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SUPPLEMENT

THIRD DAY — THURSDAY, JUNE 20, 2013

SB 2 DEBATE - SECOND READING

REPRESENTATIVE DARBY: Once again, I'd like to thank the members of the House Select Committee on Redistricting for their hard work and attention to this matter. We had a quorum of members for five hearings—two in Austin over a Friday and Saturday, and one each in San Antonio, Dallas, and Houston. At each hearing, and to the members of the house, I made my door open and invited members and interested groups to sit down with me. I was pleased to visit with the Texas NAACP to hear their concerns. These meetings and hearings provided myself and the committee numerous opportunities to hear public testimony on all maps under the committee's consideration. In the end, the committee found that the court-ordered interim maps to be legally sufficient to meet our legislative duties to enact maps that comply with the constitutions of the United States and Texas under the Voting Rights Act.

Members, the floor substitute for **SB 2** reflects—members, the Plan 172 is the court-ordered interim map used for the 2012 election cycle of state senators. The court-ordered plan retained 27 of the 31 districts as they passed in the state. Members, I'd like to postpone **SB 2** until the end of the calendar.

[Representative Darby moved to postpone consideration of **SB 2** until the end of the calendar, and the motion prevailed.]

SB 3 DEBATE - SECOND READING

DARBY: The floor substitute for **SB 3** reflects the census geography of Plan H309, the court-ordered interim map used for the 2012 election cycle to elect the members of this house. This plan was ordered by the three-judge panel from United States District Court for the Western District of Texas in the Davis and Perez lawsuits. I lay out this substitute to ensure that if this body considers and adopts amendments that the members are able to see the changes made to their district boundaries and, ultimately, the enrolling clerk is able to make the necessary changes to the bill. The D.C. court denied preclearance to the state house plan because it concluded that the originally passed plan eliminated four ability districts. The interim plan restores those four ability districts while configuring 122 of the 150 districts in the identical manner as they did in the 82nd Legislature. This interim plan also garnered support from plaintiffs and defendants alike, including the Texas Latino Redistricting Task Force and many others. The State of Texas worked together on a compromise plan that was largely adopted by the court.

Members, there are a few amendments filed on this substitute. Since I believe the district court drew a map that complied with the constitution and the Voting Rights Act, I will be evaluating these amendments on a couple of criteria: that it does not create a harm or a risk to further litigation by violating the constitution's "one person, one vote" principle regarding population deviation;

that it does not dilute nor dismantle a Section 2 protected district under the Voting Rights Act or violates the Texas Constitution regarding contiguous districts or the county line rule. If those measures can be satisfied, I want to see that it addresses a concern, for example, the splitting of a community of interest. And finally, I'd like to see an agreement amongst the members affected. That is how I'll be evaluating amendments during the debate today.

[Amendment No. 1 by Darby was laid before the house.]

DARBY: Members, this is the floor substitute for **SB 3** which reflects the census geography of Plan H309 and if there are any amendments, and if the body considers and adopts those amendments, then the members will be able to see those changes. With that, I move adoption.

[Amendment No. 1 was adopted.]

SPEAKER STRAUS: Members, we're about to go on to individual amendments. The first amendments will affect only a few counties. Subsequent amendments will affect statewide plans. Members, these amendments—these plans should be available on your DistrictViewer.

[Darby moved to reconsider the vote by which Amendment No. 1 was adopted.]

REPRESENTATIVE MARTINEZ FISCHER: Mr. Speaker, parliamentary inquiry?

SPEAKER: State your inquiry.

MARTINEZ FISCHER: Mr. Speaker, are you advised what time the house chamber was closed yesterday evening?

SPEAKER: Chair is not advised.

MARTINEZ FISCHER: Mr. Speaker, parliamentary inquiry?

SPEAKER: State your inquiry.

MARTINEZ FISCHER: Could you please advise me the number of hours that a floor substitute must lay out prior to being eligible for consideration?

SPEAKER: Twelve hours.

MARTINEZ FISCHER: So, Mr. Speaker, presumptively, to lay out 12 hours for the 10 a.m. debate, floor substitutes would have to be time stamped by 10 p.m. Is that roughly 12 hours?

SPEAKER: That's correct, yes.

MARTINEZ FISCHER: Mr. Speaker, parliamentary inquiry?

SPEAKER: State your inquiry.

MARTINEZ FISCHER: Mr. Speaker, I'm advised that the house chamber was closed at 9 p.m. last night, thereby making it practically impossible for anyone to file a floor substitute by the 10 p.m. deadline. Is the chair advised if the 9 p.m. closure of the house is accurate?

SPEAKER: Mr. Martinez Fischer, the chief clerk advises us that his office was open until 10 o'clock last night.

MARTINEZ FISCHER: Can the—Mr. Speaker, parliamentary inquiry?

SPEAKER: The last amendments were filed at roughly 8:50 p.m. last evening.

MARTINEZ FISCHER: Thank you, Mr. Speaker. Parliamentary inquiry?

SPEAKER: State your inquiry.

MARTINEZ FISCHER: Mr. Speaker, I don't have a reason to dispute the chief clerk's estimation of time, but does that estimation of time also include whether or not members had access to the chief clerk's office based on the time the perimeter is closed down to get to the chief clerk's office?

SPEAKER: Mr. Martinez Fischer, the office was open and people were filing amendments.

MARTINEZ FISCHER: Respectfully, Mr. Speaker, I acknowledge that—it appears to me that amendments were filed prior to 9 p.m.—the inquiry that I asked dealt with access up until 10 and I guess I'm waiting for the response as to the inquiry to whether or not the chief clerk is advised that access to the chief clerk's office was available until the time the chief clerk departed at 10 p.m.

SPEAKER: Mr. Martinez Fischer, we are unaware of anyone who contacted the chief clerk or the sergeant's office for access after that time.

MARTINEZ FISCHER: And I think that that's a wonderful response to another inquiry, but for this specific inquiry, is the chief clerk in a position to state with specificity that the access to the chief clerk's office was unfettered until the 10 p.m. hour that the time is closed—I think that the sergeant's office would recognize that we've had this issue in the past when it comes to pre-filing amendments on sunset bills—arrangements have been made to make that possible—I think I raised that issue during the regular session, and I guess an affirmation from the sergeant that the access was clear, an affirmation from the chief clerk that, as far as he knew, that the front door to the chamber was not locked and was otherwise open, or there was an alternative door that was open—if we could identify that for purposes of this debate, that will satisfy my inquiry.

SPEAKER: Mr. Martinez Fischer, all I can tell you is that amendments were filed up until 9:11 p.m. and the chief clerk's office was staffed.

MARTINEZ FISCHER: I'm sorry, sir, amendments were filed—

SPEAKER: Until 9:11 p.m.

MARTINEZ FISCHER: Until 9:11 p.m., so I guess for the purpose of this inquiry today, that we can establish with certainty that there was an amendment filed at 9:11, we can establish with certainty that the 12-hour layout provision would require amendments to be filed by 10 p.m., and we really don't have—we really don't have a—we have no real reason to know whether or not the office had access or members had access to the office up until the 10 p.m. deadline, regardless of the fact to whether the chief clerk may have been at his desk or not at his desk.

SPEAKER: The chief clerk was in his office until after 10 p.m. and received no calls.

MARTINEZ FISCHER: Okay.

[Amendment No. 2 by Anchia to Amendment No. 1 was laid before the house.]

REPRESENTATIVE VILLALBA: Representative Anchia could not be with us today, so he asked me, as a member of the Select Committee on Redistricting, to lay out this amendment. Essentially, this amendment is between two individual districts, Representative Ratliff's district and Representative Anchia's district. There are no changes that will affect any other district. It's a mere swap of contiguity in community. So we have Rafael Anchia receiving the entire community of Farmers Branch in exchange for keeping together the Carrollton community for Representative Anchia. So, after having heard great testimony from around the state from individuals relating to the contiguity of communities and keeping interested communities together, we found that this amendment made perfect sense. I believe this amendment is favorable—or the chairman will accept it and we're hopeful that we can get your acceptance on this amendment. I move passage.

DARBY: Members, this Anchia amendment is one between Bennett Ratliff and Anchia, and it simply swaps a couple of precincts. It unites precincts in Farmers Branch and it follows the rules that I laid out regarding the taking of amendments. It's my position that any amendments that do not violate the constitution's "one person, one vote" principle regarding population deviation, does not dilute or dismantle any Section 2 protected district under the Voting Rights Act, or violates the Texas Constitution regarding contiguous districts or the county line rule. If those measures can be satisfied, I want to see that it addresses a concern. For example, the splitting of a community of interest. The concerns of Representative Anchia and Representative Ratliff are that this would unite a community of interest, so it satisfies that test. And, finally, I'd like to see an agreement amongst the members affected. There are only two members affected, Bennett Ratliff and Rafael Anchia. And so, on that basis, I'm going to accept this amendment.

[Amendment No. 2 was adopted.]

[Amendment No. 3 by Wu to Amendment No. 1 was laid before the house.]

REPRESENTATIVE WU: Mr. Speaker, members, we're adding this amendment that will affect three districts: mine, Representative Murphy's, and Representative Vo's. This is an amendment that's agreed to by all three of us. It swaps out sections of our districts. One of the main things it does is it helps reintegrate part of a very large Vietnamese population that has very strong language and cultural issues that neither Representative Murphy nor I can really address and are better placed in Representative Vo's district so he can better represent them. This helps make this area more constitutionally sound and I believe it's acceptable to the author.

[Amendment No. 3 was adopted.]

[Amendment No. 4 by Raymond to Amendment No. 1 was laid before the house.]

REPRESENTATIVE RAYMOND: This is an amendment that was agreed to by the chairman of the committee, Mr. Darby, thank you so much. Also, of course, our governor has agreed to this, I appreciate that. But, this is an amendment that affects Representative King's district—Tracy King—and my district. The judges, I'm sure unintentionally, last session when they did these interim maps, took the university in Laredo, Texas A&M International University, and inadvertently took it out of the district in Laredo that is the district that I represent and put it in

District 80, which is Representative King's. So, as a tea-sip, it really bothered me, and so, thank you Chairman Darby for accepting this amendment allowing me to put Texas A&M International University back in the district represented by a graduate of The University of Texas at Austin. Move adoption.

[Amendment No. 4 was adopted.]

REPRESENTATIVE KEFFER: Chairman Darby, serving on the Redistricting Select Committee with you—as much pleasure as that was, and all our work—I'm a little confused though on the amendments that you're accepting today, because I was under the impression when we left that the lines, because of the narrow call—because of future issues that will come up concerning the map—that any line or any change that was made would open the door for other problems or other issues that might arise as far as the San Antonio court, or whatever the case may be. So, again, if you would tell the body what your criteria is on accepting or rejecting amendments as they come up today, it would really help me—and I think other members on the floor—of what your overall, what you're looking at, and how we're moving forward and not in falling within the call and falling within the confines of what the court in San Antonio may look at or others down the road—the mechanics of this.

DARBY: Well, as you know, having served on the committee, from day one, once the call came down, there's a question as to whether or not we could do anything more than simply adopt the interim maps.

KEFFER: The maps that everybody ran on, the precincts, everything as it is today?

DARBY: That's correct. And so, that was the initial plan. I think that was on the floor of this house the first day of the call, and we had a very shortened time frame in which to have public testimony, have public debate, and get the bill out. I think we had a seven to 10 day time frame. But then that Wednesday, the San Antonio court met, and there were exchanges between the judges that indicated they wanted—they would look unfavorably on simply the house and the senate not going through the process of fully vetting these maps, and looking at any changes—any required legal changes. And so, you know, it's been my position from the start that these maps are legal. And if somebody can demonstrate to me that a district has been drawn illegally, and it can be fixed and changed, then I want to consider those amendments, and consider those changes.

And so, when we look at some of these amendments that we just got through accepting, did they do any harm or did they go to further any litigation that we have right now? And the answer is these are small tweaks to districts between members that unite communities of interest and don't have any implications with regard to Section 2 of the Voting Rights Act or the constitution. And so, that's why I've agreed to take those three amendments and because they further what I consider to be the purpose of the call. And that is to look at, seriously, these maps to see if they are legal and if we as a legislature can exercise our legislative duties—our inherent rights as a legislature to adopt and be a part of the redistricting process. That we don't just simply cede one more time where we cede our state's responsibilities back to the federal government. You know, I, for one, am tired of having court intervention in this matter, and if we're going to—I want the legislative process to work, and that's what we've been doing for the last

twenty-something days is allowing the legislative process to work. And so, from that standpoint, I think it's wise that we accept the three amendments that we've accepted.

KEFFER: I know in the beginning, like you said at the beginning of your comments there that, certainly, things change. From a simple going in and just voting out the map as it is, to taking hearings around the state because of some issues within the attorney general's office or trying to match what the San Antonio court was. Now, the three amendments that you have accepted on the floor today—the Anchia-Ratliff amendment—and that was just switching precincts that was agreed by those two members, and switching precincts?

DARBY: Correct.

KEFFER: Not doing anything on county line, not doing anything that is a larger issue that we will have to look at.

DARBY: And it helped the deviation. Anchia was way over the deviation, and Bennett Ratliff's district was way under. What that did—what this amendment did was help bring those deviations back into line.

KEFFER: Okay, that's the Anchia-Ratliff. What was the next amendment that you took today?

DARBY: The next amendment was Wu. Wu-Vo-Murphy.

KEFFER: Wu, Vo, Burkett, out of the Houston—Harris County—and that was agreed by all three of those members, and—the same thing, was it a precinct issue?

DARBY: It's just a matter of swapping some precincts, bring some communities of interest more together and aligned, and therefore, with agreement of the parties, it did not change the demographics of the district, did not have any Section 2 issues, did not have any retrogression issues, and so, therefore I thought it prudent that we take that.

KEFFER: And in this last amendment with Raymond, what was that amendment?

DARBY: Well, Richard Raymond, under the current interim map, had a parking lot of Texas A&M International, and what this does is bring the school itself back unified together with the parking lot. And so, this was an agreed change between Representative Raymond and Representative Tracy King. It's all inside Webb County and it simply unified Texas A&M International campus.

KEFFER: Okay. So, those three—again, the simplicity of those I understand, so tell me—you have other amendments that you will be looking at that will not be accepted as you said in conversation because, either splitting county line, or there is a retrogression issue as far as that amendment may do. So, you're not going to be able to accept all amendments. You can't sit there and make a blanket statement. You're going to have to look at every amendment on its face value, and you do have help in the back if members have questions.

DARBY: Lege Council's in the back to address any member's concerns.

KEFFER: So that if there is an issue that will be helpful to you, giving you advice on what amendments should be accepted within the call, within the framework of your responsibilities in the committees and those that would be acceptable—these minor changes.

DARBY: That's correct. I considered it my responsibility and that of the committee to actively look at these issues—look at these districts, look at these lines, and do something that makes sense and that's legal—legally required—or even if it's not legally required, I don't think any one of those three amendments that we've taken are legally necessary, but I think it makes sense to do what we did with regard to those amendments.

REPRESENTATIVE GIDDINGS: Representative Darby, thank you for all of your hard work and your committee's hard work. Do you recall my coming to you, even before your committee met, and asked what kind of action you were going to be taking, and your telling me that you were not going to accept any changes unless they corrected deficits or that kind of thing?

DARBY: Correct.

GIDDINGS: Okay. And do you recall my coming to your committee when you were meeting here at the capitol—I guess this week—and saying to you that in Dallas County, when we did the census count, my district was the only district that had an overage in population and that it was virtually destroyed?

DARBY: Correct.

GIDDINGS: Okay. And having said that, Representative—Chairman Darby, the only reason I didn't try to correct some of those things was because of the earlier conversation that you and I had that you weren't going to do that. So when I came back to you, I came back to you to talk about 12 people that we'll talk about later on. Is that correct?

DARBY: Yes.

GIDDINGS: Okay. And my concern, Chairman Darby, is that we're just kind of all out here a little bit confused now, because that's what we understood the case to be, is that you were not going to accept just swaps among members, because certainly there are a number of us, including myself, that would have liked to have made some swaps. But redistricting is much too cumbersome and requires much attention to detail, would you agree with that?

DARBY: Well, you know, in your case—your amendment—if it's 12 people or less and it brings, again, communities of interest back together and it's a swap with you and your neighboring representative, then I see no harm in that. I see us exercising our legislative duties in order to make that determination.

GIDDINGS: Yes, I appreciate that, but my question went to my wishlist in terms of things that I would have tried to swap out with my neighbors had I known that we were going to, in fact, be accepting some of these swaps, because, as I understand it from talking to members of the committee—even though I don't object to these amendments—is that except for the Vo-Wu-Murphy amendment, the other two amendments were never even heard in committee.

DARBY: They were not heard in committee.

GIDDINGS: Yes. So, in three minutes, or less, we were asked to make a decision on a very, very complicated matter, and, Mr. Chairman, I think that really kind of clogged up what we're trying to do here.

MARTINEZ FISCHER: First, let me say—let me also chime in and thank you for the way you've handled the Redistricting Committee. It's never, ever, easy, it's never going to be easy, but you can be fair, and I know there were some times where we'd debate whether or not the committee was proceeding fairly, but we always found a way to talk to each other. So let me thank you for that.

DARBY: Thank you.

MARTINEZ FISCHER: And I think the body should know that. Very many of us have gone back to our districts and been part of our lives, and weren't keeping up with what you and I or others were doing. So, with that being said, I'm really concerned about how we did our jobs given the short amount of time that we had and having extremely limited resources. And so, could you help me and the body understand how we did this without a lawyer for our committee and without a person specifically dedicated to the committee for the purposes of drawing maps?

DARBY: Correct. I mean, we were all operating under a 30-day special session call, so all of this—select committee was formed after the call was received, 19 members of the committee were appointed, you know, we began our work immediately. And so, we have a limited time frame in which to operate, and then, of course, we had resources that—we had to work within the available resources. And so, we relied heavily upon Lege Council. If you'll recall, we had a first meeting, I believe, on a Thursday—or a Friday—and then on a Saturday and it became a concern of the committee that perhaps we might need to hire outside counsel. And so, Lege Council went about the process of doing that—found a law firm, David Ginn and Morrison, they contacted them, had a meeting with them, and then they showed up at our Dallas field hearing and there was a problem with them being present. The committee felt as though they should not be present at the hearing until we worked out any differences and understood the attorney relationship with the committee and the committee chair, and so, we asked the attorneys to leave the hearing in Dallas. I tried to contact you and other members—Vice Chair Davis—about the legal representation on behalf of the committee. Could not achieve that meeting before our San Antonio conference, and so, it was decided that we would forego the attorneys' representation.

MARTINEZ FISCHER: And to be fair on that point, the dispute over the attorneys really had more to do with whether the attorneys represented you as the chairman or represented the committee—whether by mistake, or accident, or just not paying attention to the question, I think the initial response, that the lawyer only responded to the chairman, had me concerned and I think had other members of the committee concerned. Is that fair?

