redistricting plan shall attempt to include at least one whole county in each congressional district, unless the district is contained entirely within one county. Once again, all districts in our plan satisfy this requirement.

In conclusion, our proposed congressional map fulfills the spirit of the reforms passed overwhelmingly by Ohio voters in 2018. It adheres to the provisions of Article 19 of the Ohio Constitution in all possible circumstances. It complies with all applicable provisions of both the Ohio and the U.S. Constitutions and to federal law, including provisions concerning the protection of minority voting rights. It was designed to respond to Republican concerns about equal population, proving our commitment to negotiating in public and in good faith. As with all plans presented by our caucus during the redistricting process, this proposal is intended as a starting point and we welcome all improvements and suggestions.

At this point, I'd be happy to take any questions. Thank you.

Proposed Sub SB 237 Map



District	Population	Deviation	18+ BVAP	18+ HVAP	18+ AVAP	BidenPct	TrumpPct	2016-2020DemPct	2016-2020RepPct
1	786,630	0.00%	33.23%	5.14%	4.30%	66.29%	33.71%	65.95%	34.05%
2	786,629	0.00%	6.64%	3.03%	9.17%	59.01%	40.99%	54.38%	45.62%
3	786,630	0.00%	43.63%	5.86%	3.27%	76.22%	23.78%	78.34%	21.66%
4	786,630	0.00%	5.56%	2.49%	3.80%	51.40%	48.60%	50.61%	49.39%
5	786,630	0.00%	26.14%	2.78%	3.47%	58.57%	41.43%	55.44%	44.56%
6	786,630	0.00%	6.36%	2.84%	5.11%	35.62%	64.38%	33.33%	66.67%
7	786,630	0.00%	13.66%	1.75%	3.39%	51.98%	48.02%	52.86%	47.14%
8	786,630	0.00%	3.17%	1.34%	0.72%	30.88%	69.12%	36.18%	63.82%
9	786,630	0.00%	17.89%	2.52%	3.06%	48.18%	51.82%	46.85%	53.15%
10	786,630	0.00%	14.15%	5.67%	1.81%	52.36%	47.64%	54.33%	45.67%
11	786,630	0.00%	9.00%	2.66%	1.46%	44.80%	55.20%	48.29%	51.71%
12	786,630	0.00%	2.82%	1.00%	0.98%	29.63%	70.37%	33.33%	66.67%
13	786,629	0.00%	4.82%	1.20%	1.57%	31.59%	68.41%	33.74%	66.26%
14	786,630	0.00%	3.51%	1.76%	0.99%	30.87%	69.13%	33.49%	66.51%
15	786,630	0.00%	3.47%	2.68%	1.14%	26.02%	73.98%	27.24%	72.76%



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**Rob McColley**  
Senate Majority Whip  
1st Senate District

Thank you, Chairwoman Gavarone, Vice-Chair O'Brien, Ranking Member Maharath and members of the Local Government and Elections Committee for allowing me to present testimony today for Substitute Senate Bill 258. After considering multiple maps presented by Democrat and Republican Caucuses in both the House and the Senate, and listening to the public's input on all of those maps, we offer this map that is not only constitutionally compliant, but the most competitive map offered by any caucus to date. It is also a map that splits the least counties of any map offered by any caucus, keeps Ohio's largest cities whole, installs compact districts and implements many of the requested changes we heard in testimony.

Article 19, Section 2(B)(5) of the Ohio Constitution describes the process that must be followed when splitting counties in a congressional map. In essence, a map may have up to 23 split counties with up to 18 being split once and up to five being split twice. This map splits only 12 counties with only two of those counties being split twice. The counties that are split once are Clark, Fairfield, Franklin, Holmes, Lorain, Ross, Shelby, Summit, Washington and Wood. The Counties split twice are Hamilton and Cuyahoga. Notably, for the first time since the map passed thirty years ago, Lucas County will be whole and for the first time since the map passed twenty years ago Stark County will be whole. The impact on several of Ohio's other large counties is also minimized by Franklin and Summit County having the least splits since the maps passed thirty years ago. Finally, the map complies with Article 19, Section 2(B)(8) by including an entire county in each district where possible. If passed, this map would have the least counties split in over fifty years. Additionally, this map splits two less counties than both the House and Senate Democrat proposals.

Since the introduction of SB258, we have maintained that it is important to keep Ohio's largest cities whole. With exception to Columbus, which must be split under the Constitution and cities that straddle county lines and, therefore, do not count as a split under the Constitution, 98 of Ohio's 100 largest cities are kept whole in this map (Rocky River, Cuyahoga Falls). In total, only eight townships and six municipalities are split in this proposed map, which more than adequately complies with Article 19, Section 1(C)(3)(b)'s requirement that the general assembly not unduly split governmental units.

Article 19, Section 2(B)(2) also requires that districts be compact. This requirement is not applicable to a four-year map, however, under Section 1(C)(3)(c). In such an instance, the



general assembly shall attempt, but is not required to draw compact districts. Nevertheless, the districts presented before you are compact.

Finally, the map before you is the most competitive map offered by any caucus to date and the most competitive Ohio congressional map in decades. Ohio is subject to swings in voter preferences, particularly in federal elections. Even though, with exception to 2006, Republicans have swept every election for statewide constitutional office since 1994, Ohio has voted for a both a Democrat and a Republican for President in the past four presidential elections and continues to be represented by both a Democrat and Republican in the United States Senate. Clearly, Ohioans are bifurcating between federal and state elections and issues. Therefore, because the map before you is for United States Congressional districts, it makes sense to judge competitiveness based upon statewide federal elections over the last ten years. This allows us to capture the true nature of Ohio's voting tendencies in federal elections and to insulate from outliers. When evaluating these districts in the federal statewide context and defining a competitive district as one with a 46%-54% Republican index, this map has six seats that lean Republican, seven seats that are competitive and two seats that lean Democrat. The indexes are as follows:

<b>Congressional District #</b>	<b>Population</b>	<b>Deviation</b>	<b>Federal Statewide Elections 2012-2020</b>
1	786,630	0	51.5
2	786,630	0	65.1
3	786,630	0	30.4
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5	786,630	0	58.8
6	786,629	-1	52.9
7	786,630	0	56.7
8	786,630	0	62.0
9	786,630	0	47.7
10	786,630	0	52.2
11	786,630	0	19.4
12	786,629	-1	61.3
13	786,630	0	48.6
14	786,630	0	53.2
15	786,630	0	53.7

incumbents. No sporting event should ever favor or disfavor a team by some predetermined final score before either team walks on the field. A congressional map should not be judged to favor or disfavor either party that way either. Rather, it should be judged based upon how many districts are going to be determined by the various important issues and candidates in that election. This map embodies that belief by ensuring a plurality of the districts will be competitive in any given cycle. Its seven competitive districts are two more than any House or Senate Democrat proposal and five more than the map passed in 2011. Further, this map neither favors nor disfavors either party's incumbents. It accomplishes this by only combining two incumbents, who are required to be combined through the prohibition against splitting Cincinnati.

The map before you complies with the requirements placed upon the General Assembly under the Ohio Constitution. It is the product of a deliberate effort to draw compact districts, minimize county splits, keep Ohio's largest cities whole and ensure a plurality of Ohio's congressional districts will be competitive. Thank you Chairwoman Gavarone, Vice-Chair O'Brien, Ranking Member Maharath and members of the Local Government and Elections Committee for allowing me to present testimony on Substitute Senate Bill 258 and the proposed congressional district map contained therein. I would be happy to take any questions.



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Since the introduction of SB258, we have maintained that it is important to keep Ohio's largest cities whole. With exception to Columbus, which must be split under the Constitution and cities that straddle county lines and, therefore, do not count as a split under the Constitution, 98 of Ohio's 100 largest cities are kept whole in this map (Rocky River, Cuyahoga Falls). In total, only eight townships and six municipalities are split in this proposed map, which more than adequately complies with Article 19, Section 1(C)(3)(b)'s requirement that the general assembly not unduly split governmental units.

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general assembly shall attempt, but is not required to draw compact districts. Nevertheless, the districts presented before you are compact.

Finally, the map before you is the most competitive map offered by any caucus to date and the most competitive Ohio congressional map in decades. Ohio is subject to swings in voter preferences, particularly in federal elections. Even though, with exception to 2006, Republicans have swept every election for statewide constitutional office since 1994, Ohio has voted for a both a Democrat and a Republican for President in the past four presidential elections and continues to be represented by both a Democrat and Republican in the United States Senate. Clearly, Ohioans are bifurcating between federal and state elections and issues. Therefore, because the map before you is for United States Congressional districts, it makes sense to judge competitiveness based upon statewide federal elections over the last ten years. This allows us to capture the true nature of Ohio's voting tendencies in federal elections and to insulate from outliers. When evaluating these districts in the federal statewide context and defining a competitive district as one with a 46%-54% Republican index, this map has six seats that lean Republican, seven seats that are competitive and two seats that lean Democrat. The indexes are as follows:

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7	786,630	0	56.7
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9	786,630	0	47.7
10	786,630	0	52.2
11	786,630	0	19.4
12	786,629	-1	61.3
13	786,630	0	48.6
14	786,630	0	53.2
15	786,630	0	53.7

incumbents. There have been some that have suggested that we simply take the fifteen seats and split them eight districts to one side of the aisle and seven to the other and that somehow captures the spirit of what the voters passed in 2018. I strongly disagree with that sentiment. What captures the spirit of what the voters passed in 2018 is competitive districts that are subject to the changing political winds and changing tides of what is going on in the state of Ohio. No sporting event should ever favor or disfavor a team by some predetermined final score before either team walks on the field. A congressional map should not be judged to favor or disfavor either party that way either. Rather, it should be judged based upon how many districts are going to be determined by the various important issues and candidates in that election. This map embodies that belief by ensuring a plurality of the districts will be competitive in any given cycle. Its seven competitive districts are two more than any House or Senate Democrat proposal and five more than the map passed in 2011. Further, this map neither favors nor disfavors either party's incumbents. It accomplishes this by only combining two incumbents, who are required to be combined through the prohibition against splitting Cincinnati.

This bill also addresses the quickly approaching filing deadline for congressional candidates. The current filing deadline is February 2, 2022. Recognizing this process has been delayed due to the Census data being late; we have moved the filing deadline to March 4<sup>th</sup> to allow candidates ample time to collect the required number of signatures to file for the election.

The map before you complies with the requirements placed upon the General Assembly under the Ohio Constitution. It is the product of a deliberate effort to draw compact districts, minimize county splits, keep Ohio's largest cities whole and ensure a plurality of Ohio's congressional districts will be competitive. I am pleased to say Substitute Senate Bill 258 passed the Senate with a vote of 24-7. Thank you Chairman Wilkin, Vice-Chair White, Ranking Member Brown and members of the Government Oversight Committee for allowing me to present testimony on Substitute Senate Bill 258 and the proposed congressional district map contained therein. I would be happy to take any questions.





# OFFICIAL REPORT TO THE OHIO GENERAL ASSEMBLY

SEPTEMBER 2021

E-Mail: [info@commissionocrc.org](mailto:info@commissionocrc.org)  
Web: [www.ohredistrict.org](http://www.ohredistrict.org)

# ABOUT

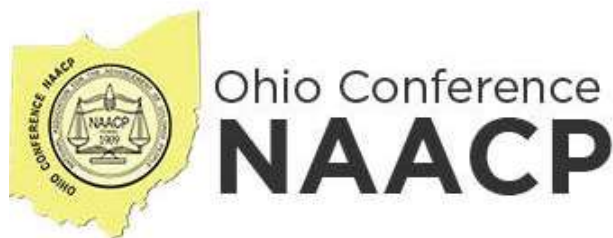
## THE OHIO CITIZENS REDISTRICTING COMMISSION

The Ohio Citizens Redistricting Commission (OCRC) is sponsored by the Ohio Organizing Collaborative (OOC), Ohio State Conference of the National Association for the Advancement of Colored People (NAACP), and the A. Philip Randolph Institute (APRI) of Ohio. The OCRC worked in partnership with the Kirwan Institute for the Study of Race and Ethnicity at The Ohio State University, More Equitable Democracy, Skylight and MGGG Redistricting Lab at Tufts University.

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# ABOUT THE COMMISSION

## OVERVIEW

The Ohio Citizens Redistricting Commission (OCRC) is an independent, diverse, non-partisan commission made up of 16 volunteer members, including interested citizens, academics, community leaders, current and former elected officials, attorneys, and representatives from sponsor organizations. Members were deliberately chosen to reflect the diversity of Ohio, and include persons of color, persons of all ages and backgrounds, persons from the LGBTQ community, and persons from different regions of the state.

## GOALS OF THE COMMISSION

*The OCRC has three main goals:*

- *Model a thorough and robust engagement process for developing legislative districts, including reaching out specifically to minority and underrepresented communities,*
- *Develop and demonstrate citizen-derived principles of redistricting, and*
- *Draw “unity maps”, meaning maps based on constitutional requirements, citizen-derived principles of redistricting, and an aggregation of a wide variety of preferences that came out of public input.*

## PURPOSE OF THIS REPORT

The OCRC developed this report summarizing how these goals were achieved to submit as public testimony to the Ohio General Assembly and the Ohio Redistricting Commission.

## COMMISSION MEMBERS

Some members of the Commission helped to write the constitutional amendment that Ohio voters approved in 2018 and that spells out the criteria upon which the Commission’s unity map is based. Commission members were invited to apply by representatives of the OCRC sponsor organizations the OOC, Ohio Conference of the NAACP, and APRI of Ohio.

