

Ohio Redistricting Commission 3-24-2022

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Co-Chair Sen. Vernon Sykes [00:00:00] ...which began on March 23rd, yesterday, and I now adjourn, adjourn that meeting. I now call to order today's meeting, March 24th of the House Redistricting Committee. Will the staff please call the roll?

staff [00:00:20] Co-chair Speaker Cupp (Present) Co-Chair Senator Sykes (present) Governor DeWine (present), Auditor Faber (Present) President Huffman (here) Secretary LaRose (here), Leader Russo (Here), Mr. Co-Chair, a quorum is present

Co-Chair Sen. Vernon Sykes [00:00:41] and we will continue to meet, as a quorum is present, as a full committee at this time, their commission members who are attending virtually and these proceedings are will are being recorded and broadcast on the Ohio Channel. We asked our audience today to refrain from clapping or other loud noise out of respect for the communities and the persons watching the proceedings remotely. Members who are present in the room please make sure your microphone is on when talking and talking to the mic so our colleagues can can hear us. The minutes from the previous meeting are in the folders. Are they any questions or changes to the minutes as presented .

Co-Chair Speaker Robert Cupp [00:01:29] Mr. Co-chair, I'll move that the minutes be accepted as presented.

Co-Chair Sen. Vernon Sykes [00:01:33] Is there a second? Are there any changes? Hearing and seeing none, we will accept the minutes as presented. At this time will call up the mapmakers. We've been waiting a long time to have this opportunity to actually talk with you. If you could please give us a progress report.

[00:01:59] You want to talk?

Co-Chair Sen. Vernon Sykes [00:02:00] Could you just do brief brief introduction, please? This is new live streaming to the general public, and it might be helpful. Just short bio, just real short

Professor Michael McDonald [00:02:13] I am Professor McDonald, I'm a professor at the University of Florida and I'm an expert in American elections.

Dr. Doug Johnson [00:02:22] And I'm I'm Doug Johnson from National Demographics Corporation, and I've been working on redistrict since 1991, so my pleasure be working, not [speaking simultaneously, inaudible]

Co-Chair Speaker Robert Cupp [00:02:32] hopefully not the same one [laughter]

Dr. Doug Johnson [00:02:35] New to, new to Ohio drawing lines in Ohio, but been around drawing lines quite a bit.

Professor Michael McDonald [00:02:39] Okay, so I'll give you an update. We arrived this morning. The computer had not been set up yet to begin the mapping, so we had to install software, which took some time. And then once we had the software installed, we had to build a database that would allow us to evaluate the partisanship of the districts. So we did

not complete that task until roughly 12:30 took a lunch break. We came back and we started drawing districts in Franklin County. We tackled the more the difficult part of Franklin County, which is on the western edge of the county. I've drawn about half the Franklin districts halfway through, plus working on the next one as we came to the meeting. I expect that this evening I will finish up Franklin County. The hard part, the hardest part's done. There's still some rough patches ahead, so it's it's not like this is clear sailing through the evening. Dr. Johnson can talk about what he was doing, but he was also trying to get some other data in place that would help us to evaluate some of the trade offs that we have to deal with between townships and city boundaries and get some data that might facilitate us drawing those boundaries more quickly because we had that was one of the difficulties that we were encountering this afternoon. We do have some questions for you, and so we'll pose those after Dr. Johnson gives you his update.

Dr. Doug Johnson [00:04:28] On the database front, just want to add, one of the challenges was that when you install the Maptitude software redistricting software, it comes with data that calipers processed from the census, and it does include all the racial categories. So we had to carefully screen all that out and remove all of that. So we did not view any of it using any of it. It's all been removed from the from the data files where we are using site to take some time as well. But I do want to emphasize, given that the the rules that were set forth last night that we were very careful not to refer to that and has been removed from all the data files we're using. I would add we did also take the so on the election data, we took the the Ohio University data put that data is all at the precinct level and so we did have to go through, as Dr. McDonald is talking about Is, a very time consuming, detailed process of just what's called disaggregating. Take, breaking that precinct level of data down to estimate which of those votes in the precinct were cast in which census block. It's an imprecise form. It's probably those watching the livestream probably know more now about that process than they ever wish to know. But it is a key component of getting the database to a point where we can build districts. And then there's always the question there are different methods for doing that because they're none of them is perfect. And given the time constraints and the situation we're in here, we had to do it a fairly quick way, which is kind of a centroid based assignment to blocks the precincts. So that was a concern. So we did draw just some random test districts, not even population ballots, and compare those we had. Both the the Republican staff and the Democratic staff run those against their own databases, and we came back with differences ranging from two thousands of a percent to four hundredths of a percent, which is really precise in terms of disaggregated data. So we're feeling very good about. That that data is a reliable data source and that everyone's on the same page with the data. So it's a big part of it. As I mentioned, very time consuming. So yes, we are working on a first take on on the map and making progress, but it's slow going. As you all know, and we continue to work on it. So we're not presenting maps to you tonight because we don't even have the first counting done yet, but we're happy to answer any questions you have about it. I everyone's been able to see the progress and how far we've been coming with this first take on it. I should emphasize Dr. McDonald has been doing most of the drawing to this point. It's not a map or we're agreed on or anything like that. It's just being a first, first shot at it. So that's kind of our status report, we have a couple of questions for you when you're ready, but we're happy to answer any questions you have first.