DARBY: Yes, that is fair. And, you know, I had not been through the redistricting process, so this is my first rodeo when it comes to redistricting. And so, I thought it would be helpful that the attorneys were available to advise me as to the procedure and make sure that we are following the correct procedures and protocol.

MARTINEZ FISCHER: And I know a lot of us felt the same way. I know that Vice Chair Davis also requested to have counsel—that she could have input to selecting that counsel because she had that same apprehension. But, that being said, we proceeded without independent counsel, the senate proceeded with their committee. They had outside counsel at their disposal, that's correct?

DARBY: My understanding.

MARTINEZ FISCHER: Okay. And then, so, we lacked the presence and involvement of an outside counsel. We had access to Legislative Council in some capacity, but we never heard from Attorney General Greg Abbott, or any representatives from the attorney general's office, is that true?

DARBY: We never heard from them in committee.

MARTINEZ FISCHER: And, in fact, you as chairman said that you were not going to require that he come before the committee, that's correct?

DARBY: That's correct.

MARTINEZ FISCHER: And, in fact, you encouraged members to reach out individually and—I know I did, I don't know if anyone else did, but I did on two occasions—and the attorney general never came before the committee even to observe, even to send somebody—who couldn't provide information for whatever reason, and I found that to be a little bit odd and I want to know how you feel about it.

DARBY: Well, I would hope that the attorney general would have been open to meet with all members of the committee, or his staff, so—

MARTINEZ FISCHER: Did you think that that was—I mean, in terms of operating fairly, do you think it would have been fair to be able to know the position of the attorney general even though we know his general position as we're in litigation and he has signed onto a brief dealing with the applicability of Section 5 of the Voting Rights Act? Despite those things, the attorney general never came in to tell us what his position was on these interim maps, is that correct?

DARBY: That's correct.

MARTINEZ FISCHER: And what troubles me by it is I can Google his name and I can see press accounts where he doesn't seem to have a problem making his position known to reporters, but, for whatever reason, he has a reservation about making those comments known in a legislative tribunal, and I can't understand that. Can you explain it on his behalf?

DARBY: I cannot speak for the attorney general or his staff.

MARTINEZ FISCHER: Are you disappointed that he didn't come to the committee?

DARBY: Well, I never asked him to come to the committee.

MARTINEZ FISCHER: Well, now that I'm telling you that I've asked him twice, are you disappointed that he didn't come?

DARBY: Well, I would hope the attorney general and his staff would be responsive to all members of the legislature.

MARTINEZ FISCHER: Do you think that we could have done this process better had we had input from the attorney general by and through participation on the committee?

DARBY: You know, I don't know if I'd characterize it as better. Certainly, it may have been different, but I don't necessarily—

MARTINEZ FISCHER: Well, I'll give you a good example. We talked in committee about adjusting population deviations in Dallas County—you didn't come up with that all by yourself did you?

DARBY: Yes, I've been doing a whole lot of reading about this redistricting process, but you know, I have not run all the deviation numbers. I've relied on Lege Council to do a lot of that.

MARTINEZ FISCHER: And I understood that we also relied on the attorney general's office to tell us we should look at population deviations in Dallas County, isn't that true?

DARBY: Yes.

MARTINEZ FISCHER: So this is a really good example where the attorney general, at least privately, shared the view that we should look at population deviations in Dallas County, but never informed the full committee, never informed, at least, the vice chairwoman who is from Dallas, about those concerns, never came and told us we're litigating this case, but meanwhile you should pay attention to population deviations in Dallas County. I think that would have been important. So, going back to my question, don't you think we could have done a better job had we had those positions of the attorney general made available to all of the committee members as opposed to those that either met with him privately or heard from him privately?

DARBY: I think the more information the committee has is always good.

MARTINEZ FISCHER: So, no matter where it comes from, including the attorney general? I agree with you on that. And so, I'm troubled with this—let's go, we have no lawyer—we have no outside lawyer, we have a limitation of representation from Lege Council—and we can talk about that, although you and I know what that means—and then we don't have any guidance from the chief legal officer who is actually going to be defending these maps. And then it dawned on me when we had Mr. Archer before us. In the committee, I asked him, are we required to even pass a map? And I believe he said we weren't required to. Do you remember that?

DARBY: I remember that conversation, yes.

MARTINEZ FISCHER: Then I said, Mr. Archer, I want you to tell me if we have two choices, one is to be deliberate in the hopes of working in good faith to get it right, or do we just adopt something for the sake of the special session time frame expiring? What should I do? And I think he said to be deliberate and try to work as hard to fix a problem.

DARBY: And I think that's what the committee has done.

MARTINEZ FISCHER: And I think that, up until about a half-hour ago, there has not been a single change made to the map. I don't know if we actually accomplished that. I think that many of us on the committee thought that we were going to be able to make improvements to the map. That didn't happen. The amendments that are being accepted now are only being accepted because you think it meets a legal threshold, but more importantly, nobody in the impacted area disagrees. And so, do you believe that's the only way we can make changes to these maps?

DARBY: Again, I want to make sure that we only adopt changes that are legal, that actually makes changes to an already, what I consider it to be, legal map.

MARTINEZ FISCHER: Sure. And if a change is proposed today that's legal, but for some reason is not accepted by either the incumbent or the impacted member whose district the change is going to occur, are we going to take it?

DARBY: And it must be necessary. It needs to be necessary, but if it's legal and necessary, and is the will of this body, then we'll let our legislative prerogative act. We will act on behalf of the body.

MARTINEZ FISCHER: It doesn't have to be the prerogative of the body, it could be the amendment is acceptable to the author. And so, you could actually inform the body of your preference. So, again, my question is, if it's legal and if it's necessary, but the impacted parties aren't necessarily in agreement, is that an amendment that you're going to accept?

DARBY: Everyone would have to—you know, here's the purpose of the three amendments we took: it was limited in scope, they did not violate the constitution or Section 2 of the Voting Rights Act, and it was measures that were necessary to unite communities of interest and the members agreed to it. That's the substantive basis for taking those three amendments.

MARTINEZ FISCHER: And I can get there on two-thirds of what you said, but the one-third that says the members have to agree to it, that's not in the constitution, that's not in federal law, that is not in our state constitution. So why are we adding an additional layer of objection when what we really should be doing is deciding between what's legal and what's not?

DARBY: Well, because this is the function of this legislative body is to make decisions that are in the best interest of the legislature and what they believe is right in the circumstances. So, you know, it would be up to this legislature and we're going to have some votes, I'm sure, on further amendments on whether it be the will of this body to take those amendments.

MARTINEZ FISCHER: Sure, but again, you inform the body by you accepting, and I guess I just don't want to mislead the body because you acknowledge that members agreeing to a change has nothing to do with voting rights law or the Voting Rights Act or anything related to redistricting. We agree on that, right?

DARBY: Correct.

MARTINEZ FISCHER: You're just being extra deferential to not upset a member because of personal preference.

DARBY: Correct. And their amendments made sense from the standpoint of unifying communities of interest.

MARTINEZ FISCHER: But are you also going to tell the body that if you don't make this tough choice, someone's going to make it for you? When I say someone's going to make it for you, it might be some judicial panel, and in that instance, you have zero input because the map's going to be drawn. Are you informing the body that this is the consequence of not being able to put a legislative product that's going to be fair and equitable to all parties?

DARBY: At some point the courts or some higher review is going to take place. This map will have to be precleared by the Department of Justice. So all that we do today and in all the meetings will be reviewed by the Department of Justice to make sure of constitutional compliance.

MARTINEZ FISCHER: Right, I get that, but that's just Section 5. We have Section 2, the 14th Amendment, there are also some other legal theories that are developing based on the future of Section 5. So let's just acknowledge that there's a lot of litigation out there, but the quintessential question is, I think members need to know that passing this map doesn't end litigation. We agree on that.

DARBY: Absolutely.

MARTINEZ FISCHER: And in fact, if litigation proceeds, this map can change. That's correct? It could potentially change.

DARBY: I missed that last part. If we pass these maps it's going to have to be precleared by the Department of Justice.

MARTINEZ FISCHER: And my question is, it's possible that the map in some capacity could change?

DARBY: Yes, it is possible.

MARTINEZ FISCHER: It is possible, and in making those changes, this body will have a relatively small amount of influence, relative to what it has today to make changes, correct?

DARBY: Yes.

MARTINEZ FISCHER: And so I think we should be true to ourselves to recognize that we're not passing a final product, but we are passing on the opportunity to make a map that would be fair, legal, necessary, and has all of our input.

DARBY: Correct.

MARTINEZ FISCHER: Okay, and that's just one of the things that I think needs to be really clear on this record, because I think many people believe that passing these maps ends things. Many people believe that we can pass these maps and come back and negotiate again, and as you and I both know it's going to get much harder.

DARBY: No, once it leaves this chamber, and goes to the governor for signature, it'll lose our control.

MARTINEZ FISCHER: Can I ask you why, in choosing to have this place on the calendar, why didn't you ask for a calendar rule?

DARBY: Willing to take amendments that the members thought were appropriate and we ought to consider.

MARTINEZ FISCHER: And a calendar rule doesn't prohibit anybody from filing an amendment. And in the past, we've also had layout rules so that we know we're filing maps, and you didn't think that that was important this time?

DARBY: You know, those rules were made so we could have ample notice to review and approve and look at the legal effects of those amendments. It was my position that we would just look at the amendments as they're filed in order to evaluate them for their legality and for their effect upon the existing maps.

MARTINEZ FISCHER: Well, and I would say this, looking at the legislative journal of the previous sessions, I just went back as far as 2001, and I saw for redistricting we did a calendar rule and we had pre-filing requirements. And one of the things on the calendar rule is we want to make sure when you do a map that you don't violate the calendar rule by impacting somebody else unnecessarily, or making sure that your statewide map is truly a statewide map and when we're doing this on the floor in real time, we don't know that the map is as perfectly drawn as we might think it is. And so, I'm concerned about that. I'm troubled that you don't find it concerning.

DARBY: Well, I mean, we—the point is, we did not have a calendar rule.

[Amendment No. 5 by Martinez Fischer to Amendment No. 1 was laid before the house.]

MARTINEZ FISCHER: Members, this is an amendment that's really simple. In fact, it doesn't even draw a map. What it does is it adopts findings and facts that we have found in the courtroom, by way of judicial opinion, court order, that we have found by way of empirical evidence, as presented to us by the United States Census. And so simply what it does is, these findings will establish core facts about the process and adoption of these interim maps. It makes clear that this bill is being adopted with departures from normal procedure, departures that Chairman Darby and I already talked about, not having resources, not having a lawyer, doing this in a special session.

It also sites verbatim, beginning on page two with line 13, tons of facts related to the census data and the creation of redistricting plans. It talks about the demographic growth of this state. It talks about the demographic growth of this state being especially true in Dallas County, Harris County, Fort Bend County, Bell County, Midland County, and Ector County. It talks about the minority growth not reflected in the current benchmark map that's being used. It also declares that the interim map that we're using today enacts 122 of the original 150 districts passed the 2011 session. It also acknowledges the finding of evidence at both the district court for the District of Columbia. So in essence, there is nothing in here that is erroneous by way of fact. It may not be pleasant, it may not be facts that we're proud of, but it certainly reflects where we are and why we're here. And so with that, that's all that this amendment does, I hope it is acceptable to the author and I'd be happy even to pull it down temporarily so he can read it if he wants the benefit of reading it.

Out of courtesy and deference to Representative Darby, I'm going to pull it down so that he can actually review this and see if he can find a comfort level of accepting this, so we'll temporarily withdraw this and I'll bring it back.

[Amendment No. 5 was withdrawn.]

REPRESENTATIVE Y. DAVIS: Mr. Speaker, what are we waiting on?

SPEAKER: We're re-scanning an amendment.

Y. DAVIS: Mr. Speaker, you know, we had many sessions, redistricting sessions, and I'm wondering if you would recognize me for a motion to take a couple hours recess so that members who are seeing these amendments, including those of us who are on the redistricting committee, for the first time, to have an opportunity to review them to see what we're doing. There are many members who very well may have wanted to do amendments, but didn't have the opportunity because we were told that they weren't going to take them, and I'm just wondering if it's appropriate for us to take a couple hours recess so that we could at least have some sense of knowing what it is you're putting—they're adopting and looking at.

SPEAKER: Ms. Davis, all of the amendments up here were prefiled with the exception of Ms. Giddings, and that's the only one that makes a geographic change.

Y. DAVIS: Mr. Speaker, many of the amendments that are being considered did not even come to our committee meeting, the select committee. I'm just saying, there are many members who have asked when did the decision become evident that they could even get amendments to make these tweaks, as we're calling

them, and so that everybody would have an opportunity to do that to the extent that they wanted to, a couple hours to at least let them vet, look at, look at the ones you have accepted, so that everybody is treated—has some—

SPEAKER: Members, this is the order that we're going to take amendments: We have two amendments by Mr. Martinez Fischer that do not deal with geography, just the findings. Then we have Ms. Giddings' amendment, scanned and in the system.

Y. DAVIS: Mr. Speaker, and I'm fine with what you're telling me we have, my question was whether or not you would entertain a motion to recess so that everybody could look at what these amendments do?

SPEAKER: I'm trying to explain how we intend to go forward. We have two amendments by Mr. Martinez Fischer that have nothing to do with geography, an amendment by Ms. Giddings, and if anybody has questions about her amendment, Lege Council folks over here would be happy to help you with that. There's an amendment by Mr. Burnam and one by Mr. Menéndez. Both have been prefiled and have been in the system for 12 hours.

Y. DAVIS: Will other members have an opportunity to get amendments ready?

SPEAKER: We have no prefilng rule. You're free to file amendments.

Y. DAVIS: My concern, or my initial inquiry, was to allow us time to look at what amendments were being accepted, what those amendments do, what amendments are being proposed that you still have up there and, also, there's members who have indicated they'd have liked an opportunity to do this. To provide amendments, to the extent that they could of prefiled them or they could have gotten them ready, it was most of our understanding that they would not be accepted on the house floor. So, now that we have determined that we're going to accept agreed-to amendments, it appears that we ought to at least afford every member an opportunity to review those that are being put forth, and also an opportunity for folks who would like to put amendments forward. And the review of the ones that have been previously accepted, it would be helpful if people got an opportunity to look at those as well.

SPEAKER: Ms. Davis, I think we're going to have time this afternoon for Lege Council personnel over here to help with any drafting of amendments or review of amendments that have been accepted.

Y. DAVIS: So you will not entertain a motion to take a couple hours recess so we can get this stuff ready?

SPEAKER: It's the intention to work through the prefiled amendments.

Y. DAVIS: Okay, so we can just—they can just keep filing them and we'll continue to just take them as they come? Because, you know—

SPEAKER: That's correct.

REPRESENTATIVE P. KING: I apologize for being a little confused, but we're on amendment number one, what amendment numbers have we passed? Or adopted, rather.

SPEAKER: Amendments two, three, and four.

P. KING: And were those amendments to this amendment? Or were those separate amendments?

SPEAKER: Amendments to this amendment, yes.

P. KING: And this amendment is the author's perfecting amendment, for lack of a better—

DARBY: Representative King, this amendment is simply the geography. You have a two dimensional viewer of the maps you see on your screen. What this amendment is is simply the 350-something pages of precincts that compose that two dimensional image. And so, when there's an amendment to a specific district, that amendment language is expressed in geographic terms, and so it simply dropped into the floor substitute to make it easier to enroll and be engrossed.

P. KING: I understand that, I know typically when we've done redistricting bills we always kind of work off that first author's amendment, because otherwise any subsequent amendments aren't germane because the map has changed, I get that. So when the Speaker was referring to prefiled amendments, were those prefiled amendments to your amendment? Or are they new amendments that are out there—

DARBY: They were prefiled amendments in the system that changed this map.

P. KING: Okay, am I correct—am I remembering correctly that previously when we did redistricting we had a calendar rule that dealt with the prefiling of amendments?

DARBY: Correct.

P. KING: And am I also correct that the calendar for this was set during a time that the house was in recess for a few days?

DARBY: I don't recall when it was. But keep in mind, we've had a telescoped-down, if you will, process, and we're trying to move this process within the call that the governor issued to us.

P. KING: Am I correct also that had we not been in recess there would have been an opportunity for members, I guess, to try to propose a calendar rule?

DARBY: Correct.

P. KING: Okay, thank you.

[Amendment No. 6 by Martinez Fischer to Amendment No. 1 was laid before the house.]

P. KING: What would the process be at this point, since we've had amendments to amendments adopted by acclamation, what would the process be for a motion to reconsider the votes by which those amendments were adopted? And can that be done in a blanket to cover all of the amendments today?

SPEAKER: Mr. King, I would invite you to come visit with the parliamentarian about that.

P. KING: All right, if you could—

SPEAKER: There was no member on the opposing side of the adoption of the amendment. I would invite you to come visit with the parliamentarian about your options.

P. KING: To have standing for a motion to reconsider you have to have been one who voted for the amendment. Technically, all of us voted for the amendment so anyone can make a motion to reconsider. Can that be done as a blanket for all the amendments, or do you have to do it one at a time?

SPEAKER: Mr. King, if you come and talk to the parliamentarian about what you're specifically trying to do, I think that might help.

MARTINEZ FISCHER: Members, this is an amendment that pretty much says if this map that we are going to pass today, or that some of us are going to pass today, should it not preclear or should it find itself on the wrong side of the law in a courtroom, that we come back and we use neutral redistricting principles to draw a map. And so, all it talks about is—on this amendment—is the requirements of Section 26 of Article III of the Texas Constitution: maintaining whole counties will yield to the purposes of satisfying the Voting Rights Act, which is merely not my idea, that's actually the law, both Article III, Section 26 of the Texas Constitution, that is *Smith v. Craddick* from the Texas Supreme Court in 1971, and it's *Clements v. Valles*, Texas Supreme Court 1981.

Moreover, it's also the belief from Legislative Council, which has really been our only source of legal counsel for the committee, because I'm taking it directly from a presentation made by Senior Legislative Counsel David Hannah, on March 1, 2011, talking about the county line rule. So I want to incorporate that. I also want to say that house districts in total shall reflect the ethnic diversity of the state, population deviations among each house district shall be reduced to the extent practical, including among multiple house districts located entirely within a single county. Communities of interest shall be kept whole whenever possible. Splitting county voting precincts and voting blocks along racial lines will be avoided whenever possible, and ethnic minority communities shall not be fragmented in any circumstances when they elect candidates of their choice when retaining a single house district. Every single one of these principles are the legal principles that are adopted in the courtroom. This isn't my wish list, this isn't what I believe should be the law; this is the law. And so all I'm saying is if Chairman Darby believes that we have a fair map and a legal map, then he shouldn't worry about this amendment, because it will never come into play. But I'm saying, should he be wrong, and should this map hit a snag somewhere, we're going to make it an expression of our intent that these districts should be drawn on neutral purposes. And so, that's all this does. I'd be happy to yield if there are questions, otherwise, I move adoption.