## COMMISSION PARTNERS

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The OCRC partnered with the Kirwan Institute for the Study of Race and Ethnicity at The Ohio State University and MGGG Redistricting Lab at Tufts University for data collection, analysis, and community mapping, with More Equitable Democracy for district mapping and analysis, and with Skylight for web-based community engagement. The following individuals participated in this work:

### Mapping & Data Analysis Team Members

---

- **Dr. Ranthony Edmonds**, Department of Mathematics, Ohio State -- Data Analysis
- **Dr. Matthew Kahle**, Department of Mathematics, Ohio State -- Data Analysis
- **Dr. Vladimir Kogan**, Political Science, Ohio State -- Politics/Policy
- **Michael Outrich**, Kirwan Institute, Ohio State -- Ohio Community Mapping
- **Dr. Glennon Sweeney**, Kirwan Institute, Ohio State -- Ohio Community Mapping
- **Dr. Moon Duchin**, MGGG Redistricting Lab, Tufts University -- Project Manager
- **Elizabeth Kopecky**, MGGG Redistricting Lab, Tufts University -- Project Manager
- **Derrick Smith**, Applied Statistics, Ohio Organizing Collaborative -- Data Analysis
- **Colin Cole**, More Equitable Democracy -- District Mapping and Analysis
- **Bill Baugh**, More Equitable Democracy -- District Mapping and Analysis
- **Louis Libert**, Skylight -- Digital Designer & User Experience Lead



# OHIO CITIZENS REDISTRICTING COMMISSION MEMBERS



**Alan Bannister**  
Vice President, Remington  
Road Group, Former Director,  
Manager, & Executive Assistant  
for 5 Toledo Mayors



**Amina Barhumi**  
Outreach Director, Council of  
American-Islamic Relations  
(CAIR) Ohio



**Jeremy Blake**  
Newark City Councilman,  
Equality Ohio Board Member



**Jeniece Brock**  
**OCRC Vice Chair**  
Health Scientist, Policy and  
Advocacy Director, Ohio  
Organizing Collaborative



**Dr. Ellen Greene Bush**  
Clinical Psychologist,  
Citizen Leader of  
American Promise Ohio



**Akii Butler**  
Student Organizer  
Ohio Student Association



**Kathleen Clyde**  
**OCRC Co-Chair**  
Former Ohio House  
Representative, former Candidate  
for Secretary of State



**Samuel Gresham Jr.**  
Chair  
Common Cause Ohio

# OHIO CITIZENS REDISTRICTING COMMISSION MEMBERS



**Dr. Richard Gunther**  
Professor Emeritus  
Ohio State University



**Gregory Moore**  
**OCRC Co-Chair**  
President & CEO Promise for  
Democracy, Executive Director  
of the Ohio Voter Fund



**Dr. Lis Regula**  
Lecturer  
University of Dayton



**Tom Roberts**  
President , NAACP Ohio State  
Conference, Former Ohio State  
Senator



**Katy Shanahan**  
Ohio State Director  
All On The Line



**Barbara A. Sykes**  
President & CEO  
Ohio Legislative Black Caucus  
Foundation



**Chris Tavenor**  
Staff Attorney,  
Ohio Environmental Council  
Law Center



**André Washington**  
President of APRI Ohio Chapter,  
Field Rep & Special Projects Coord.  
Ohio Association of Public School  
Employees, Central OH Region

# COMMISSION PROCESS AND TIMELINE

## Commission Announced

On Wednesday, May 12, 2021, the formation and membership of the OCRC was announced to the general public via statewide media release and on social media. The public was encouraged to become involved in the work of the OCRC and to watch for further updates and developments.

## Public Engagement and Hearings

Public hearings were held virtually throughout the state with a quorum of OCRC members present to give an overview of the amendments to the Ohio Constitution for 2021 regarding the redistricting process, to encourage attendees to participate in the community mapping project, and to receive feedback about what they would like to see happen in the 2021 redistricting process as it relates to their communities or region of the state. The OCRC was also interested to hear how communities, and particularly minority and underrepresented communities, have been impacted in the last decade under gerrymandered districts, and to hear feedback about what specifically witnesses would recommend moving forward to have better political and community representation.

Each public hearing featured a few guest speakers, like a prominent local elected official or community leader, and then the meeting was opened up for citizen witnesses to testify. **A total of 542 Ohio citizens registered to attend these public hearings.** Many of these citizens came representing large subgroups and/or membership lists of other citizens. Recordings of all public hearings can be viewed on our OCRC website at [www.ohredistrict.org/past-hearings](http://www.ohredistrict.org/past-hearings).

The OCRC held all public hearings after business hours to optimize accessibility, and virtually to ensure safe participation. Hearings were held on the following dates and times:

- May 13, 2021 at 6pm for an organizational meeting and redistricting briefing.
- May 27, 2021 at 6pm for Northwest Ohio (Toledo and Lima).
- June 10, 2021 at 6pm for Greater Cleveland (Cleveland, Lorain, Euclid, Parma).
- June 24, 2021 at 6pm for Northeast Ohio (Akron, Canton, Youngstown).
- July 8, 2021 at 6pm for Southeast Ohio (Athens, Portsmouth, East Liverpool, Chillicothe).
- July 22, 2021 at 6pm for Southwest Ohio (Cincinnati, Dayton).
- August 12, 2021 at 6pm for Central Ohio (Columbus, Marion, Mansfield, Newark, Lancaster).
- August 26, 2021 at 5:30pm for a presentation on our proposed state legislative unity maps and to receive feedback and questions.

- August 27, 2021 at 5:30pm for a presentation on our proposed state legislative unity maps and to receive feedback and questions.
- September 14, 2021 at the Ohio Statehouse ten OCRC representatives presented sponsor or supporting testimony on state legislative unity maps to the Ohio Redistricting Commission. Two additional commissioners submitted written testimony.
- September 24, 2021 at 4:00pm for a presentation on our proposed congressional unity map and to receive feedback and questions.
- September 27, 2021 at 6:00pm for a presentation on our proposed congressional unity map and to receive feedback and questions.

## Commission Work Sessions and Work Groups

The first organizational meeting of the commission took place on May 13, 2021 at 6pm. Members received a briefing about the commission's objectives and about the guidelines laid out in the Ohio Constitution for drawing state legislative and congressional districts.

Commission work sessions took place virtually via Zoom on the following dates:

- May 27, 2021 following the completion of the public hearing.
- June 10, 2021 following the completion of the public hearing.
- June 24, 2021 following the completion of the public hearing.
- July 8, 2021 following the completion of the public hearing.
- July 22, 2021 following the completion of the public hearing.
- July 29, 2021 to discuss and adopt mapping criteria framework.
- August 12, 2021 following the completion of the public hearing.
- August 20, 2021 to discuss draft state legislative unity maps.
- August 22, 2021 to discuss draft state legislative unity maps. The OCRC voted unanimously to propose draft unity maps to the public.
- August 29, 2021 to discuss proposed state legislative unity maps, feedback on proposed maps, and the draft report to be submitted to the Ohio Redistricting Commission. The OCRC voted unanimously to adopt the final commission report and unity maps.
- September 23, 2021 to discuss the draft congressional unity map. The OCRC voted unanimously to propose the draft congressional unity map to the public.
- September 29, 2021 to discuss the proposed congressional unity map, feedback on the proposed map, and the draft report to be submitted to the official congressional redistricting process. The OCRC voted unanimously to adopt the final commission report and congressional unity map.

Commission officers met weekly on Mondays beginning on May 3rd.





## Work Groups

The OCRC established four workgroups to facilitate the work of the commission and report back to the full commission. All workgroups met as needed and workgroup leads would report in at full commission work sessions. The working groups are:



### Public Relations

**Purpose:** To represent the goals of the commission with the media, and to guide the commission's public communications.

**Members:** Alan Bannister (Lead), Amina Barhumi, Jeremy Blake and Chris Tavenor



### Minority Representation

**Purpose:** To ensure that communities of color are treated fairly in the redistricting process and can meaningfully influence elections under the maps enacted.

**Members:** Barbara Sykes (Lead), Jeniece Brock, Greg Moore, Tom Roberts, and Katy Shanahan



### Mapping Criteria

**Purpose:** To develop community driven principles and priorities for mapping and to ensure unity maps represent the input of community members and commissioners.

**Members:** Dr. Richard Gunther (Lead), Kathleen Clyde, Sam Gresham, Greg Moore and Katy Shanahan.



### Community Engagement

**Community Engagement & Outreach:** To engage at the grassroots level in communities around the state and to ensure input from diverse communities.

**Members:** Dr. Ellen Greene Bush (Lead), Akii Butler, Dr. Lis Regula, and Andre Washington.

## Community Mapping Project

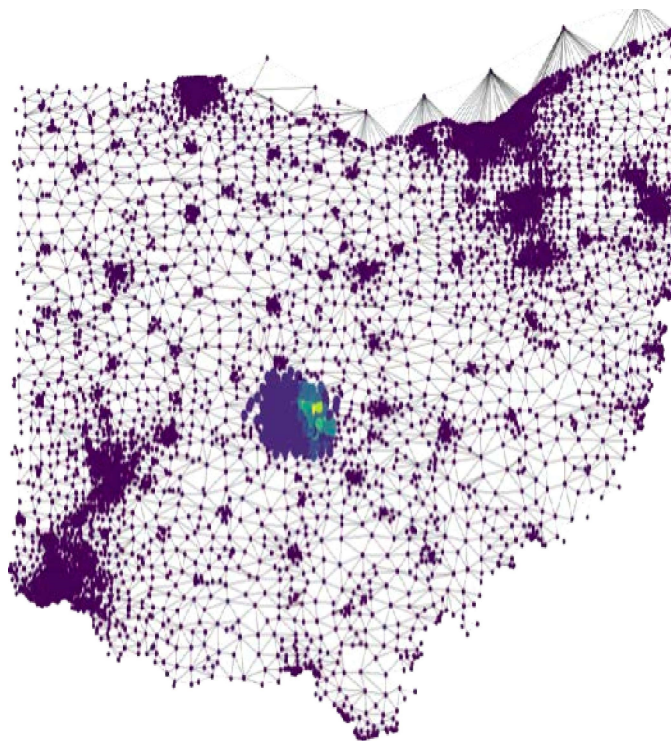
The MGGG Redistricting Lab built a project team based at The Ohio State University and supported by a network of grassroots organizations to collect and synthesize Community of Interest (COI) input for the OCRC. One of the major guiding principles of this team was to ensure that narratives, needs, and concerns from a diverse range of Ohioans were included in the process. They emphasized concerted outreach to minority and underrepresented communities in their approach.

This team used Districtr, a free community web tool developed by MGGG to enable users to create both COI regions and "points of interest" paired with narratives about community issues and needs. **There were 2,350 submissions received through the Districtr portal.**

Prioritizing Communities of Interest is generally considered to be essential to drawing fair districts, but in practice, it is prohibitively difficult to implement without local community knowledge. This community mapping project collected spatialized testimony from the public, which featured not only narrative descriptions of the communities, but mapping describing their geography.



Districtr users could work remotely or join video conference-based workshops led by members of our outreach partner organizations. The Commission received public input in many modalities: collection at in-person meetings when possible, in virtual public meetings, submitted through Districtr.org, OCRC website and email or even via social media.



OCRC DistrictR Community of Interest heat map clusters from East Columbus, Reynoldsburg, Gahanna and Westerville prepared by MGGG.

## Proposed Unity Map Introduced to the Public

On September 24, the OCRC released a proposed congressional unity map via statewide media and social media for public comment and input. The unity map was based on constitutional requirements, citizen-derived principles of redistricting, and an aggregation of a wide variety of preferences that came out of public input. The unity map incorporated the 2020 Census data released on August 12. Input was requested at two scheduled public hearings or via email to the commission.

## Final Report and Unity Map Submitted to the Ohio General Assembly

The OCRC submitted their final report and unity map to the Ohio General Assembly on September 30, 2021.

# CONGRESSIONAL UNITY MAP

## CONGRESSIONAL UNITY MAP

The OCRC adopted this Congressional Unity Map based on constitutional requirements, citizen-derived principles of redistricting, and an aggregation of a wide variety of preferences that came out of public input. There are also additional considerations that the OCRC used to better understand how best to deliver real pathways to representation through new district lines for all of Ohio's communities.

## EQUAL POPULATION

On April 26, 2021, the U.S. Census Bureau delivered Ohio's apportionment count of 15 congressional districts based on the 2020 Census state population counts, as required by Section 2 of Article I of the U.S. Constitution. Ohio's 2020 Census apportionment count represents a decrease of one congressional district from the 2010 Census.

Under Article XIX, Section 2(A)(2) of the Ohio Constitution, the whole population of Ohio shall be divided by the number of districts apportioned. The whole population is everyone residing in Ohio, not just citizens, adults or registered voters. The whole population of Ohio is 11,808,848 divided by 15 results in approximately 787,257 inhabitants per Congressional district.

The equal population requirement is not exact down to the individual person. The "one person, one vote" decision by the U.S. Supreme Court in *Reynolds v. Sims* (1964) concluded that the equal protection clause of the U.S. Constitution requires that the population residing in each congressional district should be "substantially equal." This has been subsequently interpreted as requiring that districts must be "exactly equal." In *Tennant v. Jefferson County Commission* (2012), the U.S. Supreme Court clarified this criterion by finding that a West Virginia congressional map whose district magnitudes varied (between the largest and the smallest districts) by an average of 0.79 percent was constitutional if such divergences were necessary to meet other legitimate goals (such as avoiding excessive splitting of political boundaries).

See Exhibit A for a listing of the population of each district on the proposed map. The deviations range from -0.13 percent to 0.38 percent, well below the 0.79 percent variance permitted in the *Tennant* decision.

## **PARTISAN FAIRNESS**

Article XIX Section 1(F)(3)(a) of the Ohio Constitution states that no district plan shall be adopted that “unduly favors or disfavors a political party or its incumbents.” In other words, no congressional map should include partisan gerrymandering.

This prohibition against partisan gerrymandering is to go into effect if the General Assembly and the Ohio Redistricting Commission fail to pass a plan with bipartisan support. However, all district plans should take this important anti-gerrymandering criterion into account, particularly since it lies at the heart of all of the redistricting reform efforts in Ohio over the past decade.

In the five general elections that have taken place over the past decade, Republican candidates for President, U.S. Senator, Governor, Secretary of State, Auditor, Attorney General and Treasurer have received 54.3% of the votes cast by Ohio voters, while Democratic candidates for those offices have received 45.7% of the votes cast. To ensure that one political party is not unduly favored over another, the partisan make-up of Ohio’s districts should mirror the partisan make-up of Ohio’s voters.

Our proposed map has 8 districts that lean over 50% Republican and 7 districts that lean over 50% Democratic. This means that 53.3% of the districts lean Republican and 46.7% Democratic. This 53% Republican/47% Democratic ratio closely aligns with the 54%/46% partisan make-up of Ohio’s voters over the last 10 years.

## **KEEPING COMMUNITIES TOGETHER**

Congressional districts were drawn to protect Ohio’s communities by keeping them together as much as practically possible and in line with the constitutional requirements to minimize the splitting of counties, townships, and cities.

Under Article XIX, Section 2, of the Ohio Constitution, the following specific rules apply to keep communities together for any congressional district plan.

- The cities of Cleveland and Cincinnati must not be split apart.
  - Our map meets this requirement.
- Columbus is too big to include in just one congressional district, but it must be split responsibly to protect communities of interest.
  - Our map contains 69% of Columbus within one district, and the remaining 31% in a second full district. The district boundary line splitting the portion of Columbus honors recognized neighborhood boundaries. Care was taken to not break apart communities of interest within Columbus.

- Akron, Dayton and Toledo should not be split.
  - Our map does not split any of these cities and meets this requirement.
- Statewide, 65 counties must be kept whole, 18 counties may be split once, and 5 counties may be split twice. While the criterion allow for 23 county splits, it should be noted that doing so is neither required nor necessary.
  - Our map meets this requirement, keeping 75 counties whole, splitting 13 counties once, and splitting zero counties twice. No cities are split, except for Columbus because it is too large to fit in one district and must be split.
- Each congressional district should include at least one whole county. This does not apply for districts contained entirely within a county (e.g. the districts contained entirely in Cuyahoga, Franklin, and Hamilton) or where doing so would violate federal law.
  - Our map meets this requirement.