Co-Chair Sen. Vernon Sykes [00:07:25] Are there any questions from the members of the commission at this time? If not, you can go move forward with your questions to us.

unidentified [00:07:37] [inaudible]

Dr. Doug Johnson [00:07:40] We'll do the easy ones first issues that we have spent a lot of time today discovering which you and your staff have been living with for throughout this process are issues of geography. Census blocks from the Census Bureau vs. township lines, city lines, precinct lines, some of which we've run into already, some of which, in talking with the staff that have been drawing the lines, have alerted us we're likely to run into. So we wanted to get commission direction. Hopefully, I'll of if I mischaracterize this at all, but one of the questions is where blocks don't quite line up with township and city lines and to a lesser degree, where they don't line up with precinct lines. Should the preference be to treat it as part of the township or treated as part of the city? I think that's the biggest one then related to that some of the blocks are simply assigned to one city and the VTD has it says it's assigned to the township.

Professor Michael McDonald [00:08:49] VTD Precinct.

Dr. Doug Johnson [00:08:49] Oh yeah, sorry. It's my census speak, VTD precincts. So sometimes the precinct name will be the township and the the census of where thinks it is in the city. So I wanted to get your guidance and comfort level with. If a block is in a township, in a city, which way should it go? Is there one that should be given preference, given that both are in the Constitution and then under the cities versus precincts? Our presumption is to go with the city assignment given that that's in the Constitution. But you and your staff have been wrestling with this for a lot more longer than just one day. So if you have guidance on that, we would welcome that they capture that accurately.

Professor Michael McDonald [00:09:36] I think so, yeah. If I could just clarify mean, if I could just clarify maybe what we're talking about in the first cases, we have townships where there's also cities that are overlaying the township and we want to know what the preference is, just the geography go that's overlaying the two. Does that go to the should be counted as part of the township as we're looking at integrity of the governmental units? Or should we look at give preference to the city as the on the governmental unit that gets integrity and preference?

Co-Chair Sen. Vernon Sykes [00:10:21] We'll stand at ease just a minute and,

Co-Chair Sen. Vernon Sykes [00:14:23] We have map, two of our map drawers are going to they've got a process to answer those kinds of questions and they can work together to do that if at any point they have a disagreement, you can still bring it back to us. But we believe and they seem confident that they can be able to handle those kinds of issues. Yes. We have two different approaches to, but we think they pretty much comes up, come up with the same answer any differences they can resolve. So. Blake Springhetti?

Blake Springhetti [00:15:07] Thank you, co-chairs. A solution I would suggest would be to in the event that a block assigns at the VTD layer with a city, but at the township layer assigns with the township. But on the city layer does not go with the city. I would suggest a that block with the largest layer.

Co-Chair Sen. Vernon Sykes [00:15:34] And Chris Glassburn?

Chris Glassburn [00:15:35] Thank you, Mr. Chair. I agree that that is the best rule of thumb as you go along. But after you comple a county, we can cross-check against county engineers and official records if there's any discrepancy and make sure that it's the correct legal boundary.

Dr. Doug Johnson [00:15:59] And I would add for those watching the live stream, that these are very technical issues, we're talking about blocks of 20 to 80 people. So, you know, on the larger end, so it's very unlikely these will have any material impact on the on the demographics or anything like that of the districts. It's just we want to get it right.

Co-Chair Sen. Vernon Sykes [00:16:19] It seems that we've identified a procedure to resolve the issue. Any questions or comments from any of the commission members. If not, then we can move to the next question.

Professor Michael McDonald [00:16:33] Can I just ask a clarifying question because I think he's what you were saying was we should talk with the map consultants if we have any similar questions that come up that are of the sort of technical nature about the data. And if as long as they're in agreement to a solution, we don't need to bring that question to you.

Co-Chair Sen. Vernon Sykes [00:16:53] That's correct.

Professor Michael McDonald [00:16:54] yeah, OK.