REPRESENTATIVE CRADDICK: Trey, walk through the paragraph on the splitting the county line. As you know, many of the districts in this house wouldn't be here today if you didn't have the county line rule. Is that correct? Would you agree with that?

MARTINEZ FISCHER: No, I don't agree with that. I think the county line rule makes it easier to draw districts outside of one county, but even, for instance, I have a floor substitute that we'll be talking about later, it splits the whole county rule once. One district out of 150. And so, it doesn't lead to that. If members are going to hold true to when you can break the county line rule, this says you can break the county line rule when federal law says that you can. In other words, in order to comply with Section 2 for the Voting Rights Act, you can split a county, which is something we already know. I mean, that's not—

CRADDICK: Well, we don't know that yet. That hasn't gone through the courts, yet, has it?

MARTINEZ FISCHER: It did in 1971, you were one of the litigants.

CRADDICK: I know I was, but you're saying that the federal law is saying you can do it if they want to do it, is that what you're saying? Where was that in the courts?

MARTINEZ FISCHER: Well, I will say that this is what Lege Council says we should do. And, so, specifically, at a hearing we had in Houston, I asked Jeff Archer, and I'll read it verbatim, this is from the transcript. We've been fortunate to have the attorney general provide us with a transcript of our hearings; even though he wouldn't come to our committee hearings, he sent his court reporter to take notes. And so in this transcript, I ask the question so to comply with the requirements of Section 5, are you telling me and this committee that the county line rule should fall? Answer: Mr. Archer: Absolutely. If the only way to avoid regression would be to divide the county to preserve or create a minority district to avoid retrogression, absolutely.

CRADDICK: That's his interpretation, it has not been litigated has it?

MARTINEZ FISCHER: Well, no, no. I think that's his interpretation based on three things, I want to be clear; Section 26 of Article III of the Texas Constitution; *Smith v. Craddick*, a Texas Supreme Court opinion in 1971; *Clements v. Valles*, a Texas Supreme Court case of 1981. Based on—cause we went through this, this is actually the presentation, and so I asked him, based on the Supreme Court law and the state constitution, if federal law, such as Section 2 or Section 5, requires that a minority opportunity district be drawn, and the only way to do it is to break up the county line, do we do it? And his answer was absolutely.

CRADDICK: Well, Trey, the way I see it, is that if he's going to have the county line rule, I think that the vast majority of these districts outside of Dallas, Harris, Bexar—I mean, they're all going to be, the small districts are going to be gone. South Texas, they won't have any districts, West Texas is going to be all cut up, and the reason I filed that lawsuit and took it to the Supreme Court, they split the county I represent down the street I lived on. One district went from Midland to Abilene, the other from Midland to Del Rio. And that's not fair representation to the people in the rural areas. And so, I'm going to vote against your amendment, because I don't think that needs to be in this bill.

MARTINEZ FISCHER: And I'll tell you the other side of the coin, because when you break the county line rule in West Texas, you can draw a Section 2 Hispanic citizen, voting age population district in West Texas—

CRADDICK: How many counties do you split doing that? You count splitting Midland and Ector, how many more are you going to split?

MARTINEZ FISCHER: We'll split Midland and Ector, and I believe we go into Lubbock. But let me finish—

CRADDICK: A little road, I don't even know that we've got a road that goes there. You going to pay for the road to get from one to the end of the other?

MARTINEZ FISCHER: Well, I'll tell you what, if you were speaker, we wouldn't have a problem putting roads out there. And so, let me finish my statement. So, when we're talking about breaking the county line rule, it's not for fun, it's not for sport, it's not to be mean to you or Tryon Lewis, it's to create a

citizen, voting age population, Hispanic-majority district, which you have to at least grant me, that is not easy to do, that is—and so, we're going to compete in a way your preference, which is, I don't like what this will do to rural Texas and this could diminish rural Texas if we start splitting counties, to we've come a long way since the *Smith v. Craddick* case of 1971 where they said you can do it if it means you're furthering federal law, and we're following federal law. It's only fair that those constituents that you currently have or that Representative Lewis currently has or anyone else in West Texas have, that they do have an opportunity to represent and elect candidates of their choice and run for office. So that's all this really does. I mean, you can vote against it, but please don't deny that demographic change.

CRADDICK: Trey, what's interesting is we have Hispanic officeholders out there today in those districts, in our counties.

MARTINEZ FISCHER: Would you introduce me to the state rep from West Texas who's Hispanic?

CRADDICK: I'm sorry?

MARTINEZ FISCHER: Can you introduce me to the state rep from West Texas that's Hispanic that's here on this floor?

CRADDICK: I didn't say we had state reps, I said we had elected officials, and you know, for you to do what you want to do, you're cutting everybody else out that lives in those districts. We just disagree.

MARTINEZ FISCHER: I think—

CRADDICK: I'd ask the members that are in this house today to vote against this bill.

MARTINEZ FISCHER: I think we disagree, but I think where you have the advantage today, sir, is that this decision could be made on politics, but tomorrow in federal court it will be based on the law. And so, we have an opportunity to be consistent here. All I'm saying is we're going to follow fair principles, that's either federal law, or a traditional, neutral redistricting principle. It'd be very difficult for—

REPRESENTATIVE ALONZO: Mr. Martinez Fischer, as it relates to talking about splitting counties, doesn't it beg the question that at some point that you would have—running for state rep, there used to be a law that said you would run for the whole county. Are you familiar with that?

MARTINEZ FISCHER: I think so, yes. I think you're right.

ALONZO: In fact, not so many decades ago, in Dallas or San Antonio you would have—if it was 10 state reps, you'd have to run for the whole county. Is that right?

MARTINEZ FISCHER: Yes, sir.

ALONZO: And then, later on, the Supreme Court said you can't do it and they went to single-member districts. Is that right?

MARTINEZ FISCHER: Yes.

ALONZO: And in cutting up the county, somebody would've said it would've been better to have the whole county as opposed to splitting it, but somebody high above—the Supreme Court said that was not the proper thing to do. Is that right?

MARTINEZ FISCHER: That's correct.

ALONZO: And now, as it relates to splitting up counties to do what you're talking about, to create an opportunity in West Texas, which is, you know, part of your goal in your amendment that I applaud, is by splitting counties you're better able to do what you're trying to do to create a 2 opportunity district in West Texas. Is that right?

MARTINEZ FISCHER: And let me justify this for you. Between 2000 and 2010, the Latino population in Midland, for instance, increased by 53 percent and the non-minority population decreased. And in that same time period, the Latino population for Odessa increased by almost 41 percent and the non-minority population decreased. But yet, when it comes to making political representation, it's the growing demographic that is not represented, has the opportunity to represent itself, and statistically, mathematically, has demonstrated that they can do it in a more compact way than some of these current West Texas districts, and to deny that opportunity, maybe you can make it for political purposes, you can make it for incumbent purposes, but you're not going to make it for legal purposes.

ALONZO: And aside from Midland and Odessa, Ector County, throughout West Texas from the research and work that you've done in trying to create opportunity districts in West Texas, you did not only see the numbers growing in Midland, Odessa, you see them growing throughout that West Texas area. Is that correct?

MARTINEZ FISCHER: That is correct. I mean, that is the entire state. Texas grew by 4.2 million people from 2000 to 2010, 2.7 million or almost 2.8 million of them alone are Hispanic. Remarkable growth, and they're coming—Hispanics are growing everywhere. And West Texas is—when we tell people that you can draw a citizen, voting age population, majority district in West Texas, they don't believe it. But it's there. And so, this is a very, very, very important point, and this doesn't go away on the floor of the house. This is a live claim in a federal courtroom right now. I think when people move to table and vote against this, it only reinforces the argument that the only way we can do it is through the judicial intervention, because legislatively, we just can't get past it.

ALONZO: And another point I would make is this is: In spite of the fact that West Texas, as we saw when we were doing redistricting, the population of West Texas went down, and as a result, there was a decrease in the number of state representatives, but as it relates to the increase of the Hispanic population, as you pointed out, it went in areas like Midland a 53 percent increase, in Odessa, 41 percent. It was lower population in general, but the Hispanic percentages went up. Is that right?

MARTINEZ FISCHER: All of West Texas, and I don't want to stretch it, but my belief is that most of West Texas was overwhelmingly population starved and the gains that were being made were demographic. And so, this isn't even a map. This is what I'm talking about. I can understand that we can't agree on drawing a map because of whatever local issues, all I'm saying is if this map falls and doesn't preclear under Section 5, the legislature adopts these principles. And

these principles, it's the current law. And so the fact that we can't even do that tells us how far behind we are when it comes to drawing districts that really, truly reflect the population of our state based on current state constitution and federal law, and it makes the point for us. It's pretty obvious that if we can't get past neutral redistricting principles, then really, our partisan and our self-interests are outweighing our legal interests and that's when I think we're making bad policy.

ALONZO: I think you made a good point and I think the person that helped start the discussion was Speaker Craddick, and the litigation that you talked about.

REPRESENTATIVE PHILLIPS: I just wanted to make sure, we just have a one-page amendment, is that correct?

MARTINEZ FISCHER: Yes, sir.

PHILLIPS: Okay, and you're setting out certain principles that you want us to—that you're suggesting that courts or other entity, what other entity would that be?

MARTINEZ FISCHER: That would be us, if the governor called us back into a special session.

PHILLIPS: Okay, and so are you saying these would bind the future legislation—legislators?

MARTINEZ FISCHER: I don't think it will bind, I think it will guide. I think we're not saying they have to do this, we're saying that this would be their guide.

PHILLIPS: Okay, and out of the six principles you have there, are they listed in order of importance?

MARTINEZ FISCHER: You know—

DARBY: I'm going to move to table this amendment. Clearly, this amendment overrides the Texas Constitution, it throws out the county rule, county line rule. That would establish a policy of this legislature, and of course I'm against that. I'm from rural Texas, and I think this would eviscerate rural Texas, whether it be North, East, West, or South Texas, so on that basis, I'm going to move to table this amendment.

MARTINEZ FISCHER: I will close and then I'll yield to any questions if there are any. I'm just going to ask you to really think about this, not from where you are today, but from where you'll be tomorrow, if in fact we find ourselves talking about this. I don't know if we want to make a legislative statement that says we don't care about federal law, we don't care about the Voting Rights Act. You may not care about it personally, but it actually is the law. The trouble or the quandary or quagmire or whatever you want to say, the reason why we're in the box that we're in now is because we didn't pay attention to these neutral principles, and some people took it a little too far. And some people took it to a place where none of us are proud about, none of us want to talk about, none of us want to admit that it happened, but we know from an extensive finding of fact in a Washington, D.C. federal courtroom that they did happen.

So, let's go ahead and help us from ourselves by saying should this fall, again, two things have to happen: Representative Darby has to be wrong. He has to be wrong that this map is not going to preclear. He believes it's a legal map. He wouldn't be doing it if it was illegal. He believes it's a legal map. So let's spot him. Let's give him that benefit of the doubt, this map, although I disagree, is a legal map. And if I'm willing to let him and concede that for the moment, then he

should concede to me, I'm so confident that it is, that I'll defer to you. If you want to put some principles that'll never see the light of day because I am absolutely right, I'll adopt them. And even if we do adopt them, it doesn't say the legislature better do them, it doesn't say the legislature's going to get in trouble if it doesn't do it, it says this is our policy we're going to guide ourselves with. Which is the policy we have already. It's just we make a commitment to follow them. Neutral redistricting principles, nothing nefarious, no tricks, nothing that you should be concerned about, and if anybody wants to get to the back mic and tell me that they have a problem with this because it is legally inaccurate, I will temporarily withdraw it and I want to get it legally accurate. Mr. Archer and Mr. Hannah are sitting here with Lege Council, we can draft it over a ham sandwich.

So if it's legally inaccurate, let's make it legally accurate, but if it's just I don't like it because it may take me out of my district, or I don't like it because all of a sudden my county is split, that's just the nature of demography. These decisions were made a long time ago—1971, I was one year old. I was one year old in 1971. And we're relying on case law that was established back then by Representative Craddick, and it's never been changed. It's never been changed, and for a Legislative Council who takes a very neutral position on lots of things, when they're producing publications that we will introduce in evidence, we will bring them to the federal courtroom to testify that when they wrote this they meant it, and then we will be able to use it to advance our arguments.

I think this is something we should really, really think about, and I'd be happy to yield at this point, after I say please vote no on the motion to table and let me just say one other thing, for those of you that are thinking about this, you don't have to vote no on the motion to table, and you don't have to vote yes on the motion to table. If you think what I'm saying is fair, then throw up a white light. Let me know, let other minority members of this house know, that there are people on this floor that have a conscience and are sensitive to this issue, because it is a sensitive issue. And if we have to balance between our partisan interests or the likability of our impacted friends in West Texas, if we're balancing that, if that's all we're really doing is I don't want to vote for this because I have respect for that member in West Texas, throw me a white light. Throw me a white light, send me a signal that you do care about diversity. If both parties care about the diversity of the state, I see it all the time, I hear about it all the time, I see proof of it on this floor, of what it means to be diverse within both parties, if we really mean it, then let's say we're going to give the Voting Rights Act a break when it comes to drawing maps. Especially in a place where one minority group has demonstrated all by themselves they can send one of their own to represent them in the legislature, or more importantly, when they all decide to vote together they can send whoever they want. They can send whoever they want up there.

This is not about a minority district electing a minority, this is about minorities having a voice and saying if we decide to vote together we will make the difference. And so, if any of that has moved you, throw up a white light and let's send a signal that we're about creating things fairly, we're not all about partisan interests all the time, we're not about taking care of ourselves all the time, we're actually sensitive to a very changing state and the demographic that's making that state change. So I'd ask you to vote no on the motion to table. I'd ask you to throw up a white light to show me that you want to work together.

REPRESENTATIVE C. TURNER: Representative Martinez Fischer, as I read your amendment, you're essentially enunciating some traditional redistricting principles in this amendment, is that accurate in saying?

MARTINEZ FISCHER: That is accurate.

C. TURNER: Okay, and one of those principles that I want to visit with you about a minute says that—the second one—says that the house districts in total shall reflect the ethnic diversity of this state. That is a traditional redistricting principle, is it not?

MARTINEZ FISCHER: It is.

C. TURNER: Okay, so, Texas grew considerably in population over the last decade, did it not?

MARTINEZ FISCHER: Almost 4.3 million.

C. TURNER: Four-point-three million. And is it not true that almost 90 percent of the 4.3 million people, that growth was either in the African American community or in the Latino community.

MARTINEZ FISCHER: Or the Asian community. I don't want to be fact checked, it was actually 89.1 percent. So I want to be exactly true instead of mostly true.

C. TURNER: So 89 percent of the population growth was in minority communities. Do you think that the interim maps that the court drew, that this legislature is considering adopting today as the permanent maps, do these maps reflect an 89 percent—that 89 percent figure of minority population growth in any way?

MARTINEZ FISCHER: They don't, but that was on purpose. That was deliberate. I can explain it, we can talk about it later, but the interim map is nothing other than a temporary map drawn by constraints placed upon the Texas court by the U.S. Supreme Court telling them don't tell us—don't draw a map that has any problems, you draw a map that reflects the legislative will, unless you are darn certain that there's a problem. Then you address it, otherwise we wait until Washington, D.C. courts make a decision. And when the Washington, D.C. courts make a decision, then we draw a remedy map for the decade, that's what they've said. Now certain individuals, certain advocates—the attorney general and others—they've only adopted that first part that says these are interim maps and this is how you draw them, and now folks want to make them permanent maps for the course of the decade, but I will tell you that the court is very clear that these maps don't address any of the claims brought on diversity challenges, brought on demographic growth, minority growth, Section 2 growth in West Texas, and so forth.

C. TURNER: Right, and I was in that courtroom, as were you, a couple weeks ago where I think the judges were pretty clear that they didn't believe necessarily that these maps addressed all those claims because they hadn't been fully litigated. So, I think what you're laying out here is common sense. Traditional redistricting principles are nothing new or controversial, so I'm not sure why this body would vote to table. So I hope they will vote against the motion to table.

MARTINEZ FISCHER: I think this is something that's real easy to vote for, even if you don't agree, but it's very difficult to explain. And so, that's why I'm giving members the benefit of the doubt. Throw me a white light, let me know that you hear the argument, you understand the argument, you don't want to make choices in West Texas, but you do believe we should have things like following federal law when we have to, acknowledging our Lege Council is giving us advice that

we should follow if we're going to follow Lege Council, and we adopt neutral principles. And more importantly, we retain the control over these maps, we don't just give them to someone else to do for us because we don't want to make the tough choice.

REPRESENTATIVE MENÉNDEZ: Representative Martinez Fischer, I'm a little confused in the sense that wasn't it the same body that cut Travis County into five different congressional districts? Is that not true?

MARTINEZ FISCHER: That is the current map, yes.

MENÉNDEZ: But I don't understand. So, your amendment says that we should be able to cut county lines or cut counties in order to help people elect folks based on the population that lives in those areas. Basically, you're saying the one man one vote, but yet it was okay to do it for Congress for political gain.

PHILLIPS: Okay. Mr. Martinez Fischer, I think I asked you this a while ago, you've got a one-page amendment?

MARTINEZ FISCHER: I do.

PHILLIPS: Okay. And when I started to ask you questions and we got cut off a while ago, and now you've come back up, so I'm going to ask you some questions. You've got your amendment in front of you?

MARTINEZ FISCHER: I do.

PHILLIPS: Okay. And again, you said—you've got six that you say are principles of redistricting here, is that correct?

MARTINEZ FISCHER: Yes.

PHILLIPS: Okay. And do you have a case law supporting each of those six with you?

MARTINEZ FISCHER: I don't have them in the body of this amendment, but if you'd like to see the basis for it, I have zero problem with that.

PHILLIPS: Yeah, I just didn't know—and I was wondering why you didn't offer an amendment that had cases to support these six?

MARTINEZ FISCHER: You know, I'm not going to put this on anybody else, but I mean, we submit our amendments like everybody does and they come back like this, and this carried out my intent. And so, if it was anybody's fault it was my fault for not being that precise, but I represent to this body that there's nothing in here that's being made up or not justified in one area of the law or another.

PHILLIPS: So, when we left off—my questions—the question related to, which of these six are importance? Which is higher importance than the other? Which should fall to one and which should fall to the other? Do you have them ranked? Are they equal? So we can understand that we're going to have to make a vote on this amendment kind of how these six are weighted.

MARTINEZ FISCHER: You know, I don't know how to answer that. I think they're all important. I don't think that if they weren't important I wouldn't put them on there. I didn't list them in order of preference, and to be honest, I probably could have put more. But I think these truly reflect the overwhelming body of what neutral redistricting principles are, and I don't want to pick a winner over a loser, I think that they all have independent priority. And so, I'd like to keep them all together as a unit.