Under Article XIX, Section 1(F)(3)(b) of the Ohio Constitution, a congressional map “shall not unduly split governmental units, giving preference to keeping whole, in the order named, counties, then townships and municipal corporations.” Like the partisan fairness criterion, this criterion is also located in Article XIX Section 1(F)(3), and therefore goes into effect if a map is passed in the absence of a constitutionally mandated level of bipartisan support. This means that no congressional map should be drawn that unnecessarily cracks apart Ohio’s communities.

Relying on public input about how best to protect communities of interest across the state is key to understanding how best to protect against undue splitting. Hundreds of witnesses testified before the OCRC about the importance of keeping their neighborhoods and communities together. Using qualitative community of interest data collected by the OCRC and compiled by MGGG, the number of communities of interest kept together within district boundaries were maximized to the fullest extent.

## **COMPACT AND CONTIGUOUS**

Under Article XIX, Section (B)(3) of the Ohio Constitution, the territory of each congressional district must be compact and must be contiguous, with the boundary of each district being a single non-intersecting continuous line.

Each district in our proposed map is 100% contiguous and our map scores a 70% on the Dave’s Redistricting App compactness analysis, for a “Good” rating.

## **ADDITIONAL CONSIDERATIONS**

### *INCUMBENCY PROTECTION*

There are no incumbent protections in the Ohio Constitution as a criterion for congressional districts, and this was not a criterion considered for our proposed map. The absence of that

criterion was an important priority to reformers for any agreement on congressional redistricting, since preservation of the previous district boundaries was tantamount to making inevitable the preservation of the previous gerrymander.

#### *MINORITY REPRESENTATION*

Districts were reviewed to understand the extent to which minority voters can meaningfully influence elections. Following county and political subdivision split rules allowed communities of color to be drawn into compact districts and at the same time avoided packing and cracking. Minority vote dilution by packing or cracking was avoided. Packing is when minority voters are artificially concentrated into a small number of districts so that their overall electoral influence is weakened. Cracking splits minority communities and spreads minority voters thinly into many districts in which they have little or no electoral influence.

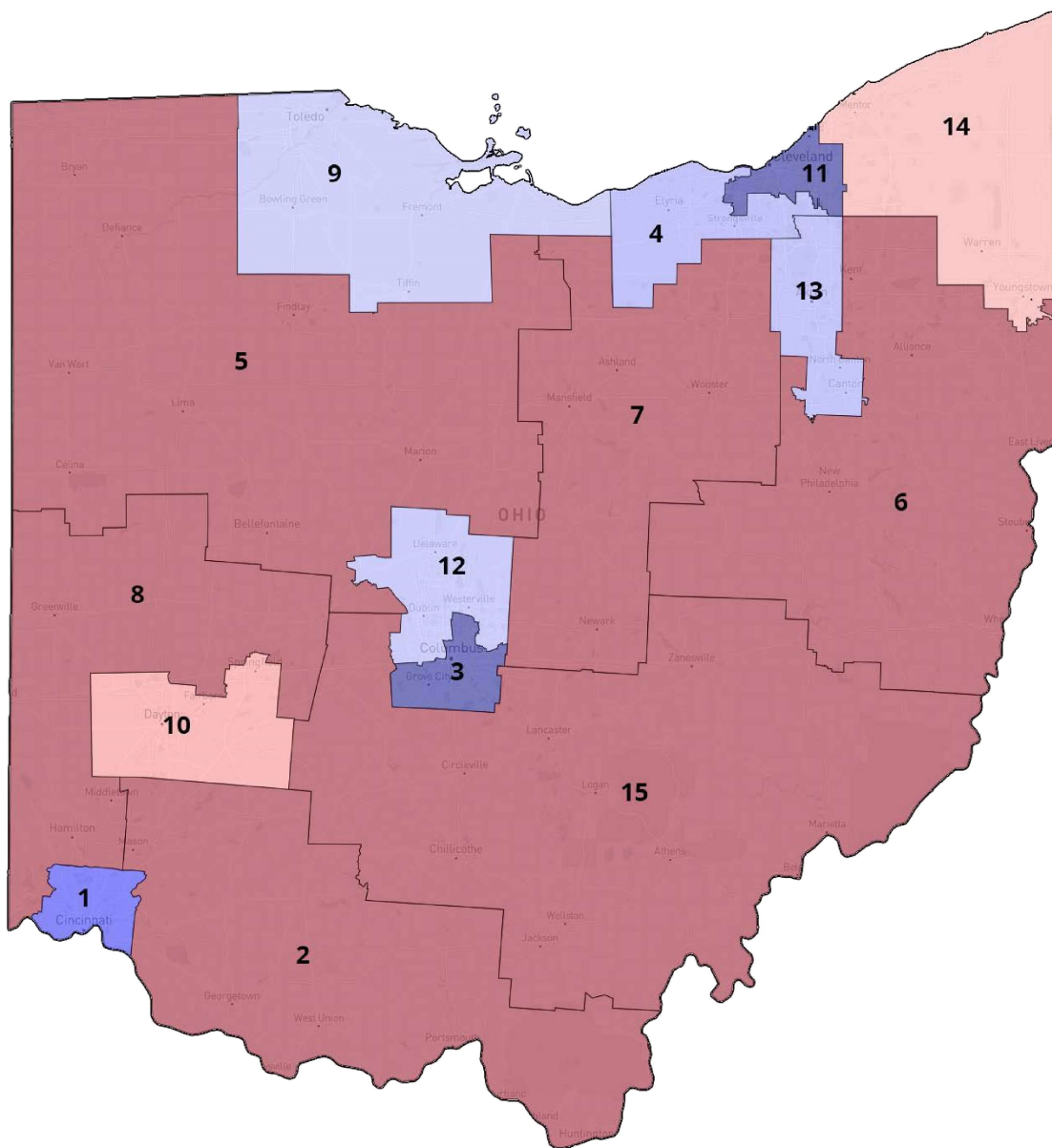
The Commission reviewed proposed the map to ensure that minority voters were fairly represented. The proposed map has three districts where minority voters have a substantial opportunity to be represented electorally. Exhibit B provides Black Voting Age Population (BVAP) numbers for those 3 districts, the People of Color Voting Age Population (POC VAP) and People of Color Total Population (POC Total Pop) and shows their location on relevant maps.





# PROPOSED CONGRESSIONAL UNITY MAP

The following map meets all of the relevant constitutional requirements. Those requirements include provisions that dictate how or if a political subdivision (including counties, townships, and municipalities) is allowed to be split apart and that require partisan fairness.



Key	
Dark Blue	Likely Democratic (60%+)
Light Blue	Lean Democratic (53-59%)
Pale Blue	Democratic Tossup (50-52%)
Pale Red	Republican Tossup (50-52%)
Light Red	Lean Republican (53-59%)
Dark Red	Likely Republican (60%+)

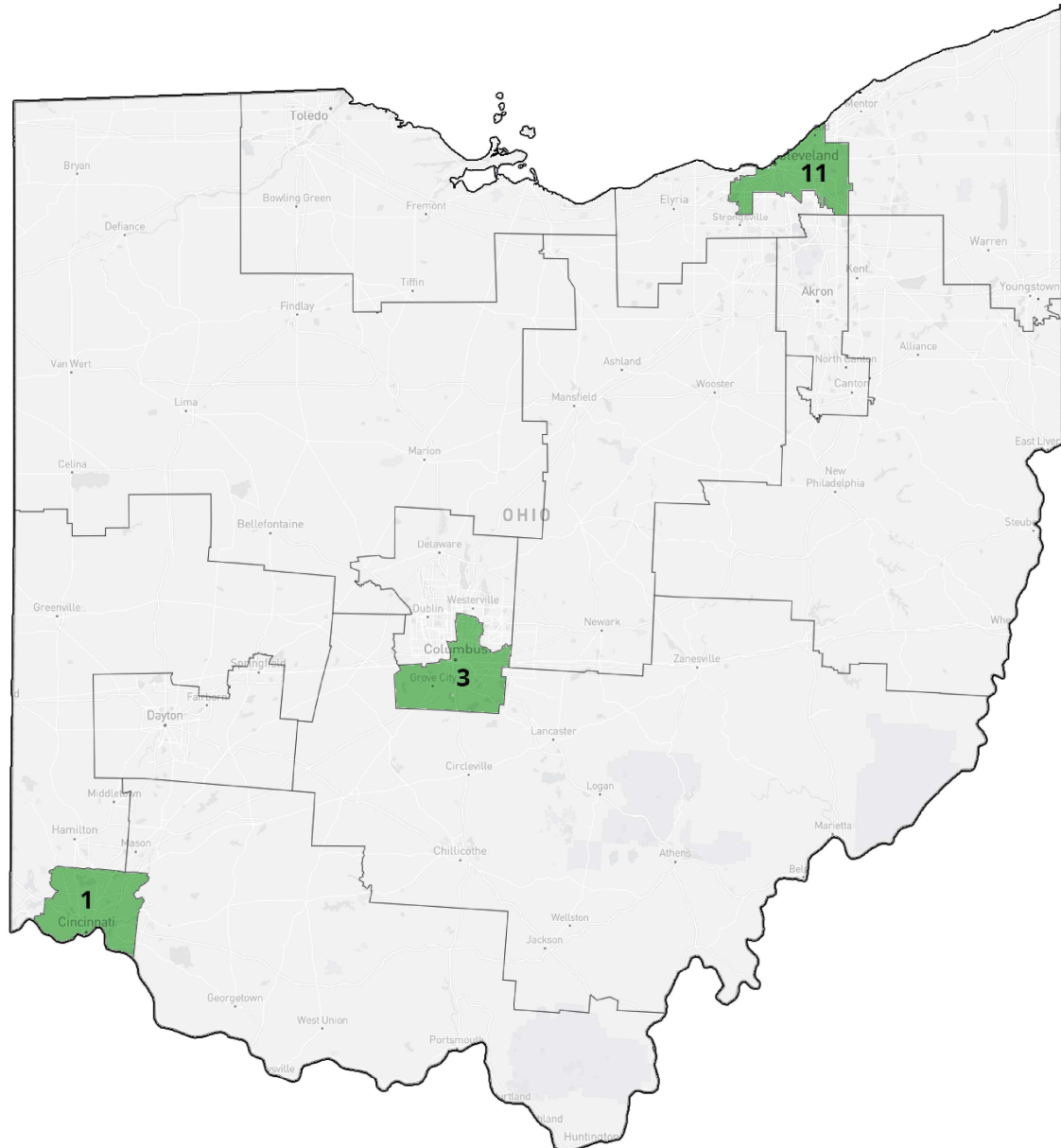


## EXHIBIT A: POPULATION COUNTS

### CONGRESSIONAL UNITY MAP

Congressional District Population Counts			
District	Region	Population	Deviation
1	Cincinnati	786,400	-0.03%
2	Southwest OH	785,937	-0.09%
3	Columbus	788,453	0.23%
4	Lorain	788,170	0.20%
5	Northwest OH	785,743	-0.11%
6	East-Central OH	786,039	-0.08%
7	Central-NE OH	785,663	-0.12%
8	Western-S OH	785,665	-0.12%
9	Toledo	785,767	-0.11%
10	Dayton	785,820	-0.10%
11	Cleveland	789,611	0.38%
12	Delaware-Franklin	788,516	0.24%
13	Akron Canton	786,079	-0.07%
14	YoungstownNorth	785,948	-0.09%
15	Central SE OH	785,637	-0.13%

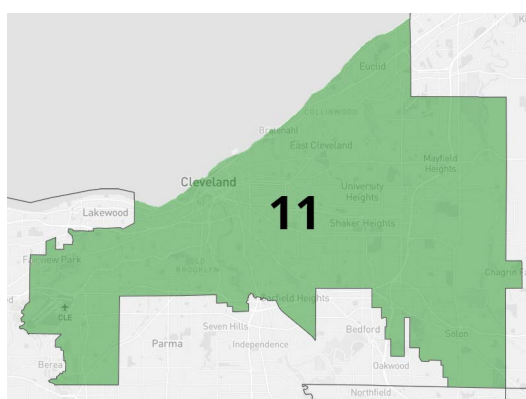
## EXHIBIT B: MINORITY REPRESENTATION CONGRESSIONAL UNITY MAP



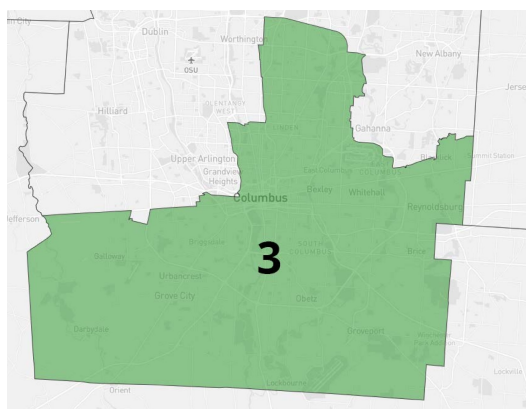
## EXHIBIT B: MINORITY REPRESENTATION CONGRESSIONAL UNITY MAP DISTRICTS

Congressional Minority Representation			
District	BVAP	POC VAP	POC Total Pop.
11	41.60%	53.49%	57.13%
3	32.38%	45.36%	50.54%
1	26.26%	35.48%	39.08%

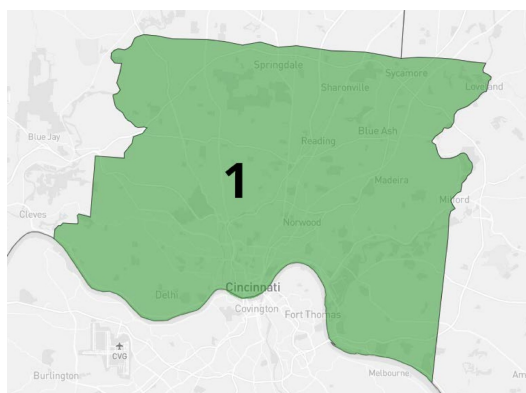
### DISTRICT 11 CLEVELAND



### DISTRICT 3 COLUMBUS



### DISTRICT 1 CINCINNATI



# ACKNOWLEDGEMENTS



*Thank you to all of our partners, contributors and every fellow Ohioan who lifted their voice in this process. Democracy is a practice that requires all of us.*

## **SPECIAL THANKS:**

Cathy Duval, Molly Shack, Prentiss Haney, Maki Somosot, Colleen Craig, Derrick Smith, Shaquiena Davis, Misha Barnes, Hannah Tyler, Carrie Coisman, Whitney Siddiqi and our partners at the Redistricting Data Hub: Louis Libert, John O'Neill, Andy Feldman, Jamie Atlas, Josh Cohen, Tim Lim, and George Cheung.