Secretary of State Frank LaRose [00:16:58] Mr. Co-Chair, Frank LaRose I would add something, if I may

Co-Chair Sen. Vernon Sykes [00:17:01] please, sir.

Secretary of State Frank LaRose [00:17:03] Yeah, and thanks for going back and doing that quality check on the back end, especially as it relates to where one of these conflicts could be on the boundary of a district, because that's where it could be problematic when our boards of elections go to start loading these in and and doing their quality checking. So appreciate that.

Co-Chair Sen. Vernon Sykes [00:17:23] Any other questions or comments? If not move to your next question.

Dr. Doug Johnson [00:17:30] We have a much more complicated, bigger picture issue, and we definitely surface it, and if you have guidance today, great if if you want to come back to us tomorrow. This is the issue of of determining which districts are the toss up districts that the court is discussed in its rulings in its rulings, the court is kind of looked at the numbers of the districts and each plan, and we have a disagreement on this, so Dr. McDonald will add to this, has looked at the numbers in each plan and observed, you know, this two percent range that a lot a lot of the districts in in the plans fall outside of it. So they focus on two percent range. They've also discussed a fit a plus or minus five percent, kind of a 45 to 55 range. When they talk about the swings, the five percent swings that some of the experts have written about. The question is is should we just treat those numbers as sacrosanct either as two percent being the range or plus or minus five percent being the range and being the official degree or the other approach is or both of those, if we can also have to look at both of them or the other thing we've done in some projects. Is look at OK, the idea of a toss up district is it's a district that either party could win. And so what we've done in the state of Arizona most recently, is we try to define how do we truly define a toss up district and actually looked at past election results to see which districts or districts that both parties have one where of the nine statewide races we're looking at a certain number of Democrat know one or two or three of those elections have been won by each party. At least one or two or three of those elections have been won by each party.

So rather than simply. Taking a number and kind of see the pants using that number, we would actually look and see what number makes sense for identifying those ranges. So in part, this is somewhat a legal question. Interpreting the court's rulings to say are those numbers that the court decided actually direction? Or are they just the court observing the evidence before it and weighing in on that? Obviously, if its direction, if you view it as direction from the court, then we should use those numbers. If it's more opining and there's more flexibility than the question for you would be, do you want us to use those numbers, you some other numbers or do this analysis saying which seats have it, which percentages have resulted in seats that swung back and forth from election to election? So, so.

Professor Michael McDonald [00:20:14] My preference is not to do that. I'm just going to read directly from the court's ruling on the court on paragraph 32 in the most recent ruling, about halfway through notes that the second revised plan includes 19 Democratic leaning House districts in which that Democratic vote share is between 50 and 52 percent. So the court is clearly looking at 50 to 52 percent the court goes on to discuss various other districts outside that range. And rather than believe it's the numbers are of various sorts. But there's much more definitive point later on where on paragraph 53, uh 33, Dr Rodden and also towards the end, Dr Rodden also address a partisan symmetry of the second revised plan, noting that a five percent uniform swing in favor of the Republican Party across all their districts would result in up to 23 additional Republican seats. So that would be going from 50 to 55 percent would essentially be what the swing would be. So I generally read my read of this ruling based on the expert reports that were presented before the court. There are two ranges that the court is interested in. One is a 48 to 52 percent performance for either party. You know, you say the Democrat Party, the Republican Party, but that range, they're around 50 percent. That's one important range that the court has been looking at. There's a wider range of 45 to 55 percent. And the court wants to have some form of something of symmetry around that so that there are a balance of Democratic and Republican seats that are on either side of those divides. We may not get perfect symmetry. I, in fact, I'd be rather surprised if we did if we ended up having exactly the same number of seats that are within those ranges. But my preference is to look at the distribution, look at the for each of the seats that are within these ranges and maybe even a little bit further outside the range. But certainly within these ranges, we look at the number of seats that are 50 well, 45 to 48 percent performance for a party, 48 to 50 percent, 50 to 52 percent and then 50 to 55 percent. I think that's consistent with what the court has ruled, and it's something that would be consistent with my own research in this area. I have not ever endorsed the methodology that Dr. Johnson is proposing, so I don't feel that I can sign my name to that sort of approach that he's suggesting to you.

Co-Chair Sen. Vernon Sykes [00:23:23] Dr. Johnson, just for clarification, I heard you say there's a couple of ways it can be done. I didn't hear you say you were recommending any one. And I just want to make sure are you recommending an approach here?