PHILLIPS: Okay. And so, make sure we understand your number one point, starting on line 14, basically you want, basically, to ignore the Craddick court decision that our state supreme court and that we've been operating on as far as whole counties. You want to be allowed to split counties, if—is that correct?

MARTINEZ FISCHER: Well, it's not. I—the Craddick case is the authority relied on by Lege Council. When Lege Council says that you can cut a whole county when necessary to comply with federal law, and the Voting Rights Act is federal law, and so that's the authority relied on by Lege Council. I don't want to interpret for what they think it means, but obviously they thought it was important enough to list in their citations to their PowerPoints, because I think what you're looking for is authority, and the PowerPoint that I drew this language from certainly has that authority that you're seeking.

PHILLIPS: So, basically though, it's only in that instance that you think that the county line—we call it the county line rule, that's what I call it—the whole county rule, this is the only instance that you think it's proper to aggregate that fundamental principle that we follow in the state?

MARTINEZ FISCHER: If you'll indulge me, I will read the rule as cited on the slide by Lege Council that says, "A county may be cut in drawing a house district only when required to comply with the one person, one vote requirement of the 14th Amendment of the United States Constitution or the Voting Rights Act. Two limitations. Now, and again, I think you understand that the whole county line rule only applies to house districts. It doesn't apply to the senate, doesn't apply to Congress.

PHILLIPS: Right. And you would agree that there are very good reasons to keep counties whole, is that correct?

MARTINEZ FISCHER: I believe that there are lots of reasons to keep it whole, and I also believe that there are times when they shouldn't be to accomplish what I think are also important reasons.

PHILLIPS: But to keep it whole, there are a lot of reasons, such as they have the same county judge, the same county commissioners, the same place they go to transact business at the courthouse, so you would agree that those are good reasons, among many others, to keep the county line rule in effect, is the general principle?

MARTINEZ FISCHER: And I think we all strive for that. I think that only when there's these limited and unique—now again, understand you'll see a floor substitute at some juncture that I had the opportunity to draw a statewide map from scratch, and only in one district out of 150 do we cut the county line rule. And so, it's not something you can just do for sport. It's a very difficult practice, as you know, but the fact of the matter is that the demography there justifies this district. The political will may not be there, but the law is there to support the district, and the demography is there to make the case.

PHILLIPS: Okay. Number two, I want to make sure I understand, the house districts in total shall reflect the ethnic diversity of this state. And where do you get that? What support do you have, because it's a very different statement than saying we need to comply with the Voting Rights Act.

MARTINEZ FISCHER: Well, let me tell you what it doesn't say. It doesn't say that we should have proportionate representation, which I imagine would make the hair on your neck stand up. That's not what I'm doing here.

PHILLIPS: I just want to understand what you mean by this, because—

MARTINEZ FISCHER: Here's what it means: It means in the instance of two years ago, the State of Texas grew by 4.2 million people, 2.7 of them alone were Hispanic, and rather than grow seats in the state house for minorities, they lost five. And so, when you have a guiding principle, that says, and I'd like to finish, when you have a guiding principle that says we're going to look at the ethnic diversity and use it as an asset, and not as a liability, we won't ever have a map with 2.7 million new Hispanics brought to the state, and as a good gesture for that growth, Texas House of Representatives Hispanic seats are subtracted by five. It doesn't make any sense.

PHILLIPS: I want to make sure, you're talking about the current map that's before us today?

MARTINEZ FISCHER: I'm talking about the 2011 legislative enacted plan, which is about 122 districts of that plan are still in this interim map that Representative Darby wants to pass.

PHILLIPS: But that's not the map we're voting on today.

MARTINEZ FISCHER: It is not entirely, correct.

PHILLIPS: Right, and it is your belief that the San Antonio court disregarded this factor when they drew the map that we all ran under this last time?

MARTINEZ FISCHER: Yes, that's where I was, and I'll get back to that talking point, and I will show it to you, I'll read it to you, but the point being is this map is not that map that it was in 2011. But not through our deeds, not by anything we did. Chairman Darby, as much as I like him, he can't take credit for this either. He didn't draw this map.

PHILLIPS: But this is the map we're going to be voting on today. Let me ask you this last question—

MARTINEZ FISCHER: If I could, before we get to the last question, if I could just finish. It was a map that was drawn as a result of many people getting in a courtroom and crying foul, and taking the State of Texas to task, and proving overwhelmingly on a basis—you're an attorney, so you know the map that we have today is not based on a preponderance of evidence standard, it is based on an injunctive relief standard. More likely that the parties are going to prevail, which is a much higher burden than it is under a preponderance of evidence. So even under that heightened standard, the map changed significantly. When we go back to the courtroom and we argue over the preponderance of evidence standard on final adoption of facts and conclusions of law, the map's going to change again. So, I think what this idea is is to sort of take the sting out of that—

PHILLIPS: We're about to run out of time so let me ask you this.

MARTINEZ FISCHER: No, we don't have any time limitations, we suspended those rules.

PHILLIPS: No, I think he's about to hit.

MARTINEZ FISCHER: And if he hits it, we're going to keep going, because you made the motion and it's been accepted by the body.

PHILLIPS: As long as you're fine, that's good.

MARTINEZ FISCHER: I'm fine.

PHILLIPS: Let me ask you then, because I want to make sure I understand, because I understand you're talking about the importance and the increase of the growth to the last decade, and this is something that kind of perplexes me, and if you can help me understand, there's no doubt the numbers of a Hispanic growth over the last decade. But I would submit to you that the reason, and ask you, that the map, that the numbers didn't change as you would like because the Hispanic population moved throughout the State of Texas and is dispersed. They weren't all aggregated in one area, and so that in rural Texas or in other Texas where they may have had a very low Hispanic population, that population is growing, but just not enough to meet the criteria of creating districts because they violate this. I mean, wouldn't you agree that the population has been dispersed?

MARTINEZ FISCHER: Well, no, I don't—thank you, I understand we're going to go to a vote, I'm sorry Larry, I got that wrong, but—

PHILLIPS: Thank you for the conversation.

MARTINEZ FISCHER: And I'm just asking people obviously, if you want to vote yes on the motion to table, vote yes, if you want to vote no, I'm asking you to vote no on the motion to table, and if you are concerned about this, and you don't want to make a choice, I ask you to show me that by giving me a white light. With that I move adoption. Vote no on the motion to table or white light.

[Amendment No. 6 was tabled by Record No. 6.]

[Amendment No. 7 by Giddings to Amendment No. 1 was laid before the house.]

GIDDINGS: As I've stated previously, House District 109 in Dallas was the only district in Dallas County that was overly populated according to the 2010 census, yet that district seemed to have more changes than any other district.

REPRESENTATIVE S. THOMPSON: Representative Giddings, you appeared before the Committee on Redistricting, did you not?

GIDDINGS: I did.

S. THOMPSON: And when you appeared, you talked about some precincts that were in your district. I think about three specific precincts.

GIDDINGS: Yes.

S. THOMPSON: If I recall, and please correct me if my numbers are incorrect, there was one precinct that was drawn in your district that only has eight people.

GIDDINGS: That is correct.

S. THOMPSON: There was another precinct in your district that had two people.

GIDDINGS: That is correct.

S. THOMPSON: And there was a third precinct in your district that had two people.

GIDDINGS: That is correct.

S. THOMPSON: Now, based upon those three precincts, do you think that those persons would have an opportunity to make an impact on the person who will be representing them in their district at the state legislative level?

GIDDINGS: No, I do not. And it is very confusing to them, as well.

S. THOMPSON: Is it your opinion that those persons would be deprived of an opportunity to be able to have representation where they can make an impact on deciding on the person who will be representing them?

GIDDINGS: Yes.

S. THOMPSON: And there would be a very, very minor impact upon any kind of block voting, if ever they're block voting, to be able to represent them in that district?

GIDDINGS: I think they would be summarily denied representation.

S. THOMPSON: Representative Giddings, do you know what map we were working from during the hearing that was circulating around the state?

GIDDINGS: The map that I understand we were working on and the map that these drawings came out of was the interim map that was sent to us.

S. THOMPSON: Is it your understanding that the map was a temporary map and a map designed to give us an opportunity to be able to meet the constitutional criteria of electing persons to the Texas Legislature?

GIDDINGS: I believe that map was sent back to us so that we could go ahead and get these elections over that had been delayed for quite some time. But these maps were never intended to be the end game, as far as I understand. The courts, I'm understanding, advised us that all of the flaws had not been taken out of these maps. And they were sent back to us, I think, to take another look at them, and for us as legislators to redraw these lines.

S. THOMPSON: And do you know how we embarked upon the blue ribbon committee holding hearings on this interim map that was not designed to be permanent?

GIDDINGS: Yes, our select committee, if I'm answering your question, embarked upon these hearings, and you went around to three cities outside of the capitol, and I believe you heard a lot of testimony. I don't know how much of that testimony you actually gave a lot of consideration to.

S. THOMPSON: Would it surprise you to know that we're here because of the attorney general of Texas?

GIDDINGS: Well, it doesn't really surprise me; whether or not I think that's the road that we should be taking is another question. But it seems that the attorney general sort of got us in the pickle that we're in here.

S. THOMPSON: And do you know whether or not the attorney general appeared, or any person who was part of his staff appeared before any of those meetings that we held here in Austin, San Antonio, Houston, or Dallas?

GIDDINGS: From my knowledge, Representative Thompson, the attorney general did not appear, but sent a court reporter to do a transcript.

S. THOMPSON: And would it surprise you to know we only learned about the purpose of that court reporter and who she was at a Houston meeting?

GIDDINGS: That would surprise me, yes.

S. THOMPSON: And is it your understanding that the attorney general represents the State of Texas?

GIDDINGS: Absolutely, the whole state.

S. THOMPSON: And he's the person who was in charge of going to the courts to make sure those maps met preclearance?

GIDDINGS: It's my understanding that the attorney general did do that. I would think the more prudent course would be to bring these maps back and let us take the action that we need to take because, ultimately, as you well know, our position is that we have to show nondiscrimination. That's our position, to be able to show—

S. THOMPSON: We have to show that we didn't violate Section 2 or Section 5 of the Voting Rights Act.

GIDDINGS: Right, absolutely.

S. THOMPSON: Would it surprise you to know that the attorney general gave us no legal guidance during any of those hearings?

GIDDINGS: It does surprise me, yes.

S. THOMPSON: And would it further surprise you that the chairman of the committee had been given two lawyers to represent the chairman only and the committee itself had no legal representation?

GIDDINGS: That would very much surprise me.

S. THOMPSON: And would it further surprise you to know that those lawyers were each making \$400 dollars an hour?

GIDDINGS: I did not know what their salaries might be.

S. THOMPSON: Well, together they were making \$800 dollars an hour, and they were only to represent the chairman and not the committee, leaving the other 18 members without any legal representation.

GIDDINGS: That's unfortunate.

S. THOMPSON: And the most unfortunate thing, wouldn't you agree, is that the attorney general, being our lawyer and the person who insisted on us coming into a special session, insisting on us making these interim maps permanent, would have been available to give us some kind of legal guidance, the committee?

GIDDINGS: I would have thought that guidance would have been provided, but it was not well thought-out to bring us back on this mission that we're on.

S. THOMPSON: And my last question is, would you be surprised to know that the attorney general has spent several millions of dollars on outside counsel, no lawyers that are part of his staff, to represent us in these various court cases impacting us as it relates to redistricting?

GIDDINGS: I am surprised to learn that, and I don't think that's a position that the people of the State of Texas will look kindly upon.

S. THOMPSON: Aren't you a little surprised that there are not competent lawyers at the attorney general's level, who are competent enough to go into state court to represent us, and outside counsel had to be employed for that purpose?

GIDDINGS: I think we believe we have some pretty good lawyers on staff over there. I would've thought that we would've had competent attorneys.

[Amendment No. 7 was adopted.]

[Amendment No. 8 by Burnam to Amendment No. 1 was laid before the house.]

REPRESENTATIVE BURNAM: The original amendment has the intent of returning the neighborhood to District 90 that has always been in District 90 since the federal court created it back in 1978. The amendment to the amendment corrects some numbers a little bit. It has an impact on Craig Goldman's district, but the precinct that is added into my district has no population; it's just a connector precinct. It has an impact on Chairman Geren's district, but basically what it does is take the African American and Hispanic population out of Representative Geren's district and puts some of my Anglo population into his district. I believe it's acceptable to the author.

DARBY: Members, Representative Burnam has revised his amendment and it now keeps this district a Hispanic district—brings the numbers back over 50 percent. That was the objection. I believe Representative Geren is in favor of this amendment also, so with that I would move to accept this amendment.

[Amendment No. 8 was adopted.]

[Amendment No. 9 by Miles and S. Davis to Amendment No. 1 was laid before the house.]

REPRESENTATIVE MILES: In previous plans, the historical community of Meyerland in Houston, Texas was kept together in the same house district. Before 2011, the community was in District 146. This interim map splits the historical community between District 146 and 134, represented by Representative Sarah Davis. During the redistricting hearing in Houston last week, you had four witnesses from the community express the desire to move back into District 146. This amendment moves four precincts affected by the split from District 134 back into District 146; five full precincts and one partial precinct is moved from District 146 to District 134. The African American population of District 146 is reduced by .4 percent, from 44.4 percent to 44 percent. I move adoption.

DARBY: Members, I'm going to move to table this amendment. Number one, it doesn't have agreement with all the affected representatives.

[Amendment No. 9 was tabled by Record No. 7.]

[Amendment No. 10 by Martinez Fischer to Amendment No. 1 was laid before the house.]

MARTINEZ FISCHER: Members, this is the amendment that I initially laid out, that Representative Darby asked for some time to take a look at. It essentially lays out some legislative findings, different from the previous amendment that was tabled, but it really talks about any judicial or empirical fact that we know from either a court proceeding, from the United States Census; it specifically acknowledges demographic growth of the state, minority growths, particularly in Dallas County, Harris County, Fort Bend County, Bell County, Midland County, and Ector Counties. It also lays facts that amount to be the benchmark number of seats as they pertain to minority seats today. The growth is not reflected in the additional seats, and it also has facts related to the interim map that is a representation of the 2011 legislative enacted plan, where 122 of the 150 districts

are in this interim plan that the house is attempting to pass today, as well as the evidence that was found by a three-judge panel in the district court for the District of Columbia, facts related to the evidence of intentional discrimination and minority retrogression. I move adoption of this amendment.

DARBY: Members, again, I'm going to move to table. This simply describes legislative findings that we may or may not agree with, but I will be moving to table this amendment.

MARTINEZ FISCHER: Representative Darby, I know you want to table it, but I want to understand the motivation behind it. Do you dispute any of those factual findings that are in that amendment?

DARBY: Well, the first line says, "Every single line in this amendment is an empirical or judicial fact," and I have no way of knowing that.

MARTINEZ FISCHER: Well, I think there is a way of knowing that, but I know that in working with you, I agreed to pull it down temporarily. Being fair to you, you don't have a lot of disposable time because you're dealing with amendments on the fly, but I guess there's a difference between well, I don't think this has a place to be on this bill, versus I think these are misrepresentations or distortions, and so I'm trying just to determine whether you just don't want it on the bill, or you think that there's a factual problem with the statement.

DARBY: Well, I think it's a factual problem, and besides, I don't want it on the bill. I just want our redistricting map to include the districts.

MARTINEZ FISCHER: Okay, because when you say that there are factual misrepresentations, I'm concerned about that. Can you—is there one you want to share with me that's in that five-page document?

DARBY: Well, for example, the minority growth is not reflected in the number of house seats controlled by the candidate of minority choice. I don't know that to be a fact, and the courts have drawn these maps. These maps were drawn by the district court in San Antonio. So I would say on their face, they're nondiscriminatory and legal.

MARTINEZ FISCHER: Right, but I also know that they were drawn at a time when the district court for the District of Columbia has not made a ruling on their case. In their case, they say that there is minority retrogression, that means that seats were lost at a time of record gain for Hispanics in Texas, and so I think that's what that statement amounts to.

DARBY: I have a problem with the statements on your legislative findings.

MARTINEZ FISCHER: And I guess what I can accept, and I'm not trying to get you to change your answer. I can accept that you don't want these findings on the bill, that's just a disagreement that you and I have, but I would want to know, if there is something factually inaccurate, then I want to get that straight. I'm not going to pin you down to that, but if you're just simply telling me you don't want this on the bill, well then I understand that, but if you don't want it on your bill because you think it's wrong, I want to know what's wrong with it.

DARBY: Well, I have a real problem with the last sentence that says, "The enacted map was adopted with strong evidence of intentional racial discrimination." I don't know that to be the case, and I don't know if the courts have made that final determination.

MARTINEZ FISCHER: Well, I guess what I'm saying—those references are in reference to the enacted map, which is the legislative enacted map, and if you dispute those findings, then you dispute the findings of a court's opinion in D.C. These are not characterizations on this interim map, this is findings on the enacted plan of 2011. Are you disputing that those findings are there?

DARBY: I'm saying they have no place or purpose within the interim maps that were before this house today.

MARTINEZ FISCHER: You don't think that that evidence has any bearing on what we're doing today?

DARBY: It may have bearing, but it should not be on this interim map.

MARTINEZ FISCHER: Well, I grant you that I wish it wasn't anywhere. Not on this map, not on the floor two years ago, not in the back room two years ago, not through e-mails and correspondence. I agree with you completely, but it's there, and I think for us to turn a blind eye to that, I don't think that we would want to do that. I think all this does is just puts into this record legislatively things we already know. I don't think they're inaccurate, I'm not trying to make them inaccurate. If you don't want them on the bill, that's one thing; if they're wrong, that's another thing.

DARBY: Well, first of all, I don't want them on the bill. And secondly, I don't know if they're accurate or not.

Y. DAVIS: Thank you, Chairman Darby, I appreciate your willingness to yield. I want to ask a couple of questions because I want to be clear about the amendments in the process now. Is it your intent to not accept any more amendments?

DARBY: I'm not aware of any amendments that meet the criteria that I set out.

Y. DAVIS: Okay, and I know that there's some being drafted. I'm just wondering, is it the intent to accept those amendments that would allow members—between members that have agreed to do tweaks—is it still your commitment to honor those amendments or accept those amendments?

DARBY: I haven't seen an amendment now that I would agree to take, and I would have to review the amendments before I made that decision.

Y. DAVIS: And I'm asking you that if amendments are being drafted that are between members, that move a minimal amount of people, that don't change the outcome of any of the districts numerically and/or outcome of the districts, are you still going to be amenable to looking at those amendments and accepting them if they do in fact do what I just said?

DARBY: They still have to satisfy; there needs to be a compelling reason to do it, too.

Y. DAVIS: Okay, that was never part of your earlier conversation, about a compelling reason, but given that you've said a compelling reason, can you identify to me what those reasons would be?