*"Nothing can stop the power of a committed and determined people to make a difference in our society."*

*Congressman John Lewis*



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# Transcript of Oral Argument

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IN THE  
OHIO SUPREME COURT  
  
LEAGUE OF WOMEN VOTERS OF OHIO, et al., :  
:  
Relators, : Case No.  
: 2021-1193  
v. : Original  
:  
OHIO REDISTRICTING COMMISSION, et al., :  
:  
Respondents. :  
  
Original Action Pursuant to Ohio Const. Art. XI  
  
Job No.: 418430  
Pages: 1 - 74  
Transcribed by: Christian Naaden



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

2 MARSHAL: All rise.

3 CHIEF JUSTICE O'CONNOR: You may be seated. A  
4 third case this morning, actually three cases  
5 consolidated, 21- -- 2021-1193, 2021-1198, 2021-1210,  
6 the League of Women Voters of Ohio et al., v. the Ohio  
7 Redistricting Commission, et al., Bria Bennett et al.,  
8 v. the Ohio Redistricting Commission et al., and the  
9 Ohio Organizing Collaborative et al., v. the Ohio Dis-  
10 -- Redistricting Commission, et al. For the relator,  
11 Ms. Levenson.

12 MS. LEVENSON: Good morning, Chief Justice  
13 O'Connor and may it please The Court. I will use the  
14 first 10 minutes to explain all three relators' claim  
15 under Article 12 -- 11, excuse, Section 6. Mr.  
16 Sutherland will then use 10 minutes to present the  
17 OOC's claim under Section 3. Relators reserve 10  
18 minutes for rebuttal by Mr. Stafford.

19 The last time that voters challenged an  
20 apportionment plan in this court in 2011, Wilson v.  
21 Kasich, The Court found that Ohio let constitutional  
22 language like that of Florida and other states

1 prohibiting political gerrymandering. The court, in its  
2 opinion, paragraph 14, specified the kind of language  
3 it would need. No apportionment plan shall be drawn  
4 with the intent of favoring or disfavoring a political  
5 party.

6 Ohio voters listened and in 2015 voted  
7 overwhelmingly in a bipartisan ba- -- basis to supply  
8 this, this and more language to end the scourge of  
9 gerrymandering in our state starting in 2021. But the  
10 Redistricting Commission refused to comply and enacted  
11 the egregiously partisan plan that's now before this  
12 court.

13 The issue here, whether Article 11, Section 6,  
14 in particular, is actionable. The only way the enacted  
15 plan can stand is if the respondents convinced you that  
16 Section 6 consists of empty words that they were free  
17 to ignore. But this provision is real and this court  
18 has the authority to enforce it. I'll address these  
19 things.

20 First, Section 6 is mandatory and enforceable.  
21 And second, that the Commission violated Section 6(B),  
22 the proportionality requirement and 6(A) the plan must

1 not favor requirement.

2 The text of Section 6 confirms that its  
3 standards are mandatory. We should look at the first  
4 and last sections to see that. The central section are  
5 the -- the standards that it sets forth.

6 Pointing first to the last sentence. Nothing  
7 in this section permits the Commission to violate the  
8 district standards described in Section, 2, 3, 4, 5 or  
9 7 of this article. Providing these exemptions to  
10 Section 6 would make no sense if Section 6 were not  
11 mandatory.

12 If not mandatory, it would be unnecessary to  
13 lift the occasions when Section 6 must be set aside. It  
14 would otherwise fall aside by itself in difference to  
15 any other mandatory provisions and the other provisions  
16 are mandatory. More clearly, this -- they're -- that's  
17 not being challenged here.

18 Instead, because it's mandatory, Section 6  
19 needs to contain this instruction telling when to set  
20 it aside to show its place in the hierarchy of  
21 standards. Section 6 --

22 JUDGE FISCHER: Hold on, let's talk about

1 standards. Nothing in the new Article 11 has the word  
2 burden of proof or standard of proof, does it?

3 MS. LEVENSON: Correct, Your Honor.

4 JUDGE FISCHER: And, so, as of Wilson v.  
5 Kasich, the standard would be beyond a reasonable  
6 doubt?

7 MS. LEVENSON: That was the standard in -- in  
8 that case, that the -- The Court determined applied,  
9 yes, Your Honor. But --

10 JUDGE FISCHER: And, so, there's no change  
11 because there's no language in the article; correct?

12 MS. LEVENSON: I would like to address that.  
13 First of all, whatever burden of proof there is, we've  
14 met it. But we believe that the ordinary civil  
15 preponderance of evidence applies here.

16 What changed is this: Kasich -- Wilson v.  
17 Kasich involved old Article 11. It didn't have language  
18 either stating the burden of proof. It did have a  
19 section that was construed here. There were district  
20 drawing provisions that were coequal and  
21 irreconcilable. The Commission could not honor one  
22 without violating another.

1           And The Court agreed that to correct the  
2           violation of one se- -- of one section would cause a  
3           violation of another. What's different, in new Article  
4           11, we don't have that situation. The hierarchy of  
5           standards is clear: There's no need to violate -- no  
6           cause, no permission to violate any of the standards in  
7           Article 11 as it exists today.

8           JUDGE FISCHER: Well, wouldn't we have to  
9           overrule a half a dozen cases to change it to  
10          preponderance?

11          MS. LEVENSON: I don't think so. I don't think  
12          so. I think you would look at Wilson and distinguish  
13          it. You would say that was construing previous Section  
14          -- previous Article 11 and -- and today Article 11 is  
15          different. The set of circumstances that we're facing  
16          here is also different.

17          Here, the -- the Commission isn't choosing  
18          between a rock and a hard place and -- and doesn't have  
19          any discretion to decide like, should we go this way,  
20          should we go that way. Discretion was afforded the  
21          Commission then.

22          Now, we have a Commission saying we -- we

1 don't think we have to comply with the -- this  
2 provision of the Constitution. So interpreting the  
3 Constitution is -- the Ohio Constitution is a job for  
4 this court not for the Commission.

5 JUDGE BRUNNER: Okay, Ms. Levenson. To your  
6 right. I'm -- I'm to your right, over here.

7 MS. LEVENSON: Thank you. It's so hard to tell  
8 with masks and -- yeah, sorry.

9 JUDGE BRUNNER: When -- when we look at that  
10 burden of proof, some of the rationale for why it has  
11 been beyond a reasonable doubt before, is that it's  
12 looked at as sort of legislative action.

13 Now, with the new process in Article 11, when  
14 we look at what the Redistricting Commission did -- was  
15 required to do and did, whether it be on its face in  
16 the statute or as applied as it really -- really  
17 occurred with the evidence here, would you consider  
18 this to be legislative action and is that a basis for  
19 looking at a different standard of review for --

20 MS. LEVENSON: I -- I would --

21 JUDGE BRUNNER: -- for proof I should say.

22 MS. LEVENSON: -- I -- I would think the --



1 the Commission hear the intent of the voters in  
2 enacting these standards that the Commission must  
3 follow, the job of the Commission was to follow these  
4 standards. And, so, it -- they were a- -- a- -- they  
5 were bound to apply these rules.

6 JUDGE BRUNNER: But I mean, when -- when we  
7 look at legislative action requiring and facing a  
8 constitutional challenge, re- -- re- -- requiring the  
9 highest standard of proof, I -- I mean, aren't there  
10 safeguards that go into that process with due  
11 deliberation, so many days of deliberation? And looking  
12 at the process of how this took place here, does this  
13 have the same safeguards that legislative action would  
14 for us to sort of presume its constitutionality?

15 MS. LEVENSON: I would say that what happened  
16 here does not deserve that presumption, does not merit  
17 that presumption because the process was not filed --  
18 followed. The Commission was to act in open.

19 The -- the -- the information was -- was not  
20 shared among the commissioners and the public was not  
21 involved in the process to the extent that the new  
22 Article 11 required. So if the -- the process did not

1 unfold the way the article required that it -- it --

2 CHIEF JUSTICE O'CONNOR: So --

3 MS. LEVENSON: -- it should not be --

4 CHIEF JUSTICE O'CONNOR: -- so what different

5 --

6 MS. LEVENSON: -- given --

7 CHIEF JUSTICE O'CONNOR: -- presumption

8 starting with, what I hear you say though, you don't

9 want to even -- if there is a presumption, it was not

10 f- -- the -- the process would negate the reliance on

11 that presumption. In other --

12 MS. LEVENSON: I think --

13 CHIEF JUSTICE O'CONNOR: -- words what --

14 MS. LEVENSON: -- it's a --

15 CHIEF JUSTICE O'CONNOR: -- happened here with

16 the drawing by the legislature and the activities of

17 the -- or lack of activities of the Commission, would

18 actually -- you're saying are sufficient to rebut that

19 presumption.

20 MS. LEVENSON: Thank you, Your Honor, for

21 putting it that way. I -- Chief Justice, I -- I -- you

22 know, I -- I -- I like what you said and -- and I think

1       that that's true.

2               JUDGE BRUNNER:   Is -- is that what you  
3       believe? I mean I --

4               MS. LEVENSON:   No, I do believe. You said it  
5       more artfully than -- than I had. Because, first of  
6       all, even if there were a presumption, it -- the facts  
7       rebut it. And I -- I don't know that -- that a -- a  
8       presumption of constitutionality should necessarily --  
9       perhaps the -- that this is the first time that -- that  
10      Article 11 has been construed.

11              And the question is, is it required to obey  
12      its precepts or not. This is a -- a -- this is the  
13      highest order of question that should go to a court not  
14      to a Commission to decide.

15              I was -- ex- -- to go back to where I was --  
16      was, I was talking about that it is mandatory,  
17      according to the way that it is written and the -- the  
18      voters intended it. I -- I'd like to point to the --  
19      the ne- -- the beginning of the provision because it  
20      bookends. I discussed the last created exceptions that  
21      would not need to be there if it were not mandatory and  
22      the first explains why those exceptions need to be

1       there as well.

2               Section 6 begins, the Commission shall attempt  
3       to draw a general assembly district plan that meets all  
4       of the following standards. Excuse me, the word shall  
5       is mandatory. And the word attempt doesn't diminish its  
6       mandatory force here. Those words are necessary to show  
7       how the Section 6 standards fit into the hierarchy of  
8       all of the Article 11 standards.

9               The word attempt here acknowledges that one  
10       can, indeed one must, deviate from the Section 6  
11       standards if required in order to meet the other  
12       standards as the last sentence says. So respondents  
13       here, in fact, could have and should have deviated from  
14       the Section 6 standards if and only if those other  
15       listed standards required them to do so.

16              But they have never asserted that there was a  
17       need to o- -- obey any other section of Article 11 that  
18       forced them to make their plan favor their party --

19              JUSTICE DEWINE: Could we -- could we -- let  
20       me take you back to the remedy thing, that -- I think  
21       where you started.

22              So 9 -- so -- so Section D1 provides -- D3,

1     excuse me -- surp- -- so- -- well, surprise us --  
2     provides remedies in the cases of violations of tex- --  
3     Sections 2, 3, 4, 5, 7. Your claim is under Section 6.  
4     There's no explicit reference to Section 6 in here as  
5     far as remedies.

6             Does that mean that we -- this court has more  
7     authority to do things? More flexibility for a  
8     violation of Section 6 than in any of the enumerated  
9     sections?

10            MS. LEVENSON: Well, does the scheme of  
11     Article 11 actually shows that Section 9(B) is the  
12     remedy that's provided for when a plan -- a legislative  
13     plan is found invalid by this court.

14            JUDGE DEWINE: Well, but -- but you do have a  
15     specific remedy provision here that talks about 2, 3,  
16     4, 5, and 7; right?

17            MS. LEVENSON: Yes. Yes, Your Honor.

18            JUDGE DEWINE: Right. So --

19            MS. LEVENSON: There --

20            JUDGE DEWINE: -- there's a violation of those  
21     sections then The Court -- The Court's power is  
22     limited, but if there's a violation of Sections [sic] 6

1 then we have much broader power, is that your position?

2 MS. LEVENSON: No, it -- they're -- they're  
3 limited in -- in both circumstances under Sec- --  
4 Section 9(D) the provisions -- the -- the limited ones  
5 that you're referring to, the -- the special ones for  
6 violations of those sections, The Court can either  
7 order the enactment of -- of a whole new plan under  
8 certain circumstances or it can order that the  
9 Commission redo districts, one to -- to three House  
10 districts or a -- two -- up to two Senate districts.

11 But under 9(B), that's a different remedy for  
12 -- for different situations. It's for -- it's the  
13 global remedy for violations not covered by 2, 3, 4, 5,  
14 or 7 --

15 JUDGE DEWINE: So -- so --

16 MS. LEVENSON: -- which would include 6.

17 JUDGE DEWINE: -- so -- so The Court has more  
18 authority when it comes to a violation of the provision  
19 that says the Commission shall try then it does the  
20 provisions that say explicitly what the -- what the  
21 Commission must do, is that how we sh- -- should read  
22 this?



1 MS. LEVENSON: Well, the -- the Commission  
2 shall try. It ne- -- needs to make an attempt. In this  
3 case, they didn't make an attempt. And I'd like to  
4 discuss what try means, what -- but it's not real- --  
5 more authority un- -- under 9(B), it's -- it's a --  
6 it's different a for- --

7 JUDGE DEWINE: Well, but I mean --

8 MS. LEVENSON: -- this is the global remedy.

9 JUDGE DEWINE: -- mean our -- our authority's  
10 pretty limited under -- under -- under D(3); right? I  
11 mean, it --

12 MS. LEVENSON: Well, in --

13 JUDGE DEWINE: -- we can only --

14 MS. LEVENSON: -- in -- in either case you can  
15 order the Commission to enact a new map. It's just that  
16 that's the --

17 JUDGE DEWINE: -- only for some violations --

18 MS. LEVENSON: Some violations under --

19 JUDGE DEWINE: -- so, 2, 3, 4, 5, and 7. But -  
20 -

21 MS. LEVENSON: -- un- -- under -- under 9(D),  
22 you can order the Commission to enact some new

1 districts or an entire map, depending on how isolated  
2 or pervasive the violations are. And under 9(B), you  
3 can do one of those remedies too. It's -- it's just a  
4 whole map. You just have one choice under 9(B). And  
5 9(B) is the remedy that is provided here for a -- for a  
6 legislative plan that violates Article 11.

7 It's parallel -- it's the same words to the --  
8 the remedy provided in Article 19 if a Congressional  
9 plan is -- is -- is invalid. I -- I see my light has --  
10 is -- has come on and I -- I -- I don't want to  
11 infringe on my co-respondent's time --

12 CHIEF JUSTICE O'CONNOR: Okay.

13 MS. LEVENSON: -- shall I answer the question  
14 or sh- -- or shall I [inaudible] --

15 CHIEF JUSTICE O'CONNOR: Answer the question.

16 MS. LEVENSON: Okay. So the -- the -- the --  
17 the fact that this is the scheme in the Constitution,  
18 in the Ohio Constitution for remedying an  
19 unconstitutional plan.

20 JUDGE DEWINE: So -- so -- so why did -- if --  
21 if we have 9(B), why did -- why are those other  
22 provisions necessary at all then?