Dr. Doug Johnson [00:23:38] Yes. So there certainly are different ways it can be done. I think my recommendation would be and I say it, it's kind of my preference. If the commission directs otherwise, I'm completely comfortable with that as well would be to look at what scores on that scale that we've developed. Show up for districts that in the past have gone both ways that have been swing districts that go both ways. I should note to the other piece I forgot to mention is that one of the sources of concern and the reason for raising the question is that the first round two ruling talked about asynchronous districts and the asynchronous pattern. And then in the round three ruling, they said, and I believe in a footnote that the commission had referred to that asynchronous data, but that the

court and I'm not a lawyer, forgive me for misquoting this. But but the court had cited that is something that looked at, not as a direction. And so I want to be careful that we're differentiating between what directions and what are just things the court is discussing its rulings.

Co-Chair Sen. Vernon Sykes [00:24:46] You also had mentioned that this is something we could decide to by tomorrow or you still it would not impede your your work at this particular time. Can you hold? We were going to recess just a minute unless you have another question.

Co-Chair Speaker Robert Cupp [00:25:02] May I ask a question in in follow up because there's been a number of these statistical things that I just simply don't understand. And if you can't read the tea leaves in the court, you're not alone. The the question about if you have a certain percentage, like presumably a statewide Republican majority in the election or you have a statewide Democrat majority election and that switches. Who's going to win one of these state representative seats? I can't quite frankly, figure out how you calculate that because normally from my observation is it depends who the candidate is, what the issues are, who the parties are and you you don't like. Congress state nationwide may have a swing for congressional seats one way or another. But I haven't seen that pattern here, so maybe somebody can explain that to me.

Dr. Doug Johnson [00:26:07] This is one of the big challenges facing redistricting reformers across the whole country, and I think every state has dealt with it different ways. Dr. McDonald certainly written some of the propositions wrestling with the question. The challenge is, is are you looking, well, there's two questions here just to further muddy the waters. The number one competitive districts are an entirely different measure than partisan fairness. And so, for example, Arizona has a requirement saying you have to create a, competitive districts there are to be favored. Now, that may mean and it has no partisan fairness requirement in the Constitution, so it may mean that the minority party loses more seats in order to make more competitive districts. So none of these is a perfect solution. But there that's where we actually got into it, and that's where we just determined, OK, our goal is to figure out what is the number that measures a tossup seat in their case in Arizona's case, because we're trying to draw them here because we're worried about too many seats being attributed to being to one party that are actually tossups as the court is written about extensively. So. You there are various ways of doing this, none of them are perfect. One of the ways and what we came up with in Arizona after we had various experts from MIT and Tufts and and Berkeley, they all actually came to a unanimous suggestion of. Figure out a measurement, but all measurements are imperfect. And then look back and look at your past statewide elections and say, OK. Is it 45 to 55 where we saw these seats actually swing in actual elections? Or is it forty eight to fifty two and look back essentially look back through the data to see which ones actually did swing from one party to another, and those would be considered toss ups. It's.

Co-Chair Speaker Robert Cupp [00:28:03] Do you count incumbents running for reelection, do you count open seats, where is the difference? It seems to me it's this is I quite frankly can't understand how you can determine that, but that's what I'm asking the question. So maybe I can understand.

Dr. Doug Johnson [00:28:21] Yeah, and that's actually why we don't use legislative or district based elections. You wouldn't want to do it with just one or two, especially, you know, but here we have nine. The Arizona, I think we had 10 or 11, which are in Arizona's case, we actually had enough that we could toss the outliers. So there were two or three

blowout election. So we didn't use those because of exactly every election has its own dynamics. So certainly neither approach is perfect. I guess I would say that's why ultimately, this is your draft map, which is why we're bringing the question to you. But Dr. McDonald do you want to comment on that