DARBY: I mean, what I did say was that it addresses a concern. The splitting of a community of interest, for example.

Y. DAVIS: And so, my comment—

DARBY: If you just swap precincts, I don't think satisfies, addresses a concern.

Y. DAVIS: Okay, and we've done some of that already though, right? Isn't that correct? In previous amendments, we swapped precincts that—

DARBY: And they addressed a concern.

Y. DAVIS: I'm sorry?

DARBY: And they addressed a concern. For example, Lake Como.

Y. DAVIS: Okay, but in some of the other amendments, we made swaps that were precincts for precincts that didn't necessarily have a compelling reason other than a desire, is that correct?

DARBY: Correct.

Y. DAVIS: And so, my question is, are you going to accept some of those other kinds of amendments that do the same thing?

DARBY: I cannot say right now—give an approval on an amendment I have not seen yet.

Y. DAVIS: Mr. Chairman, let me ask you something. The amendments today that you have accepted, did any of them deal with any of the court findings in regard to needing to address Section 2 of the Voting Rights Act or Section 5 of the Voting Rights Act that the courts have raised as being problems?

DARBY: I don't believe that any amendment taken now has any violation of Section 2 or the Voting Rights.

Y. DAVIS: That was not my question. The bill before us was cited as having some issues with regard to maximizing opportunities for the growth in the population—minority growth in the population of the state. And I'm asking if any of those amendments that you took earlier dealt with any of the concerns relative to court findings.

DARBY: Well, you know, for example, the Anchia amendment that was presented by Villalba addressed the deviation issue.

Y. DAVIS: That was not my question. I don't think the court raised the deviation issue. The court raised other issues that dealt with retrogression, opportunity for minorities to elect minorities, it dealt with those kinds of issues. And my concern was—

DARBY: Well, I don't think any of the amendments dealt with that.

Y. DAVIS: Do any of those amendments do anything relative to address those concerns?

DARBY: No.

Y. DAVIS: Also, Mr. Chairman, I was just wondering, I've been told that the attorney general was available to speak to the caucus, but they did not speak to, or somebody that was unwilling to come and speak before the committee. Is that true? And the reason I'm asking is because we specifically—as vice-chair of the committee, we raised several concerns with regard to us having him come and provide testimony to the committee. And we were told that they were not available or would not do that. And I'm just wondering if it changed and they provided some direction on input for the caucus, for your Republican Caucus.

DARBY: Well, there was just a Republican Caucus meeting and someone from the attorney general's staff appeared before the caucus.

Y. DAVIS: And so, to the extent that we had asked as a committee, select committee dealing with this issue on behalf of the state and the state legislature, we asked if someone from the attorney general's office would be able to come and make a presentation that would allow us to understand what the position of the state was, and we were told that he couldn't come before the select committee, but a person could come to the caucus meeting?

DARBY: I never asked the attorney general to appear before the committee.

Y. DAVIS: Well, we were told, or it was represented to us in the caucus, during the select committee, that we had requested it and we were led to believe that someone had asked, and then I would go back and say as I spoke to the attorney general on the telephone in the Houston hearing, we requested and asked what is the problem with them providing us with a perspective from the state, from the AG's office? That request was made, and don't hit the gavel, I got to ask this question. I'm going to ask for suspension of time because I want to understand. You know, we need to understand as members of the legislature. If we can't get the attorney general and his office or a representative to come before a full select committee on an issue as important as this, and yet they can go and provide direction to the caucus—only one caucus. It just seems like we are never going to have fair—agree on the deal with this issue because everybody's working against us and our constituents. And I just want to understand that because I think it's an important thing for us to know, because we are relying on various state agencies and state elected officials to represent the entire state, and in fact, if they don't, we just need to know we cannot rely on them on this issue.

DARBY: Well, were you asking a question?

Y. DAVIS: That was my question. My question is, were they willing to provide direction to the Republican Caucus members and not willing to provide direction to the select committee?

DARBY: You'll have to ask them whether or not they're willing to provide the information, direction—

Y. DAVIS: Okay, and so, Mr. Chairman, as the chair of the select committee, you're telling us now you never asked the attorney general to come, after committee members asked for the attorney general to come to the committee?

DARBY: I made that perfectly clear from the start, Ms. Davis, that I was not going to compel the attorney general to come to the committee meeting.

Y. DAVIS: There was two requests—there was a subpoena of him and there was a request to ask, and at the time we were in Houston, we also asked again, so you're saying you didn't feel it important that he come before the select committee, but it was appropriate for him to go—

DARBY: I did not request the attorney general or his staff to come before the committee.

Y. DAVIS: So then, I will go back to the reason then that you may have—so my question then is, I'm wondering, what was the motivation to take amendments earlier today and now not take amendments?

DARBY: You know, you sat through all of those field hearings, and we heard from people that suggested that we actually change the map that made sense. And so, you know, the idea was to be open and transparent, to listen to the people

to find out if there were some amendments that we could take that were legal, that complied with the Voting Rights Act, that complied with Section 2, that complied with the constitution, and that made sense, that had a reason behind it.

Y. DAVIS: And so, Mr. Chairman, I agree with that, and in fact, offered to be recognized for a motion to recess so that we could, in fact, have all members have that same opportunity, and you all wouldn't recognize me, or the speaker would not recognize me for that motion to allow other members to do it. So, I mean, I agree that you were trying to be open. At the point that you were taking them, was it your intent that, or was it someone's intent that if you took a few amendments, it would help the legal standing of the case by saying we took these earlier amendments? Do you think that was a basis—was that ever a consideration for why you took the earlier amendments?

DARBY: I took those earlier amendments because they met the criteria that I had laid out.

Y. DAVIS: Well, I'm asking you now, what happened to this open concept where you wanted to have meaningful dialogue? Because the amendments that we took this morning did not come from the committee, were not heard at the committee. There were members' amendments—and I don't have an objection to the amendments that you took, but now I'm wondering why the process is shut down. If your intent was to have an open and meaningful process and—

DARBY: And we're still have that open and meaningful process right now.

Y. DAVIS: But you're not—but you're going to now make a determination that you're not going to accept amendments?

DARBY: I didn't say I wasn't—

Y. DAVIS: I'm asking a question, I just want to be clear—

DARBY: I'm telling you that I have not seen amendments drafted that comply with the rules that I have laid out for accepting those amendments.

Y. DAVIS: Okay, but you will reiterate that the amendments that you have accepted right now that are currently accepted to your amendment, they do nothing to deal with the issues that the court brought up in terms of needing to address retrogression, recognizing the growth of population, Section 2 of the Voting Rights Act, Section 5; you will admit that, is that correct?

DARBY: I don't know if the amendments did all of that. I just know that they were legal and they had addressed a concern and they had an agreement of the members involved.

Y. DAVIS: But they were not amendments designed to try to perfect a map that would be submitted to the court that would say this is an effort to make it fair, to create fair representation, is that correct?

DARBY: I don't have an opinion of that. I just know that those amendments complied with the ground rules that I laid out.

Y. DAVIS: So, my last question for you again is, would you or do you think it's appropriate that the attorney general would not come before our select committee? Had you requested, and I understand now you're saying you never requested it, but would you think it's an appropriate thing that we would have wanted to hear his perspective as a select committee?

DARBY: You know, I don't want to speak on behalf of the attorney general or his staff.

Y. DAVIS: No, no, no. I didn't ask you to speak on their behalf. I'm just saying, would you agree that there would have been some value to have him come before us so that—

DARBY: I would have hoped the attorney general and his staff were open and transparent with every member of this house.

Y. DAVIS: That's not my question either. My question is, do you think it would have been of value to the select committee to have heard from the attorney general as a committee in terms of what the concerns the state has to consider? Would you think that would've been—

DARBY: I think that would have been helpful.

C. TURNER: To follow up on Representative Davis's questioning just now, I understand that you didn't ask the attorney general to come and appear before the committee. Did the attorney general's office, however, make itself available as a resource witness before the committee?

DARBY: Not that I'm aware of.

C. TURNER: Isn't it typical that when an agency is going to be impacted or involved in proposed legislation, that an agency typically sends representatives to be available as a resource should the committee have questions?

DARBY: Correct, but we're—

C. TURNER: That didn't happen in—

DARBY: That did not happen.

C. TURNER: Okay, do you know why the attorney general's office did not make itself available as a resource?

DARBY: No.

C. TURNER: Okay, but they did make themselves available as a resource to a Republican Caucus meeting this afternoon. Is that right?

DARBY: They were here at the caucus meeting.

MILES: Just for a point of clarification, you're saying that the attorney general made himself available for your caucus meeting that you just had upon recess?

DARBY: The attorney general's staff.

MILES: Okay, and did they at that time inform you not to take any more amendments?

DARBY: No.

MILES: You didn't just inform me, when I was getting ready to throw up my amendment, that you were instructed not to—

DARBY: I didn't take your amendment because you didn't have full agreement with both representatives.

MILES: But you did not tell me at that time that you were—

DARBY: I'm just saying that your amendment—

CHAIR (Kuempel in the chair): Representative Anchia calls a point of order, the gentleman's time was expired. The point of order is well taken and sustained.

MILES: Mr. Speaker, unless there's an objection, I'd like to extend time.

CHAIR: Members, we need to suspend the rules to allow for the second extension of time. Is there any objection? There is objection.

MILES: I didn't hear any objection, Mr. Speaker.

CHAIR: We heard objection. Was that a serious objection? Yes, it was.

MILES: I didn't hear any objection, Mr. Speaker. From who? Just want to go on record, whose objection? Let's take a vote.

CHAIR: The second extension requires unanimous consent. We do not have unanimous consent.

MILES: Mr. Speaker, can I ask you to identify the—

CHAIR: One moment please, Mr. Miles. With the questions you're asking, you're going to have the opportunity to speak to Mr. Darby again. Right now we're on Mr. Martinez Fischer's amendment. Mr. Martinez Fischer sends up an amendment. Excuse us, back up members. Mr. Martinez Fischer is recognized to close on his amendment.

MILES: Mr. Speaker?

CHAIR: Mr. Miles?

MILES: Before we go any further on Mr. Martinez Fischer's amendment, can we identify who opposed the extension? Please, sir.

CHAIR: Representative Stephenson, among others.

MILES: Thank you, sir.

MARTINEZ FISCHER: Members, again this amendment simply states judicial findings, empirical evidence as reported by the census. I understand Representative Darby's contention that he doesn't like some of these findings. I don't like them either. I wish they weren't there, but they are what they are and we're here because of them. All I'm asking is that we make this a part of our record, and adding it to the bill is very appropriate in this circumstance, particularly all of the factual data as it relates to population growth. Earlier somebody said, well there's been a dynamic Hispanic population growth, but they're so dispersed throughout the state we can't do anything with it. This actually provides evidence to the contrary. This tells us exactly where they are, what counties they are in, and quite frankly, they're the same counties that members of the minority community are working to try to have more opportunities for those minority constituents. So with that being said, I'd ask you to vote no on the motion to table.

REPRESENTATIVE WALLE: Representative Martinez Fischer, your amendment is not a map per se, it's a legislative finding or findings that, for all intents and purposes, that were legitimate findings by some, actually two district courts. Am I correct in that?

MARTINEZ FISCHER: It's not even a map at all. It's actually words and lines, and it talks about demographic data, census data. It pulls in findings from the case of *Texas v. United States*, which is in the district court of the District of Columbia where they made findings of intentional discrimination, minority

retrogression—all the facts that brought us back to this interim map and how we're going to go forward. It also identifies by county, for instance, the growth of the community in Harris County, for instance, grew by 691,881 people, including 551,789 Latinos. I think that's important. When you're talking about drawing a new seat in Harris County for minorities, that's a pretty good point you want to know. Dallas County, for instance, their population grew by 355,656 people. It's Anglo population, excuse me, Dallas County's minority population grew by 355,656, while their Anglo population decreased by 198,600.

It also acknowledges what many people are beginning to become frustrated by—it shows a selectiveness by which the attorney general has chosen to engage, to provide advice and counsel for the people who want to change this map. It says that he didn't appear before the committee, never once told us what his position was, what his legal position was, what he thinks the legislature should do, but if you look back at the record, you will find that the person who has been urging the legislature to adopt interim maps is the attorney general. He's done it in writing, he's done it in writing to Speaker Straus, he's done it in writing to Chairman Drew Darby, told them take this up in the regular session. He didn't say why, he never said why, but yet, you know, for whatever reason has the selectiveness to want to go brief certain members, certain caucuses, under certain circumstances, but yet feels like he cannot come before a full committee of 19, a very diverse committee of 19, both parties, lots of ethnic diversity, lots of geographic diversity—frankly, a redistricting committee that looks like the state—we can't get the attorney general or his staff to come in even to say they can't talk.

WALLE: Don't you find it very strange that he would make himself available to other caucuses but not be able to defend himself or his rationale for these types of maps to this body?

MARTINEZ FISCHER: I think that it just sort of furthers the case that his view is very political, very partisan. The issue of minority voting rights is about minority voting rights. It has nothing to do with partisanship, and it just appears to me that there is no interest, or no appetite, or really nothing to say with regard to voting rights from perspective of minority advocates—African American community. I don't believe the Legislative Black Caucus has received a briefing. I don't believe the Mexican American Legislative Caucus received a briefing. I don't believe the Democratic Caucus received a briefing. I don't believe the Environmental Caucus—none of the caucuses received a briefing. But yet in a moment of a very quick 15-minute recess, the Republican Caucus managed to get not only a representative of the attorney general's office to come brief the caucus or be available to talk to the caucus, but the first assistant attorney general, which is essentially the number two person in the office. I think there lacks an explanation as to why the attorney general can be so accessible with little or short notice on the one hand, but yet fail to even send us a tweet about why he can't come to the redistricting committee to talk about something that's very, very important to the state—mind you, an issue that has been lost.

The State of Texas has been on the losing end of litigation on several fronts, and the attorney general has directed this litigation from day one. He has chosen the path of preclearance, he chose to sue the United States of America, he chose to lay out the trial and the litigation, discovery of this case, he's the reason why the 2012 primary did not go on time, has a tremendous amount of exposure, a tremendous amount of liability on this issue, but you cannot get him to come and

talk to folks. But yet he had the forward thinkingness to send a court reporter to transcribe every word that was uttered at a community—at a field hearing so that he could prepare himself to use the committee and the committee deliberation to his advantage. While other lawyers involved in litigation went out and laid out their legal cases and their positions, he hid behind the law, and now he has the advantage of knowing what everybody wants to do, but yet he has yet to signal what he intends to do. And quite frankly, the biggest losers in all of this, in addition to the taxpayers of the State of Texas and the voters, are the individual house members who are going to give up the control of drawing their districts to do it on the house floor or in committee, they're going to relinquish that control to the federal courts, who are going to draw these maps regardless, and when they draw the maps, they're not going to care who's impacted or why they're impacted, they're going to draw maps they believe are fair and right, and I think that when we give up that control, I think we should be doing it for a good reason. I have yet to see one. And if you leave it to the attorney general, I have not heard a single reason why we want to abdicate that responsibility.

WALLE: I was at that field hearing at the University of Houston and I found it, you know, perplexing that there would be a court reporter there and then not have the ability to hear even a staff member from the AG's office to be able to defend and show us their rationale for why they think that these maps—interim or the house adopted map—pass legal muster, and obviously you've been very involved in the redistricting litigation. Could you kind of give us, particularly in reference to your amendment, it does have some strength to it because two district courts—the San Antonio circuit and the D.C. circuit—have shot down a lot of the arguments that the AG has made. Is that your understanding?

MARTINEZ FISCHER: Well, only one court—the district court for the District of Columbia, they've actually issued a ruling in the case. The San Antonio court is in the process of adopting an order, a final resolution. They've heard a tremendous amount of evidence. Now, the court has now taken a wait-and-see position to see what happens here legislatively, but this court has already said you pass an interim map that's only going to start litigation once again. And quite frankly, with the exception of making some cosmetic changes to unify districts based on a) some legal requirements that we should or ought to, but then the added hurdle of only doing it if lawmakers want to do it and they agree to do it, which is not a legal standard, but yet at the same time we can make a community in Lake Como whole, which is important, but we won't look ourselves in the mirror and say that we need to unify the African American community in Bell County, in Killeen. We can't do that, and I don't understand how we can make it a justification in one instance based on racial rights, you know, to do what's right for minority voters in Tarrant County, but then ignore minority voters in Bell County and somebody like the attorney general could tell us why there's a good reason for it, or a legal reason.

WALLE: Do you happen to know what the actual population—and I know you're not from that county, but what is ballpark, what are the African American statistics in that county, where they would have the opportunity to elect someone of their choice?

MARTINEZ FISCHER: You're talking about Bell County?

WALLE: Yes, sir.

MARTINEZ FISCHER: Bell County splits the city of Killeen and combines part of the split population with a neighboring Anglo majority county; 75.17 percent of the population growth in Bell County was minority growth. African Americans grew at 42.46 percent in Bell County; 2.7 times faster than the Anglo community in that county, for the first time—so, the answer's a lot. Vote no on the motion to table.

[Amendment No. 10 was tabled by Record No. 8.]

[Amendment No. 11 by Menendez to Amendment No. 1 was laid before the house.]

MENÉNDEZ: Members, it's obvious to me that we can see what the outcome of this amendment will be as well, because it's not an agreed-to amendment, but I want to present this amendment because one of my colleague's districts, House District 117, was specifically stated in the court's decision that there was retrogression in that district, where minorities were watered down to the point where they would not be able to elect a representative of their choice. This amendment sought to improve some of that retrogression in House District 117, which is on my western boundary. Unfortunately, we weren't able to get all the parties necessary in agreement, and so there's no need whatsoever to put you through another one of these useless votes, but I do want you to know that some of us are making an attempt, and in Bexar County, when we did redistricting two years ago, we all agreed on how to get to where we needed to get. And unfortunately, we had someone else in that district who chose and asked us to even water down the district even more than it had been, to the point that the lawyers had to tell him you've gone too far. So, we know there's a problem, we know there's a mistake, we know the courts have addressed it. Unfortunately, we can't all come to an agreement, and so with that, I'd just like to have this amendment be part of the record, and I will respectfully save more of your time and pull this amendment down.

[Amendment No. 11 was withdrawn.]

[Amendment No. 12 by Y. Davis to Amendment No. 1 was laid before the house.]

Y. DAVIS: This is an amendment that was offered in the committee and I just want to re-offer it because I think it has some merit in terms of trying to address the concerns as relates to redistricting for the Texas House of Representatives. In the interim plan and proposed plan before us, there were some major issues with regard to fragmentation, and it didn't deal with putting communities back together. It left off opportunities to create districts due to population growth. So, this map basically considers or takes all of the interim changes that the court put in place, and it goes further, because, if you recall, the court indicated that this was a temporary map and that there were other places it could go. And so, in Dallas County, basically we proposed to reconfigure HD 113 as a compact district located in northeast Dallas County. This would reunite a majority of non-Anglo neighborhoods in Balch Springs and Mesquite that were fractured in the interim map. The city of Mesquite would be located in HD 113, with just a small portion in 100. The amendment places the entire city of Balch Springs in HD 133. This change eliminates the fragmentation of minority communities in the area.