1 MS. LEVENSON: Okay. Those other provisions,  
2 these are more tailored remedies because they can be  
3 the whole plan or -- or a partial plan that -- that is  
4 ordered. Are -- these are remedies that are specified  
5 for plans that violate just these certain sections. And  
6 these sections have to do with limiting political  
7 subdivisions, flips, assigning representatives and --  
8 and senators to districts

9 Many violations of these sections don't  
10 necessarily infect the whole map. The -- and -- and  
11 they may well be able to be fixed in a targeted way. So  
12 they receive, under 9(B) appropriately targeted  
13 remedies as provided, you know, a scapple or a  
14 sledgehammer, like which -- which do you have to do to  
15 fix these.

16 But a Section 6 violation is aimed at a  
17 systemic problem that -- a problem that affects a whole  
18 map. So the remedy for Section 6 doesn't belong under  
19 9(D), under the scheme. It's put under Section 9(B),  
20 which is the global remedy that provides for a new  
21 plan.

22 If we read Section 6(D) as the sole set of

1 remedies available, to The Court, under Article 11,  
2 then, there's no place for 9(B) at all. What's 9(B)  
3 even doing in the Constitution? Clearly, 9(B) is meant  
4 to be the global remedy for things that don't follow  
5 under 2, 3, 4, 5, or 7.

6 CHIEF JUSTICE O'CONNOR: Counsel, we -- we ar--  
7 -- the -- the argument that we, I'm sure will hear, is  
8 that 9(B) is -- excuse me -- that Section 6 is  
9 aspirational. That's -- you know, it's -- so it's not  
10 with the same force and affect as the other provisions  
11 in this constitutional amendment, that it's kind of an  
12 overarching, yet from what I'm hearing no remedy to a--  
13 -- address. I'm -- I'm not sure what it's even there  
14 for then. But -- but that's what I'm going to hear. So  
15 let's hear what you have to say on that.

16 MS. LEVENSON: Sure. I -- I mean the fact --  
17 people call it aspirational I -- I guess because the  
18 word attempt appears in there. But the word attempt can  
19 be very clearly understood to mean that the standards  
20 of Section 6 are only to be applied to the extent that  
21 they don't -- because it says, shall meet. You know,  
22 the -- the -- you know, the -- you shall meet these

1 unless. You -- you know, you should attempt to meet  
2 them. You need an excuse for -- for not meeting them.

3 And it -- that's why you need an attempt b- --  
4 so your excuse can be, if what you do under Section 6 -  
5 - under 6(A), (B) or (C) would cause you to violate any  
6 of these other provisions, these -- these technical  
7 specific exploiting provisions. It -- it -- it says you  
8 can't do that but to the extent that -- that you can,  
9 you must comply with Section 6, just that -- that --  
10 that determines the edge of your compliance.

11 JUDGE FISCHER: Counsel, let's -- let's go  
12 back to the word scheme that you used. In your  
13 compliant paragraph 44, in the Bennett compliant  
14 paragraph 42, and in the OOC compliant paragraph 54,  
15 all point us to Section 8, the impasse procedure;  
16 correct?

17 MS. LEVENSON: Yes, Your Honor.

18 JUDGE FISCHER: And, so, that's the one we're  
19 under and aren't -- and in the fact we're under  
20 8(C)1(a) which is the four-year plan?

21 MS. LEVENSON: Yes, Your Honor.

22 JUDGE FISCHER: Okay. Thank you.

1 MS. LEVENSON: And -- and, yes, Your Honor, if  
2 -- if what you're alluding is there's reference to some  
3 of the language from Section 6 in the -- the remedy  
4 when there's an impasse procedure, that's true but it  
5 doesn't include all of Section 6. It would leave  
6 completely unaddressed prong A or prong C. But, yes,  
7 we're in that impasse procedure.

8 And, frankly, that's another time when it --  
9 it seems obvious that Section 6 is meant to be  
10 enforceable because in an impasse the Commission is  
11 required to issue a statement under 8(C)2 explaining --

12 JUDGE FISCHER: Was there a --

13 MS. LEVENSON: -- why --

14 JUDGE FISCHER: -- statement enacted?

15 MS. LEVENSON: Yes, there was. It was in -- I  
16 -- I -- I don't know -- I don't want to infringe on my  
17 co- --

18 CHIEF JUSTICE O'CONNOR: [inaudible]

19 MS. LEVENSON: -- should I continue or --

20 CHIEF JUSTICE O'CONNOR: -- no, that's fine --

21 MS. LEVENSON: -- oh, okay.

22 CHIEF JUSTICE O'CONNOR: -- you can sit down.



1 MS. LEVENSON: Okay. Thank you --

2 CHIEF JUSTICE O'CONNOR: Thank you --

3 MS. LEVENSON: -- very much, Your Honor.

4 CHIEF JUSTICE O'CONNOR: -- thank you, very  
5 much. Mr. Sutherland.

6 MR. SUTHERLAND: Chief Justice O'Connor, may  
7 it please The Court, I'm Brian Sutherland for the Ohio  
8 Organizing Collaborative and our group of relaters. And  
9 I'm here to present our Section 3 claims and because of  
10 the importance and complexity of this case, I would  
11 like to have 10 minutes for those claims, if I may.

12 Our claims under Section 3(B) require  
13 compliance with the Ohio Constitution including its  
14 Bill of Rights as a districting standard. And  
15 violations of that districting standard require a  
16 remedy under Section 9(D)3(B) and 9(D)3(C). And I'll go  
17 right to the rule that I would like this court to adopt  
18 in connection with our Section 3 claims.

19 The court should hold that a plan violates  
20 Article 1 Section 2 when the plan causes a person's  
21 vote to have significantly diminish value without  
22 justification so that the person does not have an equal

1 opportunity to alter or reform their government by  
2 electing representatives to the General Assembly.

3 In determining whether a plan has  
4 significantly diminished the value of a person's vote,  
5 The Court should look at political party representation  
6 in the General Assembly and assess whether differences  
7 in representation caused by the districting plan are  
8 those that make a material difference in the ability of  
9 a political party to influence and enact legislation.  
10 And, of course, I'm talking here about the difference  
11 between supermajority representation, simple majority  
12 representation and only minority representation in the  
13 legislature.

14 And that's the difference in voting power that  
15 voters for the democratic party v. voters for the  
16 republican party have under this plan. We've shown that  
17 with the same share of the vote, the republican party  
18 with 54 percent of the state-wide vote would have a  
19 supermajority in the legislature as compared with only  
20 minority representation for the democratic party.

21 So that's a vast disparity in voting power.  
22 It's like if you were playing a game of basketball, one

1 side has a 10-foot hoop and the other side has a 15-  
2 foot hoop --

3 CHIEF JUSTICE O'CONNOR: Counsel -- counsel,  
4 the formula in the -- the Constitution is that you take  
5 -- at least the formula is that you take the 10 years  
6 and you identify the votes that are cast in a state-  
7 wide ballot for state-wide officeholders and that  
8 summation for both calculation turns out to be 54-46.

9 MR. SUTHERLAND: That's correct, Your Honor.

10 CHIEF JUSTICE O'CONNOR: Okay. If that's  
11 applied, if that's the guidepost, on -- on how to  
12 figure the rest of the apportionment, is that what  
13 you're arguing for or you say even that's not fair?

14 MR. SUTHERLAND: That's the Section 6  
15 proportionality claim --

16 CHIEF JUSTICE O'CONNOR: Right.

17 MR. SUTHERLAND: -- that the co- -- the  
18 proportion of districts should closely correspond to  
19 the state-wide preferences of the voters. And we have  
20 that claim also.

21 I'm here advocating a Section 3 equal  
22 protection claim which says, don't treat voters

1       unequally under the Section 3 line drawing rules. And  
2       that takes you to a slightly different place than the  
3       Section 6 claim. And I can illustrate that with  
4       numbers.

5               Under Dr. Ami's alternative maps, the average  
6       number of republican leaning districts was about 59.  
7       That's after following the Section 3 line drawing rules  
8       and avoiding cracking and packing voters into  
9       districts. But the enacted plan would award the  
10      republican party about 63 districts, which is a  
11      significant disparity as between simple majority  
12      representation and supermajority representation.

13             Now, Dr. Roden's map, this is the one where he  
14      attempted to comply with Section 6(B), takes you to 56  
15      republican leaning seats in the House. So that's the  
16      difference between 59 under equal protection and 56  
17      under Section 6, proportionality. That's the evidence  
18      in this case.

19             In terms of the standard of review, several  
20      reasons why you wouldn't have a presumption of  
21      constitutionality here. One is the infringement of  
22      fundamental rights. And when you're in that context,

1     which was not the context in Wilson, there was no equal  
2     protection claim in Wilson. When we're talking about  
3     the infringement of fundamental rights under the Ohio  
4     Constitution, those that are explicitly incorporated  
5     into Article 11 by Section 3(B)2, the standard ought to  
6     be Ohio's form of an Anderson verdict balancing test  
7     like the one discussed in State ex rel. Brown v.  
8     Ashtabula County.

9             Under a balancing test, The Court can look at  
10    the unequal treatment of voters on the one hand, and  
11    we've shown that because of the disparity in voting  
12    power, and then, second, look at whether that disparity  
13    is justified. If it's not justified, then the plan is  
14    unconstitutional and this court should order the  
15    Commission to enact a new one.

16            Respondents are about to argue that the line  
17    drawing rules themselves and the political geography  
18    justify the disparity in voting power. That's not  
19    correct. You can draw alternative maps. Dr. Ami has  
20    demonstrated that with 59 republican leaning seats  
21    under his alternative maps, those are ones that don't  
22    pack and crack voters into districts. And the harm from

1 packing is evident.

2 It should have been apparent when drawing this  
3 map, that if you take the supporters of a political  
4 group and put them into a district, they won't have the  
5 equal opportunity to obtain representation at the  
6 General Assembly level. They're also going to say,  
7 well, there's regionalized disproportionality in the  
8 counties.

9 The plan does gerrymander the counties but the  
10 relevant basis for assessment is at the state-wide  
11 level because the General Assembly and not 11  
12 representatives from Franklin County are the ones who  
13 make the laws for this state. And it's that disparity,  
14 that's the one that's important.

15 They're also going to tell you that these  
16 types of claims are not justiciable. That's not true.  
17 The states of Pennsylvania and North Carolina have  
18 adjudicated these types of claims under their state's  
19 constitution. This court can do the same. The Supreme  
20 Court's decision in Rucho [ph] should be viewed as a --  
21 a federalism decision, a decision that leaves these  
22 types of decisions to the states.



1           Here we are in the states and we've created an  
2   administrable standard for this court to apply. It is a  
3   case-by-case standard but it's one that The Court can  
4   adjudicate based on the evidence in front of you, the  
5   disparity in voting power, and a total lack of  
6   justification for that disparity as demonstrated by the  
7   comments on the record immediately after the hearing  
8   before the Commission.

9           CHIEF JUSTICE O'CONNOR: Counsel, in -- in  
10   your analysis, is there at any point a justification  
11   for the creation of the supermajority in a legislature?  
12   Not -- not just Ohio. In -- in the legislature?

13          MR. SUTHERLAND: Could -- in -- in any other  
14   state could there ever be a supermajority in the  
15   legislature or the [inaudible]?

16          CHIEF JUSTICE O'CONNOR: Theoretically. Is --  
17   is a supermajority a -- a -- to your way of thinking  
18   imposes an unconstitutional limitation on the  
19   representation of the voters?

20          MR. SUTHERLAND: Well, it would depend  
21   entirely on the state-wide vote.

22          CHIEF JUSTICE O'CONNOR: Okay. So you -- you -

1 - you -- there is the formula that you -- you're --  
 2 you're not abandoning the numbers here in Ohio, the 54-  
 3 46 numbers?

4 MR. SUTHERLAND: No. We're not saying that the  
 5 Sec- -- for the purposes of equal protection claim in  
 6 particular, for the Section 6 claim too, the point is  
 7 not that the Section 8(C)2 statement is wrong and that  
 8 the 54-46 ratio is incorrect. Under that set of  
 9 numbers, yes, the supermajority is unconstitutional. If  
 10 it were a different set of numbers, then the --

11 CHIEF JUSTICE O'CONNOR: Exactly.

12 MR. SUTHERLAND: -- supermajority would  
 13 potentially be --

14 CHIEF JUSTICE O'CONNOR: Could be --

15 MR. SUTHERLAND: -- constitutional --

16 CHIEF JUSTICE O'CONNOR: -- could be --

17 MR. SUTHERLAND: -- certainly --

18 CHIEF JUSTICE O'CONNOR: -- so you're not --

19 MR. SUTHERLAND: -- if there were --

20 CHIEF JUSTICE O'CONNOR: -- saying that the  
 21 supermajority's in and of themselves is a -- a concept  
 22 that is unconstitutional?

1           MR. SUTHERLAND: No, I'm not swaying that. I'm  
2 talking about the difference between the enacted plan  
3 and the plan that should have been enacted if voters  
4 were not cracked and packed into districts in the ways  
5 that you determine whether inequality and voting power,  
6 which essentially ought to be uncontested on this  
7 record, is justified.

8           The Section 8(C)2 statement to which Your  
9 Honor's referring is a good indication, by the way,  
10 that voters in Ohio strongly believed that political  
11 parties are a cohesive group. What you'll see from  
12 opinions like Rucho and respondents are about to argue,  
13 political parties, they'll say, they're not cohesive,  
14 people change their vote from year to year or they  
15 change their party affiliation.

16           In the aggregate, political party affiliation  
17 is stable but perhaps more importantly the voters in  
18 2015 sent a strong message that they believe, and they  
19 directed this court to conclude, that political party  
20 affiliation is a cohesive group. If they didn't  
21 conclude that, they couldn't have directed the  
22 Commission to calculate the 54-46 number that we're

1 talking about.

2 And you see that also reflected in Senate  
3 President Huffman's brief. It is a litany, it's a  
4 discussion of the settlement conference in which the  
5 parties discussed how many republican leaning districts  
6 should we have. How many democratic leaning districts  
7 should we have? The shared premised of that entire  
8 debate was that they knew to a certainty what the  
9 republican leaning districts would be.

10 So for the respondents, they cannot now tell  
11 you in the face of Section 8(C)2 that political party  
12 affiliation is not a basis on which to pack people into  
13 groups. That's exactly what they did.

14 And it doesn't take a political scientist to  
15 know that if you take people associated with a group  
16 and you pack them into a district, they will miss out  
17 on opportunities to have equal representation in the  
18 General Assembly with profound consequences for the  
19 laws of this state. The difference between majority and  
20 supermajority is certainly a significant one.

21 JUDGE FISCHER: You're also trying to make --  
22 over here -- a First Amendment freedom of speech,

1 freedom of assembly type argument; correct?

2 MR. SUTHERLAND: Those are injuries that  
3 likewise flow from the --

4 JUDGE FISCHER: But --

5 MR. SUTHERLAND: -- disparity in voting --

6 JUDGE FISCHER: -- that's your --

7 MR. SUTHERLAND: -- power, Your Honor.

8 JUDGE FISCHER: -- claim. What -- the fact  
9 align divides a county or concludes a county, how does  
10 that stop people from getting together and petitioning  
11 the government?