Professor Michael McDonald [00:29:03] So you what Doug, is, Dr. Johnson is proposing is to come up with a new way of counting the partisan lean of the districts to the court, and we don't know what the court, how the court would view that. Dr. Johnson is not an expert in this area in terms of competitive districts. I am. I've written extensively on it. I could be qualified in a court on an issue of competitive districts. I would not endorse this approach. So I would refuse to sign on to any report that went before the court on this issue to answer the question more directly. We're talking about the playing field and what what the court is looking at in terms of symmetry is the court wants a level playing field. They don't want it to be tilted one way or another at once. The candidates are on the field and running. They have their own capabilities and abilities and the issues and other forces that are at play. That's what comes into the forefront. But you want to have the field level and the court talks about this in terms of having too many seats that are competitive. By whatever measure, they have some measures that the court is referring to that are all Democratic leaning seats. And but there are none that are on the Republican side, and that tilts the playing field in favor of the Republicans, it's like the Democrats now are trying to play soccer in a field that's tilted against them and the ball is going to come right back down at them. So the court wants us to have a plan that has when we do these analyses of these statewide offices that are in the Constitution. We want to have a certain we want to have an equal number as much of that as possible, given the geography and other constraints of Democratic districts and Republican districts on either side of that 50 percent. And we want them to be relatively spread out in the same manner. So if we look at 50 to 52 percent performance for Democratic Party or Republican Party, we went to about the same number of districts in that range. And if we look at 40, 52 to 55 or for either party, we want the same number of districts in that range. That's what as I read this court ruling, that's what the court is looking for. That's when we're talking about symmetry. Looking at paragraph 32 and 33, the court's extensively citing this as evidence of unfairness or violations of the Constitution. So I think the court's been pretty clear. I don't think there's not a, you know, I don't think this is very murky at all. I think the court wants us to do these calculations. Look at the districts and as best as we can. And again, maybe it not may not be possible because, you know, people live in certain places and we've got some very constraining geography and in Ohio. But as much as it's possible, we need to have a balance of Democratic and Republican leaning districts. Now what I think you should also understand, at least from what I understand, what Dr. Johnson is recommending is that we would count the districts outside of the range. And you can correct me if I'm mischaracterizing you, you will say that's the number of Democratic seats and number of Republican seats out of this competitive range in the middle when we had our discussion before, he said, we count each of those seats as a half a seat for each party. I don't think the court's going to go with that, but that would be something that you'd have to make as an argument to the court that we would be counting all of those seats that are competitive or toss up in the middle that they could easily go to either side. And I don't see anything in this ruling that would suggest that the court thought that these districts that were all loaded up on the Democratic side that were competitive were somehow equally winnable by either political party. So that's my feeling in terms of the timing. We're just starting our work. Our plan is to go through the entire state, draw the maps up and then come back and fine tune the map. So we still have lots of time here. I mean lots relatively speaking, but we have time here. This is not a decision that has to be made today, but I think you just have to understand that there's some novel arguments that I don't think that

has been presented before the court, and that's what you would have to, you would have to make your argument before the court

Co-Chair Sen. Vernon Sykes [00:34:20] to the commission, I think. You know, I think the court has been clear, but also I believe we have been clear. You know, we had a meeting two and a half hours or so yesterday, trudging through the ground rules for the map drawers and rule number two indicates that the independent map drawer should draft a General Assembly district plan at the direction of the decision commission and in accordance with the Ohio Constitution and the Supreme Court of Ohio orders. So if you if it's clear what those orders are in this particular situation, I think that answers the question. We've we we've had that battle yesterday about determining what the directions in the scope and the ground rules were going to be. And that that's my suggestion. I believe. Commissioner Faber has a question or want to make a comment.

State Auditor Keith Faber [00:35:28] Oh, yeah, yeah, the short answer, I don't know if you can hear me, co-chair, OK. I think that the map drivers are going to come into the same problem that almost everybody who has drawn maps has found that the way the geography of Ohio is that you're going to have a very difficult time to hit any kind of ratio that approximates the fifty-four forty-five without drawing more competitive Democrat seats than Republican seats. Every map we have seen before this commission that we've looked at seriously had more Democratic competitive seats than Republicans. But having said that, you know, we have in the past discussed the four point ratio forty-eight fifty-two. And from my perspective, that's not necessarily a bad place to target when you get into that competitive range. That's kind of what the court said. And good luck drawing as many Republican competitive seats as you can Democrat seats just because of the geography. But remember, that may not even be the right test because this is so murky and the court keep changing the goalposts, posts in every opinion. The real argument might be that you need to have fifty four percent of Democrat competitive seats and forty five percent Republican competitive seats to match the statewide average. Because you're going to have, frankly, the voters tend to favor Republicans, not Democrats. And so that would be the opposite of where you're going and where you land. But one of the suggestions that I made to some of our map drives a long time ago was figure out how many safe seats you have to draw because of geography and then figure out how many competitive seats you need to make to hit the ratios and go down that route with the rest. And that seems to be something that the court, in their last opinion hinted may be acceptable as long as the ratios in each category seem to track the ratios statewide. And I don't. Again, how you get there is a different question. But I don't think you need to get there until you get the maps to where you're trying to balance and figure out how you're going to land the plane in each area until you get to that point. Maybe you can come up with a great plan we haven't seen, but you're going to, I think, find that the geography in the map making to get anywhere close to 56, 55, 54, you're going to have more competitive Democrat seats than you do Republicans. I just think the geography and Article two, three, four, five and seven are going to require that, but we'll see