Also in Bell County, specifically, it is a community located in the cities of Killeen and Temple. The legislative-adopted interim map split a minority community between two districts—HD 54 and HD 55—and the minority's representation of 65.5 percent of the Killeen area would justify there being a district in Killeen. The interim map unnecessarily divided the population to the two districts, thereby the division of the minority vote in the Killeen area diluted the strength of minority voters. The proposed amendment reconfigures HD 54 to include the entire city of Killeen to address the issue of fragmentation of the minority community. HD 54 under the proposed amendment is geographically compact and located within Bell County. It would increase the total minority population of HD 54 from 87,652 to 101,155, with a voting age population of 55.3. The district as reconfigured provides minority voters in Bell County opportunities to elect candidates of their own.

Section 2 of the Voting Rights Act—D.C. federal court recognized and mandates equal opportunity for minority voters to have opportunity to participate in the electoral process and recognize the existence of coalitions or crossover districts as a means for minority voters to elect candidates of their choice. The interim map fails to recognize a bill to draw these additional minority districts under Section 2 of the Voting Rights Act. Therefore, the interim map diluted the minority populations to fully exercise their voting strength. There was a new district created in northeast Dallas, as I said, House District 107, in Dallas County, that has a combined minority population of 76.9 percent and a combined minority citizenship voting age of 55.8 percent. Which, given a coalition voting in a general election, provides for an opportunity for minority candidates to be elected—or candidates to be elected by a proposed coalition district.

And then District 26, there's an Asian plurality district. This amendment also recognizes the growth of the Asian population in Fort Bend County by reconfiguring HD 26 as an Asian plurality district. It also includes areas in Harris County, HD 146 and HD 134. These amendments would replace and restore communities back into 146, that's currently represented by Representative Miles. The proposed amendment does not contain any pairing of members, but it does maximize opportunity for communities to stay together, as well as elect candidates of their choice. And I think it's acceptable to the author. Oh, it's not.

DARBY: Members, this amendment simply attempts to address concerns that are not the concerns of the court. In Bell County, it is made for political reasons. It also reduces the effectiveness, and I think it combines two house seats in Dallas County. Two pairings. You unpaired it? Well, these decisions are made for political purposes and not because of a reason.

REPRESENTATIVE S. TURNER: Mr. Chairman, with regards to Bell County, doesn't the map under **SB 3** cut Bell County in half?

DARBY: I don't think it cuts it in half, but it cuts the city of Killeen.

S. TURNER: Right, and the reason why I'm asking—I chair the Legislative Black Caucus, and I have looked at that area and it is without question that that area can elect an African American or some minority as a representative of that area, but the map in **SB 3** dilutes African American voting power, which effectively keeps an African American from being elected in Bell County. And I think the map by Representative Yvonne Davis, which most, if not all, of the

African American legislators support, would make it possible for an African American to be elected in Bell County. Am I missing something factually that would go against my analysis?

DARBY: It would not be a majority minority district.

S. TURNER: It wouldn't necessarily be a minority majority—

DARBY: It would be a coalition district.

S. TURNER: Right, but it would be a district that an African American would certainly have an opportunity to win. If I'm not mistaken, and correct me if I'm wrong, there was an African American female who ran in that area in Bell County after it was divided, and she ended up receiving close to 40 percent of the vote even after it was divided, and that's one of the reasons why we are claiming that **SB 3** is deficient and works against the electability of a minority, specifically an African American in Bell County, and that's the reason why I'm standing. I mean, am I missing something here? Because I think we need to fix that.

DARBY: I understand what you're saying. Again, it's not legally required to assemble that district in that configuration.

S. TURNER: Right, but will you agree though, Chairman, that the way the map is drawn in **SB 3**, that it dilutes the voting strength of minorities in that area, in that specific area.

DARBY: But I think the point is it's not legally required to be drawn in that manner.

S. TURNER: What's the legal requirement?

DARBY: Well, it's not a protected district under Section 2 of the Voting Rights Act.

S. TURNER: But based on the increased population in that area, the map that we are operating on right now works against the opportunity for a non-Anglo to be elected in that particular legislative house district. I mean, that's my understanding, and I thought one of the reasons for the special session was to try to correct the deficiencies, the constitutional deficiencies in the map, specifically in this interim map, because I viewed that as a constitutional deficiency in the interim map that we can correct in this special session.

DARBY: And, you know, that change was made in the first interim plan that was put out by the San Antonio court. However, that was reversed by the Supreme Court, and in the second interim plan that the San Antonio court adopted, and that we have for consideration before us today, they did not choose to address the concern that you just expressed.

S. TURNER: You're talking about the San Antonio court?

DARBY: The San Antonio court.

S. TURNER: Right, but I think the San Antonio court also indicated in its hearing on May 29, if I'm not mistaken, that they did not intend for their map, their interim map to be a permanent map; that they did expect the legislature to address any constitutional deficiencies within the interim map, and based on the direction in which we are going today, it appears as though we are simply going to rubber stamp the interim map with some changes, but not qualitative changes.

DARBY: You know, I think the legislature before us today has a map of Bell County that the interim court drew, and that's what's before us today.

S. TURNER: Mr. Chairman, have you had an opportunity to visit with the attorney general, to get the attorney general's analysis of Bell County?

DARBY: I've had an opportunity to look at Lege Council and the demographics associated with that, and the Hispanic citizen voting age population, and the black citizen voting age population, and this is not required under the law to be drawn in the fashion that this amendment would call it to be drawn.

S. TURNER: Okay, well, let's respectfully differ on that, but I do think, though, that we should be drawing a map as it relates to Bell County that takes into account the African American and Hispanic voting percentages. It's my understanding that the map that Representative Yvonne Davis is presenting as an amendment does combine or keep Bell County as a community of interest, or keeps it together. Is that your understanding?

DARBY: I believe it does keep the city of Killeen—

S. TURNER: Killeen together—

DARBY: Yes.

S. TURNER: As a community of interest.

DARBY: Correct.

S. TURNER: Is there any reason why we should not be keeping Killeen together as a community of interest?

DARBY: It's an issue that the San Antonio court could have addressed, didn't address, and so we have the interim maps before us that were drawn, in my opinion, legally.

S. TURNER: But you will agree that the San Antonio courts did not intend for their map to be a permanent map?

DARBY: All I can say is, you know, I read the order just like you did, so I hesitate to characterize what the San Antonio court intended to do or did not intend to do.

S. TURNER: Okay, but to the extent—well, let me ask you this. So you're saying that the reason why Killeen is divided in **SB 3** is for political reasons rather than trying to dilute the voting strength of minorities. Is that—?

DARBY: I think the Bell County map as it is today complies with the constitution and Section 2 of the Voting Rights Act.

S. TURNER: Okay, but is there a specific reason why Killeen is not kept together as a community of interest in **SB 3**?

DARBY: I think the point is there's no legally sufficient reason to change it from where it is right now.

S. TURNER: And a sufficient reason to change it would be what, again? I'm sorry.

DARBY: Whether or not it complied with the constitution and Section 2 and 5 of the Voting Rights Act.

S. TURNER: And the reason that you're saying that it is not deficient as relates to Section 2 and Section 5 is based on what?

DARBY: It's not legally required under Section 2 to form a coalition district in Killeen.

S. TURNER: Okay, but is it unconstitutional to draw a map that would intentionally dilute the minority voting strength of Hispanics and African Americans and others?

DARBY: The law would be that if you intentionally draw a map that is intended to affect minority voters, then yes, that might be a violation of Article XIV of the constitution.

S. TURNER: Right. And Mr. Chairman, what I will respectfully submit, as the chair of the Legislative Black Caucus, is that the map in **SB 3** does intentionally work to dilute the voting strength of minorities in Bell County, specifically as it relates to Killeen County not being maintained as a community of interest. You know, for whatever it's worth, I am asking this body to correct the deficiency, which I perceive to be a deficiency with diluting the voting strength and accepting Representative Yvonne Davis' as the map endorsed by the members of the Legislative Black Caucus.

DARBY: Well then, I think we're going to have an opportunity to vote on it.

Y. DAVIS: Members, let me just suggest that what we're trying to do is address some of the issues in deficiencies within the interim house plan and the Western District Court emphasized the court has attempted to apply standards, but emphasizes it has been able to make only preliminary conclusions that may be revised upon full analysis. So, they always knew that we would be going in to look at this more diligently to ensure that we create a map that is fair and more representative of the state in which we live in. So, this attempts to do that by adding new districts where the growth in population suggested there should be one, but at the same time making sure that we put together those communities that have been divided. And, you know, you heard the conversation with regard to Bell County and HD 54, and there was a question about whether or not the district would be minority. In this bill, House District 54 would take—if those communities were put back together, it would go up to 89,000, which is 53.9 percent a minority district—a coalition district. So, in fact, it would increase the opportunity to look at this as a coalition district, and minorities have an opportunity to elect a candidate of their own. And with the voting population being at 55.3 percent that is a good, strong district that, without doing this, you are splitting up communities and you are negating people's rights to have a district to enjoy their full political strength. So, with that members, I just ask you—let us legislatively try to correct the issues that we can correct so that it is representative of our commitment to a fair and equal plan. And that's what this amendment does, and I just ask you to—let's not ignore some issues that we can fix at the time that we can fix them, and we can do some of this today.

C. TURNER: I was going to pose part of this question to Mr. Darby, but his time ran out. But I wrote down a comment he said this morning when he was opening up and said he would, I believe, accept amendments if they made sense and if they helped to unify communities of interest, that those would be acceptable criteria for amendments. And so, based on what you've described with your map

as it relates to Bell County; for one, it seems like you have unified Killeen, which certainly as a city is a community of interest, into one district. So, wouldn't you think this meets that criteria that the chairman laid out this morning?

Y. DAVIS: Yes, I think—you know, Representative Turner, our goal is to come up with a constructive way to address some of the issues that have been identified as problems relating to redistricting. Clearly this is a problem, and it requires only to put the communities back together like we've seen happen every other time when communities have been split like this, and so that's all this does in HD 54.

C. TURNER: And also, in looking at the Dallas County version of the map, I don't have the cities displayed, but it would appear just eyeballing it that you have unified the city of Mesquite largely within one district.

Y. DAVIS: Well, and we heard testimony from individuals about their communities being split up, and so we looked at ways to put those communities back together with minimal changes. There was a concern raised that I paired Representative Sheets and Representative Branch—we went back and looked at ways to separate that so that they're not paired. Our goal is not to harm existing members, but to create viable districts that are representative of the communities that we represent and that they represent, so that's what this amendment does.

C. TURNER: Absolutely, Representative Davis. I had the opportunity to sit in on the hearing in Dallas, and I remember a number of witnesses from Mesquite testifying that they were frustrated that their community was divided under the current interim plan, and it would appear that your proposal here fixes that and fixes the division of the community of interest in Killeen. So it seems like your map is a really good step to meeting these traditional redistricting principles that I thought we were going to try to adhere to as a chamber, so I don't know why we'd be moving to table this, what's a good amendment here.

Y. DAVIS: Thank you. Move adoption.

[Amendment No. 12 was tabled by Record No. 9.]

[Amendment No. 13 by Moody and Márquez to Amendment No. 1 was laid before the house.]

REPRESENTATIVE MÁRQUEZ: Mr. Moody, we both came up with this particular amendment, correct? In order to correct some geography and to make it more equitable in our community?

REPRESENTATIVE MOODY: Yes, that's exactly correct.

MÁRQUEZ: Okay, so right now, as it stands, District 77—which is my district—it has a mountain running through it, and it creates sort of a V—

MOODY: Yes, that's correct.

MÁRQUEZ: —within the community, and it is not shaped or congruent or contiguous like the other districts within the El Paso County?

MOODY: That's correct, and I think you and I both know the communities of interest within El Paso. And when you talk about the west and the northwest, those are two different areas and two different population centers, and the district on that side of the mountain is essentially cracked in half under the interim map. And in the northeast as well, I think that community has been fractured under the interim map. And, like I said, between the house map that was adopted in 2011

and what we ended up as an interim map, I believe there is an improvement there in terms of trying to maintain some semblance of a legal structure and the way we draw these maps. But, because I believe they were somewhat flying blind in terms of our communities and what goes on within those communities back at home in El Paso, I think that there was not an understanding of what they were doing in terms of cracking those two areas in half—northeast and the west side. And I appreciate you working with me on this to make sure our communities are represented in a solid way, in a way that is representative of their best interests as well.

MÁRQUEZ: And so, right now, as your amendment is laid out, what it would do is it would keep that divide from staying in place with District 77 by the mountain. So, essentially, the Franklin Mountains run right through what is District 77 now, and this amendment would allow it to move to where it's more in a space which is kind of right in the middle of the mountain and keeps it central-west, correct?

MOODY: Yes.

MÁRQUEZ: Instead of splitting it up, and essentially I have to go over a mountain to get to one end of my district to the next?

MOODY: Yes, I think that makes—I mean, we have to deal with the mountain in one way or another in El Paso, and the way it was done in any one of the three maps that we've looked at in terms of the house-passed plan, the one that was vacated, or the interim plan—that was never fully resolved. That was never really done, and in the interim map specifically, you had two major areas of town that were carved in half. And I think this is—I do take a little bit, you know—

MÁRQUEZ: I do have one more question.

MOODY: Sure, I just—

MÁRQUEZ: One more question—does this affect any other district in El Paso County, or is this relegated to mine—which is District 77 and yours is 78?

MOODY: It's just the two. Those are the only two districts. And really, the only reason to address these two districts is because they've been addressed consistently in litigation.

MÁRQUEZ: Okay.

MOODY: These, because they interact and the way they're drawn, this is something that has been litigated. And when the court had the option to defer back to a house plan and were told to do that in any way they could, where they thought that it should be done, they didn't do that here. They went in and redrew a third district, and I know—

MÁRQUEZ: And hasn't there already been precedent set with other amendments for other maps across the State of Texas where they've allowed two representatives to agree on a particular change to their district, today?

MOODY: Yes, I've seen it happen multiple times this morning, and I know it's maybe because we're in the wrong party—but if we agree, it's not good enough, but if someone else agrees then their amendments are adopted.

MÁRQUEZ: What we're trying to do is nothing new than what's been done already today in other instances?

MOODY: No, I think in this respect, we're trying to actually address a legal deficiency that the court has been trying to address multiple times. And so, we're trying to—as members who represent this district, as both minority members—to fix this issue, and I resent a little bit the idea that this is some sort of a political deal.

MÁRQUEZ: Before or after they met with the attorney general?

MOODY: Correct. And so, you know, I resent a little bit the idea that this is some type of political deal, in that, this has been in litigation and has been thrown out two different times. The house map that this body took in 2011 was thrown out by the San Antonio court. There is evidence up and down the record that there is a problem with the way this is drawn. You and I have the opportunity to fix that. We didn't try to work on anywhere else in El Paso, because this was the part that was focused on even up at the Supreme Court. Justice Sotomayor talked about this district—these two districts and the way that they connected. She was questioning during the oral arguments about the way these were drawn and the discriminatory intent that was contained within it, and this is our attempt to fix that. I'm sorry that our agreement is not acceptable to other people, but I think that we're trying to fix this to where we have a legal map in place—one that we had an opportunity to play a part in and one that is truly trying to address the legal deficiencies that have been pointed out in the court process.

MÁRQUEZ: Does this amendment affect—put either of these minority districts at a disadvantage?

MOODY: No, it does not.

MÁRQUEZ: Okay, thank you Mr. Moody. I appreciate your cooperation on this.

MOODY: Thank you. I appreciate yours. This is an attempt, like I said, to make sure that a district—or two districts, that have been part of this litigation, that have been questioned, that have been held discriminatory at some point or another in the process—that we have a say-so in how that is done, and that's why this was worked on today. That's why Representative [Márquez] and I have agreed to fix this—to maintain communities in the district in a way that they are not under the interim map and in a way that addresses the issues that have been brought up in the courts up until this point. You know, the idea was that we would offer amendments, and the chairman said he would look at them, and he would ask for the legal background on why you would want those changes made. I've laid those out, and the court record, whether it be in San Antonio or the Supreme Court, has included these two districts—has concluded problems dealing with these two districts. We are trying to address that here. We are the members here to address that now. And this map addresses both of these issues. I think I've got Chairman Pickett on my side now, too, so I think we're going to be okay. I think it's unfortunate that certain amendments are agreed upon and can be taken, but apparently, when two democrats agree to it, to fix a real legal problem, that we see a motion to table. That's unfortunate, but I ask you to vote no on the motion to table.

[Amendment No. 13 was tabled by Record No. 10.]

[Amendment No. 14 by Martinez Fischer to Amendment No. 1 was laid before the house.]

MARTINEZ FISCHER: Members, this amendment is also very comparable to Davis—like a substitute—it's a statewide plan. Let me tell you what it does very simply. It creates two West Texas Hispanic districts. House District 81, based in Midland and Ector County with a 53.7 percent Spanish surname registration percentage, cuts two counties—Midland and Ector. House District 88, based in Lubbock with a 47.8 SSVR, cuts only one county in Lubbock County; requires Representative Ken King to be paired with Drew Springer. Another district creates a Hispanic opportunity district in Nueces and Kleberg County—House District 32 based in Kingsville and Corpus with a 53.9 Spanish surname voter registration. Opens up House District 43 which has been changed to have a higher Spanish Surname Voter Registration because of the ripple effect from creating two West Texas districts. The next district is House District 26 in Fort Bend; creates an Asian district—let me say that again—it creates an Asian opportunity district with a 39.7 percent Asian voting age percentage district; no split precincts; solves the fragmentation of the Asian community in Fort Bend County; requires small changes to Representative Reynolds' district.

And again, while I lay this out, there may be some small changes to folks' districts. I think it's important to understand that this is certainly a map to demonstrate what is possible. It doesn't mean that it's going to be adopted precinct-by-precinct. I think it's a conversation piece. This is something that Sylvester Turner and I talk a lot about in the interim; something that Vice Chairwoman Davis and I talk a lot about in the interim—that this is to demonstrate what is possible. Is it perfect? It may not be perfect, but it certainly demonstrates what we can do in terms of having a better map that reflects the diversity of the State of Texas and giving minorities the opportunity to elect candidates of their choice.