12 MR. SUTHERLAND: It doesn't stop petitioning,  
13 it discourages organizing. And it discourages --

14 JUDGE FISCHER: That doesn't stop them from  
15 getting together.

16 MR. SUTHERLAND: It doesn't stop them from  
17 getting together. That's right --

18 JUDGE FISCHER: Thank you.

19 MR. SUTHERLAND: -- Your Honor. It's -- it's  
20 the injury that was described in the affidavits of our  
21 clients. The ones that talk about people being  
22 discouraged because they don't think the government is

1     instituted for the equal protection and benefit. That's  
2     an associational injury. They can't injury -- organize  
3     and advocate and effectuate change the way they should.  
4     It's a right to alter and reform the government for the  
5     equal benefit and protection of people, that doesn't  
6     happen when people have totally unequal voting power.

7             CHIEF JUSTICE O'CONNOR: Thank you.

8             MR. SUTHERLAND: Thank you.

9             CHIEF JUSTICE O'CONNOR: Mr. Levenson. No, I'm  
10    sorry.

11            MR. STRACH: Mr. Strach.

12            CHIEF JUSTICE O'CONNOR: Yes. Mr. Strach.  
13    You'll have, I believe, 25 minutes. Is that what you've  
14    agreed to?

15            MR. STRACH: Yes, Your Honor.

16            CHIEF JUSTICE O'CONNOR: Okay.

17            MR. STRACH: Chief Justice O'Connor, may it  
18    please The Court, this case is about a General Assembly  
19    district plan that was the most constitutionally  
20    compliant of all the plans that the Commission  
21    considered. No plan that was filed by democratic  
22    members of the Commission fully complied with the



1 Constitution. Those other plans violated the anti-  
2 gerrymandering rules set forth in Sections 2, 3, 4, 5,  
3 and 7 of Article 11 of the Constitution.

4 These anti-gerrymandering rules are neutral  
5 rules limiting political discretion of map drawers by  
6 limiting how and when they can split counties and other  
7 political subdivisions. Testimony shows, in fact, that  
8 these rules alone prevented the ability to draw several  
9 republican leaning districts in northeast Ohio.

10 So this case is all about Section 6, the  
11 relaters have brought their claims under Section 6. We  
12 believe that Section 6 is most properly understood, and  
13 what I will refer to as a carrot and stick framework of  
14 Article 11 that the voters of this state created.

15 The stick in part is Section 6 through the  
16 remedy section of Section 9. You have to construe  
17 Section 6 and Section 9 together, but the stick is very  
18 limited. First, it doesn't apply if there's a 10-year  
19 map. And we believe that the voters did that so that it  
20 would promote a political compromise, it incentivizes  
21 both sides to come together -- if they want a 10-year  
22 map to come together and they don't have to worry about

1 Section 6 at all. If they can cut a deal, they can cut  
2 a deal, they've got a 10-year map. That's -- that's one  
3 of the carrots.

4 CHIEF JUSTICE O'CONNOR: So what -- what's the  
5 incentive for the minority party under that?

6 MR. STRACH: To get as good as deal as they  
7 can get because it's a 10-year map. And they don't have  
8 to worry about the uncertainty of the four-year map  
9 because the four-year map is a problem for both  
10 parties.

11 CHIEF JUSTICE O'CONNOR: How do you go about  
12 doing that, getting -- get -- get as good a deal as  
13 they're able to get, if they're the minority party in  
14 the Commission?

15 MR. STRACH: Through negotiation and  
16 compromise, which is exactly what happened here. The  
17 parties -- the commission members here, the legislative  
18 com- -- commission members even exchanged actual maps.  
19 They literally negotiated over how many republicans a -  
20 - a leaning districts -- you know, how many democratic  
21 when --

22 CHIEF JUSTICE O'CONNOR: Then don't they have

1 to start, though, if you're negotiating on some level  
2 playing field with the understanding of what's  
3 affecting the decision and my concern or question is,  
4 you have the -- voting tallies and for the state-wide  
5 officeholders it comes up to 54-46. Is that -- you  
6 under- --

7 MR. STRACH: That's if you look at votes cast.

8 CHIEF JUSTICE O'CONNOR: Well, that's what  
9 we're supposed to do.

10 MR. STRACH: Not necessarily.

11 CHIEF JUSTICE O'CONNOR: Okay.

12 MR. STRACH: The -- the Constitution uses the  
13 term election results --

14 CHIEF JUSTICE O'CONNOR: Okay.

15 MR. STRACH: -- that could mean votes cast.

16 CHIEF JUSTICE O'CONNOR: That -- right but  
17 that's one way of looking at it, I guess. And the other  
18 way is just one for one. You've got all these, you  
19 know, elected officeholders, they all go in the  
20 republican column and these elected officeholders go in  
21 the democratic and there's like 81-19, is that the  
22 percentage?

1 MR. STRACH: That's correct percentage.

2 CHIEF JUSTICE O'CONNOR: Okay. So then, you  
3 take those numbers, somehow mix them together and come  
4 up with what?

5 MR. STRACH: Well, Your Honor, there's --  
6 there's nothing in Section 6 that says the Commission  
7 has to make some sort of final determination, because  
8 what's important here, and what -- what I want to make  
9 sure The Court understands before I step away from the  
10 podium today, Section 6 does not apply if the  
11 Commission complies in a four-year map with the anti-  
12 gerrymandering rules, 2, 3, 4, 5, and 7. It simply  
13 doesn't apply.

14 Section 9 clearly provides that this court's  
15 authority is limited to anything regarding Section 6  
16 unless those anti-gerrymandering requirements are  
17 violated. Well, this case then is very limited. There's  
18 been no allegations, certainly no proof, that any of  
19 those anti-gerrymandering requirements were violated.  
20 None. It's so- -- solely focused on Section 6.

21 So this court doesn't have to interpret  
22 Section 6 in this case because on the allegations

1 alone, because there's no violation of the anti-  
2 gerrymandering requirements, then Section 6 is simply  
3 not applicable and -- and that makes sense within the  
4 carrot and stick framework of -- of Article 11.

5 The -- the Constitution says, look, if you're  
6 going to have a four-year map, you couldn't cut a deal,  
7 you couldn't have come to a compromise, Section 6 is  
8 there waiting to hit you over the head unless you  
9 follow the neutral rules in 2, 3, 4, 5, and 7. And if  
10 you follow those neutral rules, then we're going to  
11 assume that that limited your political discretion but  
12 otherwise Section 6 is not going to -- to apply.

13 And, so, I think it's important for this court  
14 to consider the fact that when you look at Section 9,  
15 the -- the people of the state not only changed the  
16 rules for the Commission, and in fact created the  
17 Commission and set forth this detailed rules of  
18 construction for how you draw the districts, they also  
19 changed this court's authority. And in some respects  
20 they limited this court's authority.

21 They said for instance, unlike before this  
22 court can't order a particular district. It can't order

1 a particular plan. All it can do is enforce the anti-  
2 gerrymandering requirements and if there's a violation  
3 there, then The Court has the authority to look at  
4 Section 6. So this is unlike Wilson v. Kasich in one  
5 sense in that -- in that case there was a question  
6 about whether the neutral rules were even violated. And  
7 --

8 JUDGE BRUNNER: Why -- why isn't Section 6 an  
9 anti-gerrymandering requirement?

10 MR. STRACH: Because it's not mandatory. And  
11 what it is, Your Honor, Justice Brunner, it is a  
12 potential stick over the majority if they don't follow  
13 the actual anti-gerrymandering rules. That's what that  
14 is. And, so, you have to scrupulously adhere to those.

15 And -- and what's stark about this case is all  
16 of the plans before the Commission that it actually  
17 considered, the adopted plan was the only one that did  
18 it. And -- and the record is replete with evidence that  
19 the other plans were either -- had non-contiguous  
20 portions or split counties or political subdivisions  
21 that they weren't supposed to under the detail rules,  
22 and there has literally been no allegation from the

1 beginning of this case that the adopted plan did any of  
2 that.

3 And, so, under the carrot and stick framework  
4 of Article 11, it worked. It worked. And how do I know  
5 it worked? Well, because the evidence shows that, let's  
6 just take the House map, the House plan. It started off  
7 with -- as introduced with 67 republican leaning  
8 districts in the house.

9 JUDGE BRUNNER: Which is more than the el- --  
10 number of elected republicans now at 65; correct?

11 MR. STRACH: That's correct, Your Honor. But  
12 that's what the political geography under this new  
13 census data, that's how that shook out. However, what  
14 happened was, a series of meetings, exchanging of maps  
15 and that was the compromise because everyone wanted a  
16 10-year map, so that's the carrot. And, so, everyone  
17 was trying to work towards a 10-year map. The  
18 democratic plan moved from 55 to 57 republican leaning  
19 districts.

20 The House plan went down from 67 to 62  
21 republican leaning districts. And then all of this --  
22 there was -- there was -- there was a -- a flurry of



1 meetings and activity right before the deadline to see  
2 if we can sort of meet in the middle. And it didn't  
3 happen. But what happened was, you had a less partisan  
4 leaning map that ultimately was adopted.

5 The Commission could have said, you know what,  
6 we can't cut a deal, we've complied with the anti-  
7 gerrymandering requirements, we're going to go back and  
8 we're going to adopt that 67 republican leaning House  
9 plan. We're going to do that because we can. They  
10 didn't do that.

11 They decided to stick with the -- to the  
12 extent the compromise had gotten them somewhere, they  
13 decided to go with a less partisan leaning plan and in  
14 my opinion, that is because of the carrot and stick  
15 framework of Article 11 and the Constitutional process  
16 reforms that the people enacted in this state worked.

17 JUDGE BRUNNER: Counsel, do you think there  
18 was any role for the commission members in the drafting  
19 of the plan beyond just up or down vote?

20 MR. STRACH: I -- I believe the commission's  
21 duty was to adopt a plan, that's an up or down vote.  
22 Now, various commission members were involved in

1 different ways. The Democratic commission members hired  
2 their own map [inaudible]. If The Court remembers, one  
3 of the visages of the old apportionment board is that  
4 there's a pot of money --

5 JUDGE BRUNNER: Right.

6 MR. STRACH: -- that the Democrat Caucus gets  
7 and the Republican Caucus gets.

8 JUDGE BRUNNER: Right. Right.

9 MR. STRACH: So they actually had money to go  
10 hire people and they did and that's where most of the  
11 negotiations took place. The statewide elected  
12 officials had some involvement and conversations, but  
13 the --

14 JUDGE BRUNNER: Well -- and according to the  
15 secretary of state, his role was extremely limited and  
16 -- and to the point of being excluded.

17 MR. STRACH: Well, I know the evidence shows  
18 that he was involved in a lot of meetings, he had a lot  
19 of conversations and at the end of the day, he voted --  
20 Secretary of State LaRose voted for the plan and he  
21 testified that he believes it's constitutional.

22 MR. DONNELLY: That's true, Counsel, but

1 doesn't the record demonstrate that Secretary LaRose  
2 was extremely frustrated and he only did that just to  
3 go along with that partisan vote, but that he was  
4 extremely frustrated throughout the entire process, as  
5 was Governor DeWine about not being included in the  
6 actual process or being allowed to have representatives  
7 as well during the mapmaking process?

8 MR. STRACH: But Justice Donnelly, I -- I  
9 think it's a fair characteri- -- characterization of  
10 how he described his- -- himself that he was  
11 frustrated. I -- I think that's certainly fair to say,  
12 however, I also know that no requests that he made to  
13 Speaker Cupp or to President Huffman was denied, not  
14 any direct request.

15 And so -- and I know that the evidence shows  
16 that he was very involved in the -- in the final week  
17 or so in the negotiations when everybody was talking to  
18 everybody and there's just -- it was a flurry of  
19 activity and I want The Court to understand that's how  
20 this process works and -- and to the extent that --  
21 that they wanted to influence it, they certainly had  
22 the opportunity, but at the end of the day --

1 JUDGE BRUNNER: And how -- how do you -- I  
2 mean, he -- he voted for it, obviously, his  
3 characterization, based on the emails that are in  
4 evidence is the plan is asinine.

5 MR. STRACH: Correct. That's his words.

6 JUDGE BRUNNER: Okay. And then you have the  
7 governor saying something about in his heart or -- or  
8 he believed that they could've negotiated a more  
9 constitutional plan. So a more constitutional -- isn't  
10 something either constitutional or it's not?

11 MR. STRACH: Correct.

12 JUDGE BRUNNER: I mean, you -- you know -- you  
13 know, nibble around the edges of -- of a provision and  
14 say, well, it's kind of constitutional.

15 MR. STRACH: I -- I believe -- Your Honor, I  
16 totally agree with your -- your point of view on that,  
17 but I -- and I would also say that Governor DeWine also  
18 testified in the deposition that he believes the plan  
19 was constitutional.

20 JUDGE BRUNNER: Well, now after voting for it  
21 and -- and, you know, obviously, along party lines  
22 here.

1           MR. STRACH: That's correct. We -- the -- the  
2       legally relevant action here is the vote. The vote was  
3       the vote, that's what adopted the plan. What people  
4       said about it we believe is -- is legally ir- --  
5       irrelevant. The newspapers like that, but we don't  
6       believe it has any role in The Court's decision in this  
7       particular matter.

8           JUDGE BRUNNER: Excuse me, are you advocating  
9       that -- that the 81 percent of -- you know, for -- for  
10      the definition of the election results, are you  
11      advocating that it should be 81 percent to 19 percent  
12      as opposed to 5- -- 54 percent to 46 percent?

13          MR. STRACH: Your Honor, the 81 percent, as  
14      part of that Section 8C2 statement, that's simply an  
15      analysis. So the commission said, we don't -- we don't  
16      really know what election results means in the section  
17      of the Constitution. One way of looking at it is this  
18      81-19 figure. Another way of looking at it is votes  
19      cast, that's 54-46.

20                So we're going to look at both of them, we see  
21      our plan is in the middle. In fact, it's closer to the  
22      54-46 than to the 81. We think, in our discretion, that

1       that closely corresponds.

2               CHIEF JUSTICE O'CONNOR: But the 81-19, if  
3       you're -- because then you get, you know, all the  
4       officeholders in -- for every office for Republican  
5       that was Re- -- Republican victory, you put them in the  
6       Republican column and there's no equivalent number --  
7       or representation of all of the other party, Democrat  
8       or Democratic-leaning independents that voted.

9               There's no accounting for their vote when you  
10      go to the 81-19 in each one of those offices. You're --  
11      you're not accounting for the vote that was cast for  
12      the other candidate.

13              MR. STRACH: That -- that's absolutely  
14      correct. That's why we -- that's why they looked at it  
15      both ways and unfortunately, Section 8 is not very  
16      clear on how to do this analysis, but certainly, the  
17      voters could've put very specific language -- there's  
18      formulas you can use, they could've put a math equation  
19      in there and said, hey, here's how you do it.

20              They didn't do that. They left vague language  
21      that the commission had to interpret and the -- the  
22      commission frankly did the best job they could under

1 the circumstances that they had. Drawing districts,  
2 adopting plans like this, it's hard work.