Co-Chair Sen. Vernon Sykes [00:38:02] Leader Russo,

Minority Leader Rep. Allison Russo [00:38:04] Thank you, co-chair. So as I read the decision and I actually think the court decision is pretty clear on this, I mean, really, there are two issues at hand. There's the partisan symmetry issue, which is one separate issue, and there's the competitive or toss up district issue. In the past, I think we've conflated those two things. And in fact, the court specifically calls out under paragraph six. It's got a footnote that those two things shouldn't be conflated, even though they are related to each

other. You know, as you go through the decision, paragraphs 40, 41 42, I think the court makes pretty clear what is a competitive district. And it is that plus or minus two from 50 within the four point range that I think Auditor Faber is also talking about. And then separately, we have to evaluate the symmetry issue and where we fall. And you know, frankly, I'm not sure at this point we can even do that analysis until some of these districts are drawn. But I think if the question is what is a competitive district, the court is pretty clear about what that is in its latest decision.

Senate President Sen. Matt Huffman [00:39:21] Mr co-chair?

Co-Chair Sen. Vernon Sykes [00:39:22] Yes, President Huffman,

Senate President Sen. Matt Huffman [00:39:25] thank, thank you Mr. Co-Chair just a question, a comment and a question on the issue regarding the plus plus or minus two. I guess the first thing I would say is that that issue has evolved over three opinions from the court and we all kind of given our own version of well this is, it's clear. It's not quite clear. Maybe it's it's something else. And all though some of us who are attorneys, none of us are acting as attorneys in this particular matter. So I think it would be helpful if the commission could consult counsel the Attorney General's Office or our own legal counsel. And maybe that'll help the commissioners come up with a decision to then instruct the map makers as to how this is going to go. But I it's this is a it is a complex question. We haven't been able to get it right yet. And because we thought we thought the number was fifty one after the well, of course, there wasn't a number when we in September, we thought the number was fifty one after the first opinion. Some are fairly arguing. I think that the number is now 52. And I think one of the questions, if I have it right to Dr. Johnson is suggested is whether, in addition to what the court is saying, there are other mapmaking principles that may come into bear here now. I think Senator Sykes is correct that we've instructed the mapmakers, which I don't think we needed to instruct them, but they are to follow the Constitution and the Supreme Court opinions, but also, of course, all other U.S. Constitution and federal law and things like that. So that's my comment, is that I think let's let the lawyers or at least the fellows are in in the, the gals and guys who are being paid to be lawyers in this case give us a legal opinion or at least allow us to consult for that. So now I have a I guess, maybe a more precise. Well, I don't know if it'll sound precise when I say it, but you had commented whether, and by the way, we may not have time to formally ask the attorney general for opinion, we each have lawyers, some of them whom I think are in the room right there. We can consult and come back to you. But having said that, I guess I don't I don't want to gum up the works by, it may take a while for the decision to get made. But you have commented and I've had others throughout this process talk about how in some cases the data is not precise enough or it's only as precise as it is. And based on that, can you really tell the difference between for know for sure if a district is fifty one point nine or in fact, a fifty two point one, where exactly is it on that line? And if we have this sort of hard fifty two and we do all of the moving around that we want and we say it's a fifty, it's a fifty one point nine, do we really know that? Or is it fifty two point one? Do we really know that it's not a fifty one nine? So comment if if both of our our experts would comment on about that, I'd appreciate it.

Professor Michael McDonald [00:43:16] Yes, there are different ways of taking the statewide data that we have that's at the precinct level. And assigning it to census blocks, and then since we're drawing districts as census box and we, We aggregate that data up to the districts that we've drawn. And since there are many ways of doing it. There's so many ways of getting answers. I always like to say the old proverb, a man with one watch always knows what time it is. A man with two watches is never sure. So we're in that

situation. But I think in terms of the question that you asked, we have done a consistency check on the data and the work that we did this this morning and we found that the two caucuses data, Well, they've already told us they don't agree because they had two watches and now we brought in a third watch. And they're off by just a little bit. It's not. We're talking about hundredths of a percentage point difference. So I don't think it's, you know, if we're talking about tenths of a percentage point. I don't think we're going to see that a degree of that on dissimilarity between the numbers that we're getting on. As for the predictive value, that's a whole other can of worms about, you know, the candidates and everything else that happens. But that's not what we can control through redistricting and what we can., the one, the key piece of information that we have in this process is this past partisan performance of the districts. And so that's what we have to work on and go with when we're drawing the districts. So I think we've got numbers that are we would probably spend weeks or months trying to figure out exactly why we have different numbers from the three different sources that we have. But they're generally in agreement. And so I feel confident that since they're in agreement that we've got something that it's not going to trip us up when we go present this to the court to say, Oh, we thought it was 49 percent, but it was really 52 percent or something like that where if it's, you know, it's if it's good, it's good to have to be really knife edge like fifty point zero zero one percent would be how we would fall astray. And I I just don't think that that's what's going to trip us up in the tasks that we're done here because I don't think we're going to be drawing any districts that are fifty point zero one percent.