House District 54 would create an African American opportunity district in Bell County by keeping Killeen whole. It'll create a 31.7 percent black voting age population district with a majority minority citizen voting age population district, and again, we do that by simply keeping Killeen with Fort Hood. If it's important to reunite the African American community in Tarrant County for the purposes of Lake Como—which I think is a good thing—I want to keep the chairman consistent. By doing that, we can do the exact same thing in Bell County with respect to Killeen. The only difference is that in the Tarrant County scenario, the Tarrant County affected members seemed to agree with it, and that's a burden or an additional hurdle that's not required by the law. But in Bell County, I'm not so sure that the state rep from Bell County would agree to making Killeen whole. And so, that being said, because a member agrees, doesn't make it legal—it just makes it easy. So, that's House District 54. There's another minority opportunity district in Dallas—House District 105 is an open Latino seat based in Irving and Grand Prairie with a 25.3 percent Spanish surname voter registration; 30 percent Hispanic citizen voting age population; lowers the deviations in Dallas County from 9.98 percent to 7.77 percent; it requires the pairing of Representative Harper-Brown and Representative Ratliff.

I will tell you, earlier, Representative Darby accepted an amendment that was a swap between Representative Anchia and Representative Ratliff. And he did it because he said it reduced the population deviations in Dallas County. And I appreciate that he did that, because he demonstrates the case for us—for the rest of the county as well as other areas of the state. There are other areas that have significant population deviations. If we're looking at 10 percent being sort of the maximum deviation that we've worked with under the house rules of either a

minus-five or a plus-five, Dallas County was at the very tip—9.98. This Dallas County map now reduces it to 7.77 percent deviations, which is a remarkable improvement—number one. Number two—it has significant legal significance in a courtroom showing how you can address the population disparities and the deviations in those districts. This amendment will affect the following districts in Dallas to reduce deviations among the Dallas districts: Anchia, Alonzo, Harper-Brown, Sheets, Button, Burkett, Villalba, and Ratliff. Another opportunity district in Harris County, House District 126, is a western Harris County district with a 24.9 percent Spanish surname voter registration; a 59.2 percent black, Hispanic combined voting population; has no split precincts; and it's created to keep the seat an open seat; it requires a pairing of Harless and Fletcher. The amendment also affects the following districts in Harris County: Harless, Fletcher, Callegari, Elkins, and Bohac.

I've talked about some pairings. There are four pairings in this substitute. One pairing is between Hunter and Morrison, and that's to create an opportunity district based in Nueces and Kleberg Counties; a second pairing of King and Springer to create a Lubbock-based Latino opportunity district; a third pairing of Harper-Brown and Ratliff to create to an open Irving and Grand Prairie Latino opportunity district with a 30 percent Hispanic citizen voting age population; and then a pairing of Fletcher and Harless to create an open west Harris County minority opportunity district with a 25 percent Spanish surname voter registration. Other problems to be aware of is that the map does reduce some counties where—Representative Tracy King, he and I had a conversation about that. I acknowledge that it's not something he's comfortable with. I appreciate him being straight forward with me. I think he understands the reason why I did it.

And, other than that, it's a very simple map to show what's possible. And the reason why I lay this out—it may not be important today, but all you have to do is read these two boards up here, and these two boards tell you exactly what's going to happen in the days following this special session adjourning in sine die. You have a district court of the district—the district court panel in San Antonio—that says these maps are temporary, and they do not address the legal claims. They said that when they issued the interim maps, that we are adopting today with some cosmetic tweaks, and then, the panel very recently said on May 29, that to adopt the interim plan is to assume that the plan incorporates all of the deficiencies—which it doesn't. And so, what we are doing is we're going to be taking this vote whether we table this amendment and ultimately move to adopt the interim map. You will be forewarned that you are adopting a map that a court in San Antonio deems to be temporary, and a court has made some comment that they do not see it addressing the legal deficiencies. Now, again, that wasn't the comment made with respect to the map not addressing the legal deficiencies—that was made by one judge on the panel—but the prior statement about the interim map being temporary only and does not seek to address the claims brought forth by the litigants. And so, what the panel said on the interim map, they said that with one voice—that this is an interim map. It does not address the claims brought forth by the litigants.

So, we are at the stage where we're going with this. Whether Section 5 lives or dies with the U.S. Supreme Court, we still go back to San Antonio, and we go back to San Antonio to argue potentially Section 5, Section 2, and the 14th Amendment of the U.S. Constitution. And this is the sentiment of the court panel in the courtroom, and I think what we're going to be doing here, is we'll be

arguing for some legal changes to a map in a courtroom, because we could not get the changes made on the house floor. And I just want to make it, with the purposes being to fully disclose what some of you may know and choose not to accept, or some of you may not know and I'm informing you, that this is exactly what will happen. And with that, that is the amendment—the substitute map, H29.

WALLE: Representative Martinez Fischer, so the criteria you use is neutral in—my understanding is the criteria you're using is neutral in your basis?

MARTINEZ FISCHER: It's neutral to the extent that this map follows a demography. And when the demography is different in the state that doesn't reflect or comport with the current map that we have, whether it's the enacted plan of 2011 or this interim map, I am showing what the demography will yield or what we could yield from the demography if we were to draw maps that gave minorities the opportunity to elect candidates of their choice.

WALLE: So, all the—right now your map is a—my understanding is—is it not a demonstration of what could occur should you use—just based on demographics—just based on pure demographics from the recent census? And we'll get updated census numbers from the American Community Survey, but at this point, just by sheer demographics, this is what could happen if a map is drawn legally using current census data?

MARTINEZ FISCHER: My desire would be that we take a map like this, and we roll up our sleeves, and we work in good faith to come up with a map that's fair and fairly represents the State of Texas the way Texans deserve to be represented. The hope was to put out a map like this to demonstrate what is capable, what is possible, what the demographics of our state show, and then work really hard to find a common solution, find a common purpose. I laid out an amendment in committee. It was actually far less than this substitute. It was, in fact, easier to do, that minimized—it actually had no pairings whatsoever. We took a vote in committee. It failed on party lines. But that was an amendment that only had maybe five seats with absolutely no pairings whatsoever—and I made the point to say that you cannot get further in good faith than draw a map that will come up with this—and if that's rejected flatly on party lines, well then, I think it's important for Texans to know. I think it's important for the court to know. I think it's important for the body to know. And I think it's important that people realize just exactly what is possible when you look at the demography of this state and knowing how you can draw a district. It's not perfect. People are not going to be happy with it, but it certainly presents a different reality than what we have today.

REPRESENTATIVE LOZANO: Representative, what's your interpretation or your definition of retrogression?

MARTINEZ FISCHER: You know, I don't have one. It is a legal—whatever the legal definition is by the litigants in the courtroom. I don't have any notes to tell you what it is, but I would rely on whatever definitions are being used currently in court.

LOZANO: Okay, well in your experience with redistricting and your in-depth knowledge of redistricting, what would you characterize retrogression as?

MARTINEZ FISCHER: I mean, very general, nonlegal retrogression is, you have a benchmark, and you go backwards. You lose progress, and so—

LOZANO: You lose progress, so you could, for, like an example—

MARTINEZ FISCHER: I can't hear you.

LOZANO: For example, Representative, in District 43 that your amendment changes it to—what's the Hispanic percentage?

MARTINEZ FISCHER: Tell me again—for District 43?

LOZANO: Yes, sir.

MARTINEZ FISCHER: In the amendment that's proposed?

LOZANO: Yes, sir.

MARTINEZ FISCHER: Okay. I believe it is 69.3 percent—excuse me—66.7 percent total.

LOZANO: Okay, in the amendment that you're proposing?

MARTINEZ FISCHER: Correct.

LOZANO: And is that still numbered a district that includes Kleberg County? Or which district has Kleberg County?

MARTINEZ FISCHER: District 43 would have Bee, Brooks, Jim Wells, Kenedy, San Patricio, and Willacy.

LOZANO: Okay, and then so, District 43 would—I'm sorry—where would Kleberg be?

MARTINEZ FISCHER: I will tell you in a second. I think it's going to be 32.

LOZANO: Okay.

MARTINEZ FISCHER: Thirty-two would be Kleberg and Nueces, yes.

LOZANO: Okay.

MARTINEZ FISCHER: That would have a Hispanic population number of 70.2 percent.

LOZANO: Okay.

MARTINEZ FISCHER: And you have to just forgive me, because I'm looking at the spreadsheet upside down, so—

LOZANO: No problem. Well, that's okay, Representative. I'll just go offline and maybe look at with you.

ALONZO: Mr. Martinez, I want to talk about two areas real quick, because I know some other members have some questions too. First, getting back to the discussion we had for West Texas. You pointed out about how the Hispanic population has grown in Midland 53 percent, Odessa 41 percent. So was your proposal, in telling the body of the possibilities because of the population growth and the numbers and because of the Voting Rights Act, you believe, with your proposal, that you can take care of that problem by proposing two Hispanic opportunity districts in West Texas, is that right?

MARTINEZ FISCHER: That is correct.

ALONZO: Okay, the other area, briefly I wanted to cover, was the Dallas area. What did you say would happen under your proposal that differs with what's in existence now on the interim map?

MARTINEZ FISCHER: Well, in Dallas, this would create one minority opportunity district in House District 105. Now, what's interesting about this, Representative Alonzo—you know this because you're from Dallas—you could do as many as three minority opportunity districts in Dallas County. You can do two with your eyes closed. You can do one from 100 yards. The demography in Dallas County is so different. The population deviations in these districts are packing minorities, and it's very easy to do. So whether it's this 105 configuration or another one, you can simply—you have up to really three districts you can do a minority opportunity district in.

ALONZO: So, through the process you presented at least three during committee and at least one under this plan?

MARTINEZ FISCHER: I have, and in fact, Chairman Darby will tell you that there was a time when they were talking about taking—the chairman was talking about taking—a Dallas County amendment in committee. You had Dallas County members who are republicans that were offering an amendment; you had Dallas County members who are democrats drawing an amendment; I had an amendment; and we had a very serious moment where we were going to take one because of the population deviations; but then all of a sudden it changed; because certain incumbents didn't want to give territory from their districts to create this district which then became problematic.

ALONZO: So, finally I will conclude. Seriously now, Mr. Martinez. Seriously, you would say—looking at the numbers, looking at the population, looking at the demographics, looking at the Voting Rights Act—more must be done in order to make sure that the right thing is done in drawing maps, is that right?

MARTINEZ FISCHER: That is correct, and this is just to demonstrate. And again, I presented a map in committee that didn't pair anybody that wasn't accepted, and I said, at that time, the maps are just going to get more difficult. This map today is obviously more difficult, because it has four pairings, and it does things that people aren't going to like. But you can't deny the demographic shifts. And that's what this interim map does, because it does not address—it is not a final map—and if we don't address it today or the final days of the special session, it will get addressed probably in a federal courtroom.

REPRESENTATIVE AYCOCK: Representative Martinez Fischer, your amendment addresses District 54, I believe, as part of its change?

MARTINEZ FISCHER: It does.

AYCOCK: Are you aware that District 54 prior to the present map, in fact, had Killeen divided for many years? It has not been united in one town for many years, are you aware of that?

MARTINEZ FISCHER: I am aware of that.

AYCOCK: Okay. Are you aware that no single minority community within Killeen comprises more than—what—37 percent or so, is that correct?

MARTINEZ FISCHER: I didn't hear that.

AYCOCK: No single minority community comprises a majority population in Killeen, Texas.

MARTINEZ FISCHER: In 54?

AYCOCK: In 54.

MARTINEZ FISCHER: I think you're right on that.

AYCOCK: Okay. No two combined minorities comprise a majority.

MARTINEZ FISCHER: In District 54?

AYCOCK: Correct.

MARTINEZ FISCHER: Well, I think, what I'm looking at here is a total population of 54.2 percent combined African American, Hispanic.

AYCOCK: I think—don't you have to go all the way to other in order to get to that?

MARTINEZ FISCHER: No, that would be an additional 7.3 percent, so that would be 61.5 percent.

AYCOCK: Okay. And if your amendment prevailed, what does that do to the remainder of the present District 54? Notably, where is Lampasas County located in your proposal?

MARTINEZ FISCHER: It looks like it's going to be in 55.

AYCOCK: Going to be in 55? Where's the predominance of population in 55?

MARTINEZ FISCHER: I would have to defer to you on that. My interest is 54—

AYCOCK: It would be the eastern part of Bell County over in Temple-Belton area.

MARTINEZ FISCHER: Okay.

AYCOCK: Are you aware that in order to travel from Temple-Belton to Lampasas County or from Lampasas County to Temple-Belton, you must drive through the entirety of District 54 as you propose it, through most of District 59 in order to obtain access, because there is no access across Fort Hood, Texas? And the only highway connecting Temple and Belton travels through two other districts on the way to Lampasas County?

MARTINEZ FISCHER: And to be fair, the focus of the amendment has—and always has been—54. Any ideas on how we rework that part of Central Texas were never discussed by me or the committee. And quite frankly, if there's a way to do something different, I'm happy to do that. But the fact of the matter is—I think you would agree with me—if the body found it important to reunite an African American community in Lake Como, if we, by way of extension, did that with the city of Killeen and united a minority community in Killeen, there shouldn't be anything wrong with that, is there?

AYCOCK: If you reunite the minority community in Killeen, you also disassociate an entire county from its representation to the far east side of Killeen.

MARTINEZ FISCHER: And I think you will acknowledge that when the San Antonio federal court drew an interim map the very first time, they did something very similar to this. And those federal judges, when they did it, thought they were following the existing law available to them at the time before it was changed and—

AYCOCK: Are you aware that at the Supreme Court hearing, where the Supreme Court overturned that map, that this was one of the districts in which the Supreme Court said that they had overreached in doing so?

MARTINEZ FISCHER: They didn't say they overreached. They said that you follow the legislative enacted plan until you hear from D.C., unless the facts that you have before you rise to such a level that you feel like the plaintiffs are going to prevail—well then, just draw it anyway. Otherwise—

AYCOCK: Did Justice Roberts not say in his opinion that, in fact, it was not necessary to draw coalition districts?

DARBY: You've heard some of the concerns we have go back to say coalitions are not protected by Section 2. HD 54 becomes a coalition district. The changes in West Texas creates a new Hispanic opportunity district in 88. Although the HVAP is 54.9 percent, this does not constitute a majority. Also, the county line rule is violated in order to create this district—county line violation in Nueces County because it contains three districts. The goal of this plan is to create HD 32 and 34. And the bottom line is, the court looked at all these issues and did not agree with the plaintiffs on these claims.

C. TURNER: I'm trying to keep track here, but you have moved to table and successfully tabled, I believe, Vice-Chair Davis' statewide substitute, and now you've moved to table Mr. Martinez Fischer's statewide substitute. And as best I can tell, based on the amendments that have been filed, those are the only amendments available to us that represent any significant changes to the interim map, is that fair to say?

DARBY: I would say the last two maps contained more significant changes than the previous amendments.

C. TURNER: So, if this amendment is tabled, in essence, the interim map will—your intention would be to send it out of here largely unchanged from the way it is today, is that right?

DARBY: My intention is to send it out with the interim maps that we have plus any agreed-to amendments that we accept.

C. TURNER: Okay. So, a few weeks ago, I believe on the first day of special session, I asked you if the redistricting select committee intended to have field hearings, and at that time you said you had no plans to hold field hearings. But then a few days later, the committee did announce—you announced—that there would be field hearings—I believe in Dallas, Houston, and San Antonio, in addition to two in Austin. What was the reasoning behind going ahead and having those field hearings?

DARBY: Well, number one, we heard from the people that came and testified. We heard from committee members that wanted field hearings, and we heard from the San Antonio court.

C. TURNER: In those hearings—in the two in Austin and the three around the state—how many witnesses, do you know, came out and testified for the interim maps and against the interim maps?

DARBY: I have no idea.

C. TURNER: Okay. I have a tally that my staff prepared for me. In total, between the five hearings, there were a total of 68 testifying or registering for the interim maps—and that includes the senate map of which there hasn't been any controversy over—and 430 against. So, that's—doing the math, that's several times to one. With 430 witnesses around the state—again, on such short

notice—coming out and testifying against, and less than 70 testifying for, what is the point of having field hearings if people are against the maps, and then we reject any suggested changes to improve the maps?

DARBY: You know, you were at the one in Dallas County.

C. TURNER: I was.

DARBY: Do you recall, specifically, my challenge to those present? Don't just come and say you're against the interim maps—which is largely what a lot of folks did. Tell me how the maps are deficient, give me a remedy to do that, and tell me why that remedy is necessary. And that's what I asked the people to do throughout the state, and we did not always hear that type of response. We just said, we're against the maps.

C. TURNER: Well in Dallas, I know I heard witnesses talk about Mesquite for instance—it being divided, and Representative Davis had a map that addressed that; I'm not sure if Trey's map does. And the Bell County issue was largely discussed, I believe, in Austin as well. So, in a congressional map, and again we can talk about Congress here in a while, but a number of people came and suggested substantive changes to the congressional map in North Texas. So again, if we've allowed the public to have input, but we're going to ignore the input, what was the value of having those hearings?

DARBY: I think it's always incumbent upon the legislature to listen to the folks that come and want to testify before us, and that's what we did. You know, I heard from the committee members that wanted us to go to Dallas, Fort Worth, Houston, Austin, and San Antonio, and that's what we did.

C. TURNER: Okay. And so, going back to amendments earlier today, you accepted a few amendments that members had agreed to, and since the Republican Caucus had a lengthy meeting, you've not agreed to accept any amendments, including one by Representative Moody and Representative Márquez that was agreed to. Did—was it an agreement—may I ask—in the Republican Caucus that there would simply be no more amendments accepted on any of these maps?

DARBY: I'm not prepared to say that at all. I told the Republican Caucus—

C. TURNER: Is that no or yes?

DARBY: —that I'm going to look at all the amendments that come before me. And I told you that too.

C. TURNER: Okay. So with the Moody-Márquez amendment though, that was an amendment that swapped a few precincts as you said, just as several other amendments have previously done that you did accept. Is there—what was the substantive difference between the two?

DARBY: You know, the El Paso problem was addressed in the first interim map that came out of the San Antonio court—the Supreme Court reversed and remanded. The San Antonio court fixed El Paso; they addressed those two districts; they fixed the problem. Now, the Moody Amendment addresses—tries to unwind that fix, and so that's why it wasn't acceptable.

C. TURNER: Thank you. Well, Representative Darby, I'm sure you are familiar—Mr. Martinez Fischer mentioned this in his layout, and I think it's on that big easel right there—but the San Antonio court said very plainly, and I'm

quoting when they issued the interim maps, "This interim plan is not a final ruling on the merits of any claims asserted by the plaintiffs in this case or any other of the cases consolidated with this case. Nor is it intended to be a ruling on the merits of any claims asserted in the case pending in the United States District Court for the District of Columbia. Rather, this is an interim plan." So—and they continue—but how can we say that the courts resolved all the issues when this court said very plainly that they didn't resolve all the issues?

DARBY: They specifically took up these two districts in their interim map. They specifically addressed this issue in their interim map.

C. TURNER: Which issue?

DARBY: I'm sorry?

C. TURNER: They addressed which issue?

DARBY: The Moody amendment, or the issue relating to those two districts.