3 It is hard work. You're talking about 132  
4 districts that have to be based on geography and we've  
5 pointed out that in this state, in -- in the House  
6 plan, 81 counties and in the Senate plan, 83 counties  
7 are politically the same, that you -- you can't draw  
8 different districts in those.

9 So you're literally looking at just a handful  
10 of counties in each plan. And so remarkably, between  
11 the Democratic proposal and the Republican proposal,  
12 there were only five districts that differed in terms  
13 of the political leaning in the House and only three in  
14 the Senate. So you're talking about a total of 8 out of  
15 132 districts where the parties differed as to what  
16 should happen, how -- where the lines should go.

17 That's a remarkable outcome in a state like  
18 Ohio with that many districts and the kind of political  
19 pressure that each member -- you've got to remember,  
20 each of these commission members is -- is an elected  
21 official in his or her own right and they have  
22 constituencies that they otherwise have to go to.



1           And so I -- I believe that Article 11 and the  
2     framework that it set up worked. It -- it created  
3     opportunities for compromise, it incentivized  
4     compromise, it had a hook -- a -- a -- a stick out  
5     there that could be used if you didn't file an anti-  
6     gerrymandering rules and at the end of the day, the  
7     people got a less partisan plan.

8           It may not be the plan that the relaters want,  
9     it may not be the plan that the relaters' computer  
10    algorithms might spit out, but it is a plan based on  
11    the people of Ohio and their elected representatives  
12    trying to come together and trying to work it out.

13          JUDGE BRUNNER: So in the -- in the computer  
14    program that Ray Dirossi who was working for, I  
15    believe, the House -- or the Senate -- the Senate was -  
16    - was using, there was a little box in -- in the  
17    window.

18          So every time he changed the lines of the  
19    precincts it gave him that proportionality of what the  
20    registration, Democrat, Republican, would be of those  
21    voters. If -- if that's the case, why do we have to  
22    ignore it?

1           MR. STRACH: Well, he didn't ignore it. So  
2 actually, in this case, what the evidence reflects,  
3 Justice Brunner, is that both the Democrats and the  
4 Republicans created an index using election data that  
5 they had publicly available from 2016, '18 and '20 and  
6 they used the same races and they actually did that so  
7 they could make apples to apples comparisons among the  
8 maps.

9           So they -- yeah. They -- they looked at it,  
10 because a compromise wasn't going to be reached as a --  
11 as a practical matter unless each side had a similar  
12 understanding of what the political lean was of this  
13 district v. that district. So he did -- he did look at  
14 that. The Democrats looked at that equally.

15          JUDGE BRUNNER: But I -- I think he -- I think  
16 he said he was instructed to and that he did ignore it.

17          MR. STRACH: No. No. He -- well, he -- he was  
18 not instructed to try to comply with Section 6, he was  
19 instructed to make sure that the anti-gerrymandering  
20 rules were followed and that the commission, if any  
21 role was to play with Section 6, that would be the  
22 commission, not him. I -- I think -- I think that's

1       probably where -- where that testimony is coming from.

2               I do not recall him saying he didn't look at  
3       the political data, he had to, everybody did, because  
4       that's how the negotiations occurred. Each district was  
5       scored in terms of its partisan lean u- -- using the  
6       data that the Constitution contemplates and then the --  
7       the -- the -- the Democrats and the Republicans would  
8       then compare maps and haggle over it. That's just how  
9       it happened.

10              CHIEF JUSTICE O'CONNOR: Counsel, is -- I  
11       thought the testimony was that Section 6 was not even  
12       in the equation, was not even being considered by the  
13       map drawers and the same thing with the -- their  
14       bosses, the folks that gave them the instruction on  
15       what to do and how to do it here.

16              MR. STRACH: The -- the -- the map drawers  
17       were told, you need to comply with two, 3, 4, 5 and 7  
18       for sure --

19              CHIEF JUSTICE O'CONNOR: Okay.

20              MR. STRACH: -- because if you don't comply  
21       with those, Section 6 might come into play. So that was  
22       their job.

1 MS. STEWART: Well, why isn't Section 6 in  
2 play?

3 MR. STRACH: Be- -- because Section 9 clearly  
4 states that unless there's a violation of 2, 3, 4, 5 or  
5 7, This Court has no authority to do anything about  
6 Section 6. And so the -- the -- the instruction to the  
7 map drawers, be sure scrupulously adhere those rules,  
8 we don't want something like Wilson v. Kasich where  
9 there's arguing over whether we violated the neutral  
10 rules. We don't want that.

11 Comply with those rules to the letter and if  
12 Section 6 is to come into play at all, the commission  
13 members, who are the politicians, they'll deal with  
14 that.

15 JUDGE BRUNNER: But -- but that's only for a  
16 four-year map.

17 MR. STRACH: That's correct.

18 JUDGE BRUNNER: So -- so were they  
19 anticipating a 4-year map because they didn't want --  
20 want to do a 10-year map?

21 MR. STRACH: That's why this process is so  
22 hard, Justice Brunner. They had to interpreted -- they

1 had to expect everything. They -- they all wanted a 10-  
2 year map, that's very clear, but it's tough, you're --  
3 you're trying to -- you're trying to get a deal on a  
4 10-year map but you know out in the back of your mind  
5 we might not have a deal, so we've got to be thinking  
6 about a 4-year map.

7 JUDGE BRUNNER: So he was looking at the  
8 numbers in the window then; right?

9 MR. STRACH: Yes. He and the Democrats were,  
10 everybody was, they had to. That's the only way you  
11 could negotiate. That's the only way you could come up  
12 with a compromise.

13 And so everybody was doing that and then the  
14 point I'm making here today is that because the anti-  
15 gerrymandering rules were followed, Ohio has a less  
16 partisan map than they might otherwise have had because  
17 of the efforts that compromised negotiations over those  
18 -- those partisan leans of the districts.

19 And I -- I do want to point out that, you  
20 know, if you -- if there is a violation of the anti-  
21 gerrymandering requirements, Section 6 is not a dead  
22 letter. We're -- we're not arguing that Section 6 is

1     like some -- the appendix in the body that is just of  
2     no use and it's just out there hanging.

3             It's of use, because if you violate the --  
4     those requirements, then the -- This Court then,  
5     depending on the extent of the violations of those  
6     requirements, it has the authority to potentially order  
7     a redraw based on that alone and that would be a  
8     significant situation to be in and I believe the good  
9     thing here in this case in -- in -- in 2021 is that  
10    because there are no such violations, This Court  
11    doesn't have to grapple with the very hard situation  
12    of, okay, are we going to order -- are we going to  
13    mandate proportional representation?

14            And we've got to think through if we're going  
15    to do that -- if 81 and 83 counties are basically  
16    politically the same, we're going to -- we're going to  
17    -- we're going to order that we're going to fight  
18    gerrymandering by gerrymandering in the urban counties.  
19    Is that really what we want to do.

20            JUDGE BRUNNER: But do -- do we ignore the  
21    word shall? Do we ignore -- we ignore that -- at least  
22    under 6A, that they shall attempt?

1           Because it -- this is -- essentially, we can  
2   tell from the language that two, three, four, five and  
3   seven are paramount and when we've accomplished those,  
4   we're also supposed to look for whatever attempt was  
5   required to be made to deal with sort of the icing on  
6   the cake, which is the proportionality and -- and it's  
7   clear from the evidence that that didn't happen.

8           MR. STRACH: Justice Brunner, we would  
9   respectfully disagree with that interpretation of  
10   Article 11. You can't -- we don't believe that you can  
11   interpret Section 6 outside of also Section 9, which  
12   talks about what the 40 that This Court has.

13           Now, in terms of an attempt -- but even  
14   irrespective of that -- even irrespective of that, you  
15   know, attempt means basically a try.

16           It says, shall attempt, but attempt clearly  
17   modifies shall and in the other sections, two, three,  
18   four, five and seven, it just says shall.

19           So those are clearly mandatory and you -- we  
20   can't say that shall attempt means shall, otherwise it  
21   would read the word attempt out. So that can't be the  
22   case.



1           So attempt means to try and we believe that in  
2     this particular case, the process of negotiating and  
3     compromising, coming down from 67 to 62, trying to find  
4     that common ground -- that middle ground, that -- that  
5     certainly that is an attempt to move yourself towards  
6     the other side's position and that's what we think the  
7     carrot and stick approach of Article 11 is designed to  
8     do.

9           It's to try to incentivize each side to move  
10    towards each other and that -- that clearly happened  
11    here. There's -- there's this -- it's -- it's  
12    undisputable, evidentiary wise, that that is -- that  
13    that is what happened here. And so we -- we think that  
14    that is -- is how Article 11 was designed to work.

15          Article 11 was really process-oriented reforms  
16    and even the ballot language suggests that, that it was  
17    basically designed to set up a process that would make  
18    it harder to so call gerrymander; right? And it did  
19    that. It did that. It resulted in a less partisan map  
20    that the people of the state can be proud of.

21          CHIEF JUSTICE O'CONNOR: All right. Counsel,  
22    let's say we disagree with you and This Court orders

1 the commission to start over; okay? Then what happens,  
2 they come up with a new map?

3 MR. STRACH: Well, it would depend on what the  
4 basis of The Court's ruling was.

5 If The Court says, well, we -- we just -- we  
6 say Section 6 is -- is mandatory regardless of Section  
7 9, if The Court says, Section 9 -- 9 doesn't matter,  
8 we're going to limit Section 6 on its own, This Court  
9 then has to provide some guidance to the commission  
10 that --

11 CHIEF JUSTICE O'CONNOR: Okay. And what type  
12 of guidance would you think that would be?

13 MR. STRACH: The -- the -- the -- the Section  
14 6 does not define what it means by the statewide  
15 preferences. That could be done -- that can be  
16 calculated 100 different ways.

17 CHIEF JUSTICE O'CONNOR: So The Court then  
18 would determine what that means?

19 MR. STRACH: They would have to determine what  
20 that means, they would have to determine what closely  
21 corresponds means.

22 CHIEF JUSTICE O'CONNOR: Okay. And then say

1 The Court put that all in -- in opinion, issued those  
2 directives, then what happens?

3 MR. STRACH: Well, one of two things happens,  
4 either the commission tries to comply, if it can, or  
5 the commission or certain parties decide to go to the  
6 U.S. Supreme Court and say, no, this Ohio Supreme Court  
7 is -- now orders to violate the federal law by  
8 gerrymandering in the urban counties because we can't  
9 gerrymander in the urban-rural counties.

10 So I -- I think The Court, in this case,  
11 because the anti-gerrymandering rules were scrupulously  
12 complied with -- The Court has -- doesn't have to go  
13 anywhere near those questions this decennial census and  
14 those are questions for another day. And Your Honor, it  
15 looks like my time -- it looks I'm passed my 25  
16 minutes.

17 JUDGE BRUNNER: Well -- and one question to  
18 follow-up here --

19 CHIEF JUSTICE O'CONNOR: Yeah. You can.

20 JUDGE BRUNNER: -- the -- how does Rucho  
21 affect that if you go to the U.S. Supreme Court?

22 MR. STRACH: The -- well, Common Cause v.

1 Rucho says that you -- there -- there's no -- you can't  
2 go to federal court for a claim of partisan  
3 gerrymandering under the Equal Protection Clause.

4 That doesn't mean, though, that a state  
5 supreme court might not violate the Equal Protection  
6 Clause in a way that's reminiscent of a case called  
7 Larios ver- -- v. Cox where the -- the -- the -- the --  
8 the parties there, through tactics such as double-  
9 bunking and -- and manipulating population numbers,  
10 hurt one party of the other.

11 That -- that -- that might still be a -- a  
12 claim if a state supreme court ordered a commission to  
13 do what the relaters are asking The Court to do.

14 CHIEF JUSTICE O'CONNOR: Okay. But let- --  
15 let's just say we get to the point where the commission  
16 has drawn a new map, all right --

17 MR. STRACH: Yes.

18 CHIEF JUSTICE O'CONNOR: -- then what happens  
19 with that map? Is it subject to litigation? Is it --

20 MR. STRACH: In -- in my world, every  
21 redistricting plan is subject to litigation. Generally,  
22 it's challenged. I -- I assume it could be, I -- I --

1 but I don't -- I'm not following, Chief Justice.

2 CHIEF JUSTICE O'CONNOR: Well, it -- I mean,  
3 we're here because of the map that the general assembly  
4 drew and -- which was approved by the commission --  
5 adopted by the commission; right?

6 MR. STRACH: It was drawn by the commission  
7 and adopted by the commission.

8 CHIEF JUSTICE O'CONNOR: Well, the general  
9 assembly's version, let's put it that way, was  
10 accepted.

11 MR. STRACH: I -- I wouldn't say that's  
12 necessarily fair. It was a -- it was a -- it was a  
13 negotiated effort by many of the commission members. It  
14 was certainly -- the -- the Maptitude program was  
15 certainly operated by staffers for the general assembly  
16 on both the House and the Democratic side.

17 CHIEF JUSTICE O'CONNOR: Okay. So that's put  
18 to the commission. We've rejected, for some reason, we  
19 send it back with complete instructions on where we  
20 find the issues and what we believe is the remedy, then  
21 it goes back to the commission for them to create a new  
22 map; right?

1 MR. STRACH: Right.

2 CHIEF JUSTICE O'CONNOR: Okay. And -- and  
3 obviously, if that's unchallenged, that becomes the --  
4 the redistricting; okay?

5 MR. STRACH: Correct.

6 CHIEF JUSTICE O'CONNOR: If it is challenged  
7 and it's back here, this could go on forever?

8 MR. STRACH: Ad nauseum. Yes.

9 CHIEF JUSTICE O'CONNOR: Okay. All right.

10 MR. STRACH: Yes.

11 CHIEF JUSTICE O'CONNOR: I just wanted to make  
12 sure that that was the -- but we're also under time  
13 constraints; all right?

14 MR. STRACH: Correct.

15 CHIEF JUSTICE O'CONNOR: So tell me how that  
16 impacts here.

17 MR. STRACH: Well, at some point, if the state  
18 of Ohio doesn't have valid legal redistricting plans,  
19 someone could go to federal court and say the state of  
20 Ohio can't get their stuff together, so federal judge,  
21 you please draw the map.

22 CHIEF JUSTICE O'CONNOR: You think that's --

1 MR. STRACH: That could happen.

2 CHIEF JUSTICE O'CONNOR: Okay.

3 JUDGE BRUNNER: At -- at the same time, we're  
4 -- all of us are coming upon a February 2, 2022 filing  
5 deadline. So in the 2020 election, the question of the  
6 primary, during the pandemic and changing the date of  
7 the primary, was, under those factual circumstances,  
8 found to be within the purview of the Legislature.

9 So what happens there? Does This Court, under  
10 these circumstances, have any ability to change that  
11 filing deadline or the primary election date or is that  
12 solely with the purview of the Legislature?