Co-Chair Sen. Vernon Sykes [00:46:06] I'd like to make another point if I could, Yeah. OK, Doctor Dr. Johnson, I'm sorry. Go ahead, please.

Dr. Doug Johnson [00:46:19] No problem, I think I would agree with what Dr. McDonald was just saying, and the key thing comes down to essentially decimal points. You know, I think if you're trying to say this district is fifty one point four three in this district is fifty one point four nine. So that one is better than the other. I think we'd both be on the same page. No, there's no the data is nowhere near that precise that you can debate and decide whether one hundredths of a point matter between two districts, I think getting down to the tenths of a percent. Yes, if something's fifty point fifty one point one and another one is fifty one point nine, I think it's probably some significant difference there. But going beyond that, you're get it, you're kind of making things up and the numbers get kind of random when you're certainly when you're past a tenth of a percent. I did want to clarify to the one point when Dr. McDonald talked about he's published papers on this topic, I would argue, is that the one state with the strictest competitiveness requirement in its constitution hired me to be their consultant, so I think I would qualify as an expert in that field as well. So I do want to clarify that for the record.

Senate President Sen. Matt Huffman [00:47:31] So could you just if I could finish my line.

Co-Chair Sen. Vernon Sykes [00:47:36] yes sir.

Senate President Sen. Matt Huffman [00:47:36] I would just I would suggest to commission members consult their legal counsel, the respected legal counsel, if we need to make some decision. And it sounds like a lot of the work can proceed in this issue, which I think is significant should be resolved. I appreciate what both the experts have said about the significance of hundreds of points, et cetera. But if in fact, there is a district that is fifty one point nine nine and with one set of data and there's another district, the same district with another set of data, or if it's drawn that way, it ends up being fifty two point oh, one. I'm not so sure based on what I've seen and if this were going to lawyers that that

affects the court's evaluation of this because I get it, we can read the words that are in the opinion, but there are decisions that have to be made. And if the answer is we're going to count it as a half a seat or we're not going to count it at all when determining proportionality. You know, we'd like to get this right, or at least it's close to right as we think we can the fourth time around. So having some guidance from legal counsel, I think for every body would be helpful. And as I understand it, work can proceed while that separate question is being analyzed. So thank you, Mr. Co-Chair.

Co-Chair Sen. Vernon Sykes [00:49:12] Thank you. I think it's a very important point. We can all we will follow his recommendation on that. The point that I wanted to write and we're different than we think the co-chair for having me not interrupt you because I want to take you down another road and I want to talk about the just the range of competitive districts, whether we are talking about 48 to 52 or 45 to 55. I think it's clear in the court order. In fact, in paragraph 43, what they're opposed to is the gross and unnecessary disparity in the allocation of close districts. So regardless of what range you use, they just want to make sure that it's not a gross disparity in it. So it's not that the goalpost has been moving. The goalposts have been the same. The criteria has been the same. We want symmetry as much as possible. Leader Russo,

Professor Michael McDonald [00:50:17] I would like to respond to that, I mean, that's my recommendation is we just plot these out and see where the districts fall, where the chips may lie, and then that'll give us some clue as to what the weaknesses may be seen by the court. And we can. You know, do some proactive explanation to say, you know, we we tried to balance this out better and, you know, it just wasn't feasible. So, you know, hopefully I don't know if we'll reach that point because, you know, we're just at the start of the process. But I I would not be surprised if that's where we come out at the end of the day. And but we don't want to be in this situation where if I don't think we're going to be in a situation where we have all on one side, I don't think the court wants that from my reading. That's that unbalanced, that gross imbalance and will try to avoid that outcome.

Co-Chair Sen. Vernon Sykes [00:51:21] Leader,

Minority Leader Rep. Allison Russo [00:51:22] Thank you, Mr. Co-Chair. I just want to point out, I mean, you know, we certainly can consult with our lawyers and have the lawyers weigh in on this. But in terms of, you know, reaching out to the attorney general, he actually already weighed in on this issue in his March 18th memo to the commission under additional criteria. He notes that the court has now established that less than 52 percent as the threshold for a leaning district, any index less than that is viewed by the court as a competitive district. He notes that efforts to protect incumbents are improper. And then the third bullet point is, while competitive districts will not be counted in overall partisan balance, the court indicted was bothered by the imbalance in the number of competitive districts, meaning those with an expected favorable margin of less than 52 percent leaning Democrat versus those Republican. So in my view, he has also weighed in on this issue as well. So I'm not really sure that there is, you know, a need to to have him reevaluate this because it's stated in the March 18th memo.

Co-Chair Sen. Vernon Sykes [00:52:35] Are there any other questions or comments on this particular question from the map drawer? If we're all in agreement, we will assign this to our staff and we will get back with you on a more specific response, but appreciate the interaction here. It's very interesting and hopefully interesting to our broader audience too as well. Do you have another question?

Professor Michael McDonald [00:53:05] No, we do not.

Co-Chair Sen. Vernon Sykes [00:53:06] Thank goodness. At this time, we would like to if you have no other questions, do we have any other questions or comments that we'd like to make while we have the map drawers here? If not, thank you, thank you very much and please continue to work. I would like to say that this is somewhat historic, not just for the state of Ohio, but I think nationwide to have this type of openness, not just in the working where you're able to observe what they're doing, but also in our open meetings that we're discussing these things out in the open and not just in the back, making the decision to come out and make an announcement of what the decisions are. So I think this is good and we're making progress.

Co-Chair Speaker Robert Cupp [00:54:02] I'm sorry.

Co-Chair Sen. Vernon Sykes [00:54:04] Go ahead, go ahead.

Co-Chair Speaker Robert Cupp [00:54:05] No question. It's must watch TV, that's for sure.

Co-Chair Sen. Vernon Sykes [00:54:10] At this time, we'd like the mediator to come forward. I think you had made a request to make some comment.

Scott Coburn, Mediator [00:54:20] Thank you, co-chair Sykes. And I really want to pick up on what you were just sharing there in a couple of comments Kathy and I wanted to mention tonight. First, though, we want to thank the members of the commission for your very generous time with us over the last couple of days. It's been extremely helpful that in addition to studying the history of this whole situation, legally, we've been able to meet with each of you and get a better understanding of your perspectives, interest concerns and such in this process from here. We're, of course, looking forward to helping in addressing the issues as they arise. But through our conversations with the members of the commission, we had a suggestion we wanted to put out there as the best way to utilize us. Much of what we call mediation really is listening. It's listening, reflecting testing information and assumptions, looking for barriers and then looking at alternatives around those those kinds of things. And given the timetable that we're under here, we wanted to encourage that, that really should be an active and ongoing process throughout, rather than waiting until something specific arises. If there are concerns going ahead, getting those out there, working with us and seeing if we can do some of that clarifying and testing assumptions and so on right away rather than let that blossom sort of are you addressing conflict before it actually becomes conflict, so that's what we're we're here to help out with. And just an example, very small example of how that can come up arose in the conversation last night regarding guidelines for the mapmakers. And it just so happened there's a question came up regarding the involvement of mediators and whether that would lag the process and so on. Now that resolved quickly during the course of the meeting, but Cathy and I thought that was a good example of something that just a quick phone call could have solved the concern before it was a concern. It would have answered the situation right away. We think that can happen throughout this process that as you're hearing information and some concern starts to arise, it may be something that can just be addressed by gathering more information about it again. Testing assumptions looking for alternatives. It's something we can start working with immediately rather than getting down the road and then kind of getting stuck when it's, you know, blown up into something bigger or starts getting combined with other people's assumptions and those kinds of things. So that's our encouragement is, you know, besides specific requests that may

come along, contact us. I'm here. I'm going to be here. Throughout the process that we've mentioned in our first appearance, Cathy had to travel, but she's still available for a collaboration from time to time, so she's connected to the process as co-chairs you've both got my cell phone number. Anybody else on the commission is welcome to have that call me anytime and we can start, you know, working with issues before their issues. That's really what we wanted to encourage you all to think about and, you know, keep us involved in the process actively. So thank you for your time. I promised I would keep my suggestion brief.

Co-Chair Sen. Vernon Sykes [00:57:44] Are there any comments or questions to the mediator at this time? Thank you for and please continue to stand by.

Scott Coburn, Mediator [00:57:55] Great. Thank you very much.

Co-Chair Sen. Vernon Sykes [00:57:58] At this time, we will recess if there's no further business to be brought before us tonight. We'll recess as we did in the last meeting. So just in case there's something that we need to address, we will have the opportunity to to the legal opportunity to address it. In the meantime, we will assign a staff to look at what President Huffman has had questions about dealing with the accuracy of the data as well the competitive districts, the issue raised about the competitive districts. And we hope to have a definitive resolution to it shortly. But you've indicated that it's not going to impede you at all. And you can continue to work. So if there's no further business to be brought before us, we are now adjourned...recessed.