13 MR. STRACH: We -- we believe it's solely  
14 within the purview of the Legislature, but obviously,  
15 This -- This Court has its own authority, but we think  
16 that that would be in the purview of the Legislature.  
17 So we think The Court would be prudent to act within  
18 the existing deadlines.

19 CHIEF JUSTICE O'CONNOR: All right. Thank you.

20 MR. STRACH: Thank you.

21 CHIEF JUSTICE O'CONNOR: Mr. Clark, I see  
22 you've got five minutes.

1 MR. CLARK: I can -- Chief Justice O'Connor,  
2 may it please The Court, I can be brief.

3 CHIEF JUSTICE O'CONNOR: No. Take your five.

4 MR. CLARK: Thank you, Your Honor. I'd like to  
5 focus a little bit on the language of the Constitution,  
6 again, and respond to a couple of assertions made by  
7 opposing counsel. Section 9B is not a grant of remedial  
8 power to This Court. Section 9B is what constructs the  
9 commission on what it is to do if The Court invalidates  
10 a plan.

11 How -- when a court can invalidate a plan is  
12 found in Section 9D. Section 9D is not a -- a  
13 subsection that is specific to violations of Sections  
14 2, 3, 4, 5 or 7, it starts with a blanket statement, no  
15 court shall or- -- order, in any circumstance, the  
16 implementation or enforcement of any general assembly  
17 district plan that has not been adopted by the  
18 commission in the manner prescribed by this article.

19 So Section -- Subsection D is not a -- a -- a  
20 -- a -- a section dealing with a certain number of mi-  
21 -- technical requirements in Article -- or Article 11,  
22 it is a blanket prohibition against doing something



1       regardless of when -- regardless of what reason, then  
2       goes on to talk about okay, now when can The Court do  
3       something and that's when -- when Section 9D starts to  
4       reference the sections of Article 11 on which The Court  
5       can act.

6               And it's important to note that there is a  
7       time for consideration of the Section 6B standard by  
8       This Court, but that -- but that time is only when you  
9       have a 4-year map and there has been significant  
10      violation of the anti-gerrymandering Sections 2, 3, 4,  
11      5 and 7. When that happens, This Court is empowered to  
12      consider the Section 6B standard, but only in that  
13      case, only when that happens.

14             I would like just to turn as well to Section 6  
15      itself and the assertion that shall means that there is  
16      a mandatory requirement that is only bounded by an  
17      inability to comply with Sections 2, 3, 4, 5 and 7.  
18      Section 6 could have been written much more simply if  
19      that were the proper interpretation.

20             The entire first sentence of Section 6 could  
21      have gone away and we could -- and the -- and the  
22      people of Ohio in enacting this section could've just

1 started with the map shall not favor a pol- --  
2 political party, the map, etc., etc., Sections A, B and  
3 C. That could've been the start, but instead the  
4 amendment starts with shall attempt.

5 Likewise, because -- and the reason that works  
6 is because we always -- we -- we have the limiting  
7 sentence at the end that says, okay, you don't have to  
8 comply with this if you -- you -- you -- you shouldn't  
9 not comply with Sections 2, 3, 4, 5 and 7 in order to  
10 comply with 6, that's clear already without the first  
11 sentence of Sec- -- Section 6, which must mean  
12 something and that --

13 What it means, as we -- as -- as is in the  
14 briefs, is an -- an attempt, a try, something that  
15 happens sometimes without success. So ultimately, the -  
16 - ultimately, The Court has to ask whether it wants to  
17 weigh into allegations of proportionality untethered by  
18 -- by standards that are -- that are discernable.

19 And Section 9D makes clear that the people of  
20 Ohio decided that should not happen in this instance.  
21 Rather, since the -- the -- the maps complied with  
22 Sections 2, 3, 4, 5 and 7, as everyone agrees, the

1 inquiry ends there. Thank you, Your Honor.

2 CHIEF JUSTICE O'CONNOR: Thank you. All right.  
3 Mr. Stafford, you're taking 10 minutes?

4 MR. STAFFORD: That's correct, Your Honor. May  
5 it please The Court, my name is Ben Stafford.

6 I am here today on behalf of the Bennett  
7 relaters and I want to start by emphasizing some of the  
8 key points that after the party's arguments thus far, I  
9 don't think are in dispute. There's been on defense of  
10 the plan passed on the merits, it's only been about  
11 This Court's power to address that plan.

12 So what's not in dispute, map drawers were not  
13 directed to comply with Section 6. There was in fact no  
14 attempt made to comply with Section 6. At most was  
15 attempted was the politics as usual deal that  
16 ultimately fell apart in the end, Republicans  
17 attempting to get as many seats as possible that  
18 Democrats would stomach and sign off on.

19 That, at best, was what was attempted, not to  
20 comply with Section 6. They don't dispute that a  
21 majority of commissioners disagree with Mr. Strach's  
22 interpretation of Section 8C2. The -- the way that 8C2

1 statement read, a majority of commissioners are on  
2 record saying they disagree with that.

3 The Democratic commissioners, Secretary LaRose  
4 thinks that's asinine, Governor DeWine said 81 percent  
5 is not a number that he thought should've been  
6 considered. They do not dispute with the commission has  
7 a great number of different ways that it can comply  
8 with these technical line drawing requirements.

9 Dr. Ami drew 5,000 different simulations. The  
10 question is what they chose to do. They conceded it was  
11 easy to draw a proportional plan that weighted  
12 Democratic and Republican votes equally. That's at Page  
13 35 of the Huffman-Cupp brief.

14 MS. STEWART: Based on what, the actual votes  
15 across the state?

16 MR. STAFFORD: Based on the -- the statewide  
17 preferences was my understanding of their argument, 81  
18 percent is awfully hard to do with Ohio's actual voting  
19 patterns, but they say one can easily draw a  
20 proportional plan if one makes proportionality a  
21 criterion is what they say. It's just they chose not to  
22 do that.

1           They chose to draw districts in which  
2     Republican voters could elect Republicans and they made  
3     a particular effort to do that in Democratic-leaning  
4     parts of the state. Now, I linger on these points,  
5     because there's just not any material factual disputes  
6     here. The question isn't about what the evidence shows.

7           So the -- the question isn't really about what  
8     evidentiary standard The Court applies. To borrow a  
9     phrase from earlier, that would not be outcome-  
10    determinative in this case. The question is about  
11    consequences. Are there any consequences for the  
12    commission's decision to effectively roll the dice and  
13    outright ignore Section 6?

14           Now, I would submit that it's obvious that  
15    Ohioans did not pass the Fair District Amendments with  
16    the intention of leaving it to the partisans who they  
17    were regulating to decide whether or not they felt like  
18    complying with Section 6 and the Ohio Bill of Rights is  
19    incorporated through Section 3B2.

20           The respondents, by contrast, say there are no  
21    consequences. So long as we comply with the technical  
22    line-drawing rules, we are free to press partisan

1 advantage as much as they -- we want. Now, they dre- --  
2 dress it up in loftier language, but that's what it  
3 comes down, the claim that you can't stop us.

4 So let's turn to the constitutional text here.  
5 Again, the position of the respondents is so long as  
6 the commission doesn't violate the technical line-  
7 drawing requirements, Section 6, we can ignore it, we  
8 don't have to meet the proportionality standard or the  
9 other provisions and the argument there is that Section  
10 9D3 sets out the only remedies, the exclusive remedies  
11 for any violation of Article 11.

12 But let's take a look at the structure of  
13 Section 9. Section 9 provides This Court with original  
14 jurisdiction over all claims arising under Article 11.  
15 Section B is a broad grant of authority to courts of  
16 appropriate jurisdiction to declare the plan invalid or  
17 particular districts invalid.

18 Section 9D3 cabins that authority in  
19 particular cases where there's violations of Section 2,  
20 3, 4, 5 and 7 to provide for specific remedies and this  
21 makes good sense. Some of those provisions are about  
22 very specific line-drawing issues. If there's one

1 county where they don't quite get it right tucked in  
2 the southeast corner, maybe we don't have to throw out  
3 the whole map.

4 So Section 9D3 gives us a series of rules.  
5 Nothing in 9D3 suggests it leaves The Court powerless  
6 to address violations of Section 6 or for that matter,  
7 Section 1 and Section 8. Section 1, that's not  
8 referenced in 9D3. What does Section 1 do? It provides  
9 who has to be on the commission, whether the commission  
10 can pass a 10-year plan or a 4-year plan.

11 So under the respondent's telling, the  
12 commission could constitute itself entirely with  
13 members of one political party. It could purport to  
14 pass, on a party line vote, a 10-year map --

15 JUDGE DEWINE: Let me -- let me ask you about  
16 -- I guess I'm having a hard time understanding this  
17 section which is Section 9, it would be C, let's see,  
18 9- -- 9D3- -- 3C, which says essentially if -- if in  
19 considering a plan, under Section 8C, The Court  
20 determines that both of the following are true, The  
21 Court shall order the commission to adopt the ge- --  
22 new general assembly district plan according to this

1 art- -- this article.

2 And then it essentially says you have to have  
3 a violation of -- so -- so in the districts as well as  
4 -- as it's a violation of the Section 6; right?

5 MR. STAFFORD: That's what that -- not a  
6 violation of Section 6, violation of particular  
7 language which --

8 JUDGE DEWINE: But -- but --

9 MR. STAFFORD: -- it's somewhat similar to  
10 Section 6, but not the same.

11 JUDGE DEWINE: Okay. But wh- -- I guess what  
12 I'm struggling with is if the violation of that  
13 language, which would be a violation of Section 6, is  
14 enough to require that an entire new plan be drawn,  
15 what is the point of the section which says you have to  
16 have both things to require an entire new plan to be  
17 redrawn? It would be Section 1 and Section -- or  
18 Section little -- little 11 and 2 here.

19 MR. STAFFORD: What this section does is  
20 indicate that there is the kind of one-off or two-off  
21 technical line-drawing issue that would normally, under  
22 the other provisions of Section 9D, result in a limited



1     remedy, that a broader remedy is provided in that  
2     instance.

3             JUDGE DEWINE: Well -- but -- but if you're  
4     already entitled to the broader remedy because of --  
5     because of that violation of the proportion- --  
6     proportionality requirements, doesn't it -- doesn't it  
7     really make Part I superfluous?

8             MR. STAFFORD: No, Your Honor. Again, there's  
9     a different standard that's set out here in 9D3C than  
10    is set out in Section 6 and -- and note that certainly  
11    not all of Section 6 is in here. There's nothing about  
12    6A that tell you about 6C.

13            JUDGE DEWINE: Well, how -- how -- how -- how  
14    is it different? I don't see a difference? I mean, I  
15    don't see any material difference in what's in 2 --  
16    what's in the 2i Section than Section 6.

17            MR. STAFFORD: There -- there's no reference  
18    to 6A at the intent or the advantage of one party over  
19    the other. There's nothing about compactness.

20            There's language that's similar to Section 6B,  
21    I would agree with Your Honor on that, but if the  
22    question is is there some redundancy or overemphasis v.

1 a Section 6 a meaningless dead letter, then one  
2 interpretation makes much more sense, we would submit  
3 to The Court.

4 So this provides for a particular remedy of a  
5 particular line-drawing violation of one of these other  
6 sections that would otherwise be governed by a  
7 different rule. It does not suggest that there is no  
8 ability to remedy a violation of Section 6 and this  
9 makes good sense, because there's not just one anti-  
10 gerrymandering standard here.

11 The people of Ohio, in their wisdom, applied a  
12 double-barreled approach. There's a set of geographic  
13 rules, one has to comply with those rules, no one  
14 disputes that, but again, there's thousands of  
15 different ways to comply with those rules. So there's a  
16 constraint on that. The -- there is a need to seek to  
17 draw proportional districts to not advantage a party to  
18 draw compact districts.

19 One can't violate those other standards, but  
20 if one can achieve proportionality, one has to achieve  
21 proportionality. That's the plain language of Section  
22 6. One simply can't violate the technical line-drawing

1 requirements. I would note as well that certainly with  
2 respect to the argument of the OOC relaters in terms of  
3 the Ohio Bill of Rights, that's a Section 3B2 plan.

4 So there's certainly no dispute there that if  
5 that claim is cognizable, that a remedy is provided in  
6 Section 6D and if nothing else -- if nothing else,  
7 Section 6 is a provision of the Ohio Constitution that  
8 applies to redistricting. Section 3B2 says the  
9 commission has to apply with all pertinent provisions  
10 of the Ohio Constitution applying to redistricting.

11 So there's -- there's no way to simply read  
12 Section 6 out of existence. Section 6 isn't limited to  
13 4-year plans, it's a standalone article -- standalone  
14 section, rather, that applies to all plans around the  
15 commission.

16 JUDGE BRUNNER: Mr. Stafford, can you -- Mr.  
17 Stafford, can you -- over here. Can you address the --  
18 what I think opposing counsel was broaching, which is  
19 that somehow by applying the first level of -- of  
20 requirements that deal basically with compactness, that  
21 if those were applied in the urban areas that somewhere  
22 were skewing and going against Section 6 requirements

1 for proportionality, I mean, wouldn't that just be the  
2 flipside of someplace like Darke County or Williams  
3 County where it's -- it's going to be hard to do that  
4 kind of proportionality because of just the -- the  
5 makeup of the geography there?

6 MR. STAFFORD: Well -- well, that's right. And  
7 I could say any number of things about that, but  
8 there's many Democrats in other parts of the state as  
9 well. The rules sometimes work out as the rules work  
10 out. The -- and the record of evidence here shows that  
11 they had to go out of their way to achieve these  
12 partisan outcomes.

13 Dr. Amai just plugged in simulations and of  
14 those 5,000 simulations, none resulted in as heavy a  
15 partisan skew as the plan before The Court. Dr. Roden  
16 [ph] described his approach that he used, just to  
17 finish the answer to that question if I may -- the  
18 approach he used, he simply avoided going out of his  
19 way to crack and pack communities of similar voters and  
20 the plan that he came up with almost perfectly achieved  
21 proportionality.

22 They had to work hard to achieve the outcome

1 they did. This is not about Dem- -- or gerrymandering  
2 in favor of Democrats, it's about not gerrymandering in  
3 -- in favor of Republicans.

4 JUDGE BRUNNER: Thank you.

5 MR. STAFFORD: Thank you.

6 CHIEF JUSTICE O'CONNOR: All right. Thank you.  
7 Thank you, gentlemen. And we'll take the matter under  
8 advisement and you will be notified of our decision.  
9 Marshal, will you adjourn The Court, please?

10 MARSHAL: All rise. Here ye, here ye, here ye,  
11 this open session of the Honorable Supreme Court of  
12 Ohio now stands adjourned.

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## 1 CERTIFICATE OF TRANSCRIBER

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# Transcript of Oral Argument

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Nays : 37  
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House

Favorable Passage

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Nays : 5  
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Marilyn S. John

Don Jones

Darrell Kick

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Phil Plummer

Craig S. Riedel

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11/16/2021

Senate

Passed

Yeas : 24  
Nays : 7  
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Yeas : 5  
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