C. TURNER: Okay. Well, and the other amendments we accepted today, are those—have the court addressed those one way or the other? I mean, did you—

DARBY: Which amendments are you referring to?

C. TURNER: Well, there was one I think in Dallas County, one in Tarrant County, one may, I believe, be in South Texas, but have the court weighed in on those amendments, or are those just amendments we just decided to accept just because?

DARBY: The court weighed in. They kept 122 districts the same in the legislative drawn maps. They kept 122 districts the same.

C. TURNER: In the current interim map?

DARBY: I'm sorry?

C. TURNER: In the current interim map?

DARBY: In the current interim maps. And then they changed modestly seven districts, and they changed significantly other—the remaining districts. So 21 districts they changed and addressed, and these, I believe, are two of the districts in El Paso that they changed.

C. TURNER: Okay. Well, your point about—I agree with your point about they left some 120 odd districts unchanged. And again, that was in deference to the legislative plan—legislatively enacted plan—as the Supreme Court has suggested they do with regards to an interim map for 2012 elections only. And they were constrained by that order from what I understand, being an interim map, not a remedial map to be used for the rest of the decade. And what we're essentially talking about is the map for the rest of the decade now, using an interim map that was never meant to be permanent. So I think, with respect to Mr. Martinez Fischer's amendment that you're moving to table, I think that his amendment addresses a lot of those concerns that the courts will undoubtedly take up again. And I just think given the tremendous response you had at field hearings around the state with people wanting to see substantive changes, his amendment is a good faith effort to address that, and I think it's unfortunate that we're not going to be able to—that we're going to have a motion to table on it.

S. TURNER: Chairman Darby, I just want to go back to the coalition districts. The D.C. court in its final opinion on page 61, talks about the discriminatory intent with regards to coalition districts. And on page 61, when they were specifically talking about Representative Hubert Vo's district, they say when there is cohesion and electoral success, that the courts take that into account in whether or not a district is being discriminatory—whether or not you are working against coalition districts. I mean, are you aware of that on page 61 of the D.C. court's final opinion?

DARBY: I don't recall specifically that provision, no.

S. TURNER: If you will, take a look at page 61 of the D.C. court in its final opinion, and basically where it says that as a relation to coalition districts, where there is cohesion and electoral success, the courts will look to those two elements in determining whether or not a district should be crafted accordingly.

DARBY: Well, I will take your word for that.

MARTINEZ FISCHER: Members, Representative Drew Darby is partially correct when he says you're not required to draw coalition districts under Section 2. Yes, that is half-true. But let me tell you the other half—the other half of the story says, when minorities demonstrate cohesiveness politically—so in other words, when minorities vote together and they vote together for the same candidate of choice—if in a community that happens and they happen to be over 50 percent of the voting age population, guess what, you're required to draw a district under Section 2 which can be found in the court opinion of the *Texas v. United States* docket entry number 230 at page 65. This is yet again another reason why when we do not have the attorney general or his designee come present the position of the parties and leave it to us to sort of map in the dark and do this by ourselves, we are only setting ourselves for a much bigger remedy. I know that; every member of the Redistricting Committee knows that; many members in the leadership know that. But for whatever reason, we're going to do this, because it's expedient. I don't have a problem with that. Because when you go home, we all go home, I will go to the federal courtroom in San Antonio. That's where I will spend my interim. That's where I spent my interim last session.

And so, I want you to make a very conscientious choice to ask Chairman Darby, is that true? Is that on page 65 of the federal court's opinion that says when you can prove political cohesiveness—and by the way, that standard is proven at the general election when minorities vote together in the general election and they're over 50 percent of the population, voting age population—you better get serious about drawing a Section 2 district. That's what this amendment does. And taking it back one step further, there was an amendment presented a couple of days ago that did less than this, as a sign of spirit and good faith of drawing minority districts without pairing people, being very sensitive to folks who have a desire to represent certain areas of the state, to not jeopardize relationships between existing incumbents and their districts and their constituents. And we drew a fair map, and it was rejected without any debate, other than, I wish I had more time to study it. Well, we have a lot of time to study this. We don't have to pass this bill today; we don't have to pass it tomorrow; we could pass it Monday; or we could spend the next two days working to do it right. I've offered that on a number of occasions. I think that we should be very careful about not just tabling this amendment but the reason why

we're tabling it, and I think Representative Drew Darby owes you a little bit better explanation as to what is required when you draw minority coalition districts based on the standard cohesiveness in the general election as established by the United States District Court for the District of Columbia in the last round of redistricting. With that, I ask you to please give it some serious consideration and vote no on the motion to table.

[Amendment No. 14 was tabled by Record No. 11.]

[Amendment No. 1, as amended, was adopted.]

[**SB 3**, as amended, was passed to third reading by Record No. 12.]

SB 4 DEBATE - SECOND READING

DARBY: Members, **SB 4**—or the floor substitute for **SB 4**—is handled just like we did **SB 3**. It reflects the census geography of Plan C235—the court ordered interim map used for the 2012 election cycle to elect the Texas Congressional Delegation. This map was ordered by the three-judge panel from the United States District Court for the Western District of Texas in Davis and Perez lawsuits. At the direction of the Supreme Court, the district court issued this plan, which also addresses all the legal flaws found by the district court. The D.C. district court denied preclearance, because a congressional plan lacked an additional minority district. The interim plan remedies that legal problem. The D.C. district court also found the legislature excluded district offices, residences, and certain economic engines from certain existing minority districts around Houston and Dallas. The interim plan restored those landmarks to those districts. And so with that, members, I move that we adopt the floor substitute.

[Amendment No. 1 by Darby was laid before the house.]

DARBY: Again, members, this is simply the geographic rendition of **SB 4**—Plan C235.

[Amendment No. 2 by Hernandez Luna to Amendment No. 1 was laid before the house.]

[Amendment No. 2 was withdrawn.]

[Amendment No. 3 by E. Rodriguez to Amendment No. 1 was laid before the house.]

REPRESENTATIVE E. RODRIGUEZ: Members, this amendment, which is Plan C245, addresses constitutional and Voting Rights Act flaws in the current interim congressional map. A little bit of background—the interim plan was entered by the federal district court in San Antonio in February 2012; the D.C. federal court issued its preclearance decision based on Section 5 of the Voting Rights Act in August of 2012; and as a result, and despite claims from the governor, the lieutenant governor, and the attorney general, the interim plan doesn't address every legal flaw identified in the D.C. court.

So, as I lay out this amendment, I want to stress just four things quickly. First, this plan addresses Central and South Texas by Texas only—excuse me—I've included the statewide map only as a way to show context. I anticipate I'll support other amendments that come to the floor. Second, this plan is a least-changed option—it's the least disruptive to the interim plan that's also consistent with legal requirements. Third, this plan restores the constitutionally protected crossover district in Travis County; and fourth, it adds a new Hispanic

opportunity district CD 34 and improves two existing opportunity districts CD 20 and CD 23 in order to maintain at least the same number of opportunity districts in the region as prescribed by Section 2 of the Voting Rights Act.

Members, this plan fixes a core constitutional defect in the interim plan. It restores a crossover district centered in Travis County that the interim plan, by simply adopting the 2011 legislation enacted, that meant that got destroyed. In the 2009 Supreme Court case, *Bartlett v. Strickland*, Justice Kennedy defined a crossover district and confirmed that if a state purposefully dismantled such a district, it would raise constitutional questions under the 14th and 15th Amendments. And I believe that's what happened with the current lines, and that's exactly what happened to Travis County. And in August of 2012, the D.C. court held that the 2011 enacted map and therefore the interim map has destroyed an existing crossover district that's here based in Travis County that was former Congressional District 25 which was anchored in Travis County.

REPRESENTATIVE DUKES: Representative Rodriguez, you have mentioned that this amendment addresses what was considered constitutionally protected—that being a crossover district. Can you explain what a crossover district is?

E. RODRIGUEZ: Yes, Ms. Dukes, I can. The Supreme Court—Justice Kennedy in 2009's opinion in *Bartlett v. Strickland* explained that a crossover district is where the minority population is large enough to elect their candidate of choice with the help from voters who are members of the majority population who crossover and support the minority's preferred candidate. Dividing Travis County was a deliberate attempt to destroy such a crossover district we had here in Travis County where a tri-ethnic coalition historically works together to elect a candidate of their choice such as former Senator Gonzalo Barrientos, County Attorney David Escamilla, District Clerk Amalia Rodriguez-Mendoza, County Treasurer Dolores Ortega Carter, Sheriff Greg Hamilton, County Judge Sam Biscoe, former Mayor Gus Garcia, Council Members Mike Martinez and Cheryl Cole, and numerous African American and Latino judges in Travis County.

DUKES: Including Judge Lora Livingston, Brenda Kennedy, and Eric Shepperd, correct?

E. RODRIGUEZ: That's correct.

DUKES: Did you know that—are you aware that crossover districts are, indeed, constitutionally protected districts?

E. RODRIGUEZ: Yes, Ms. Dukes. Justice Kennedy wrote, again in the *Bartlett v. Strickland* case, that there was a showing that the state intentionally drew district lines in order to destroy otherwise effective crossover districts that would raise serious questions under both the 14th and 15th Amendments.

DUKES: So, in the previous maps—those being prior to the districts that our congressional members ran for in 2012—there was a Congressional District 25 that was centrally located near Travis County. The D.C. three-judge panel, did they consider CD 25, as it was manipulated and destroyed in the 2011 map drawing—in the interim maps that were developed—a constitutionally protected crossover district?

E. RODRIGUEZ: Yes. As a matter of fact, the court said that we conclude that the record before the court demonstrates that minority voters are politically cohesive, have a demonstrated history of electoral success, and effectively exert

their political power within the coalition districts that elect minority preferred candidates in former District 25. And also, the courts correctly found that Anglos do not control the election outcomes in former District 25 that was anchored here in Austin and that power is equally shared among Hispanic, African Americans, and Anglos in this district, giving minority voters the ability to elect their preferred candidate.

DUKES: And are you aware that, related to the crossover districts in the D.C. district courts, when the subject came up, that I was actually one of the witnesses that testified in court?

E. RODRIGUEZ: I was aware.

DUKES: Are you aware that the justices—the three-judge panel, the entire three-judge panel—came in during that testimony and paid very close, particular attention and looked at analysis, and spreadsheets, and elections, and data, to ensure that they could understand what effect African Americans and Hispanics had in coalition with Anglos and whether or not races were tipped to a win or loss based on the participation and vote of African Americans and Hispanics in combination?

E. RODRIGUEZ: Yes, they had a much, much larger amount of data available to them. They looked through all of that. They determined that Congressional District 25 anchored here—that was anchored here—in Austin, in fact, had a coalition—it was a coalition district; it was crossover voting; and that it was one of very few instances in the State of Texas; and that it should be preserved and protected.

DUKES: And though the Attorney General's office attempted to cross-examine me and pose questions, the justices still agreed, based on their determinations in looking at the data in Travis County, that historically African Americans and Hispanics were able to elect their candidate of choice through the coalition building. And thus, the justices stated in their opinion, indeed, the former CD 25 was a constitutionally protected crossover district.

E. RODRIGUEZ: That is correct. They determined that it was a constitutionally protected crossover district. And I listened to the names, and you actually added other names of elected officials—blacks and Hispanics—that have been elected in Travis County for a long time, and it's based on this coalition of voters we have here in Travis County. And they believed, and I agreed with them, that that's constitutionally protected and the state was wrong in dismembering that—in splitting that up.

DUKES: Correct, and the judges, particularly because we brought up the race of Greg Hamilton and we brought up the race also of Nelda Wells Spears who was the County Tax Assessor—

E. RODRIGUEZ: County-wide elected, yes.

DUKES: Yes, so this was something they paid close attention to when they made their determination.

E. RODRIGUEZ: They did.

REPRESENTATIVE HOWARD: We find ourselves here in a special session dealing with redistricting and—

E. RODRIGUEZ: Again.

HOWARD: —and we have this opportunity. So, is there a cost to not taking this opportunity to fix the constitutional breach made when the legislature destroyed the constitutionally protected congressional district in Travis County?

E. RODRIGUEZ: Yes, I believe that there is a cost, and I think the state will needlessly throw away millions more in taxpayer dollars defending an unconstitutional map. Voters face the risk of seeing election dates pushed further back yet again like last year, causing less participation and more likely affecting the outcomes of some of those races.

REPRESENTATIVE NAISHTAT: Representative, did you know that the federal court in D.C. noted that only minority districts lost their economic centers and that this is especially true in Austin?

E. RODRIGUEZ: Yes. In Austin, minority communities were divided and pulled to various corners of the state. Dividing Travis County, I believe, was a deliberate attempt to destroy this crossover district.

NAISHTAT: Yes. I was going to go on to say, did you know that here in Austin, minorities were pulled away from downtown, from The University of Texas, and from the center of the city—all in the district that I represent—but I know you're aware of that.

E. RODRIGUEZ: I'm aware of that.

NAISHTAT: Let me ask you one more question. Did you know that Austin is the only major Texas city and the largest city in America without a congressional district anchored in it?

E. RODRIGUEZ: Sadly I am aware of that fact, and Austin is now the 11th largest city in America, yet we do not have a congressional district that's based here—anchored here—in Austin. Travis is the only county in which the population exceeds the number required to constitute a congressional district but unlike San Antonio, Fort Worth—they have an anchored district. Members, thank you very much for allowing us to have this amendment here. This is critically important for us here in Austin and Travis County—the largest city without a district anchored in it in Austin—I think it's a tragedy for the minority population here. And thank you for your time. I know the amendment will not be acceptable to the author.

[Amendment No. 3 was withdrawn.]

[Amendment No. 4 by Anchia to Amendment No. 1 was laid before the house.]

C. TURNER: I am laying this amendment out as a courtesy to Representative Anchia. His amendment would create a third majority minority congressional district in North Texas, a Latino district that would be primarily based in Dallas County. It would also go into Tarrant County, as well as preserve the two existing African American opportunity congressional districts. For some context, there are over 2.3 million African Americans and Hispanics in Dallas and Tarrant Counties combined, which is clearly enough to support three minority opportunity districts. Harris County has similar demographics and easily serves as the core of two black districts and one Hispanic district for a total of three. There are several proposals out there that make good faith efforts to create this kind of district map, where we have three minority opportunity districts. This is one variation and I'm

pleased to present it for Representative Anchia, but I understand it is not acceptable to the author, which is unfortunate, so I am going to withdraw the amendment at this time.

[Amendment No. 4 was withdrawn.]

[Amendment No. 5 by Y. Davis to Amendment No. 1 was laid before the house.]

Y. DAVIS: This amendment seeks to make permanent, to deal with the deficiencies in the interim congressional plan and proposed resolution. The interim plan fails to recognize the ability to draw additional minority districts under Section 2 of the Voting Rights Act. In North Texas, for example, the interim plan provides for two minority influence districts in the North Texas region—Congressional District 30, located in Dallas County, and CD 33, which spans across Dallas and Tarrant County. The plan fails to adequately reflect the minority growth in the North Texas region. Minorities represent 52.6 percent of the population, or 2,197,000 residents in Tarrant and Dallas County combined. The majority of the growth in the region between 2000 and 2012 were minorities.

CD 33 was created under the interim plan, but this district was not considered to be a minority coalition district by the Western District Court. The court stated that the contours of CD 3 are a result of addressing the non-insubstantial Section 5 claims of "cracking and packing" and the application of neutral redistricting criteria. So, CD 33 was just kind of created. While it was not the intent of the court for CD 33 to make it a minority coalition district, the electoral performance of the district in 2012 demonstrated the minority groups' ability to elect a candidate of choice. However, the creation of CD 3 in the interim map does not fully remedy the dilution in the DFW area. The interim map does not fairly reflect the voting strength in the region to comply with Section 2 of the Voting Rights Act. The proposed amendment seeks to remedy these concerns by demonstrating that it is possible to draw a Hispanic influence district in North Texas while we may need CD 30 and CD 33 reconfigured.

This proposed amendment would create CD 3 as a Hispanic influence district located entirely in Dallas County. The district has a Hispanic population of 65.4 percent with a total minority population of 76.8 percent. The district has a Hispanic CVAP of 39.5 and a combined minority age of 60.5. The minority voting coalition in the general elections easily provides an opportunity for minority preferred candidates to be elected that would otherwise be impossible without the proposed coalition district. CD 33 has a 40.9 percent Hispanic district, 26.3 percent African American population, and a total minority population of 72.4 percent with a combined citizenship population of 58.1 percent. The district would favor Congressman Veasey or a similar candidate. Under the new proposed CD 33, Congressman Veasey received 48.6 percent of the votes cast in the 2012 democratic primary, followed by former councilman Hicks and former state rep Domingo Garcia. Also, this map proposal deals with Travis County and Congressional District 25 as it relates to how it was dismantled under the legislative adopted plan. Both sets of reports considering Texas 2011 redistricting have recognized the growing importance of coalition districts, minority coalition districts, and districts in which minority preferred candidates receive sufficient Anglo crossover votes.

The proposed amendment reinstates CD 25 as a functioning crossover district anchored in Travis County. CD 25 is anchored in Travis County and includes Hays County. The district has a combined minority population of 53.7

percent. The proposed amendment contains two pairings—Congressman Marchant and Congressman Sam Johnson, and Congressman McCaul and Congressman Williams. In the current interim map, Congressman Doggett is paired with Congressman Williams, and this proposed amendment restores CD 25 to a crossover coalition district. As an overview, the proposed amendment would create 15 minority opportunity or coalition districts, creates a new Hispanic influence district in Dallas County, retains CD 33 as a minority coalition district, and maintains CD 30 as an African American district in Dallas County. I move adoption.

DARBY: This map, C251, creates eight Hispanic opportunity districts, three African American districts, and two coalition districts. It adds an additional coalition District 3 in Dallas County that did not exist in the current interim maps. Plan C251 does not create any additional Hispanic opportunity districts as compared to C235 which is what we have before us. C251 splits Nueces County between District 34 and District 27 and moves the boundary of District 27 further south, a southern boundary with Cameron County. District 27 was previously an Anglo majority district under C235 and is now a Hispanic opportunity district. District 34 was previously a Hispanic opportunity district under C235 and is now an Anglo district. Under plan C235, which is our current interim map, Nueces County was not split and instead had a district anchored within it, and I move to table.

Y. DAVIS: This is an opportunity for us to pass a map that will reflect the growth and development of the populations in the North Texas region by creating a wholly Hispanic district in Dallas County, maintaining the current congressional district in Dallas County, where Congresswoman Eddie Bernice Johnson is currently the congressman, and reconfiguring CD 33 to make it a real coalition district where Congressman Marc Veasey is now the congressman. Also, this helps us to put back District 25; we heard during the hearings many times that it was split between five different congressional districts and that the anchor of it should have been, and had historically been, in Travis County. We restored that and made sure that Travis County has a congressman in the area. We're trying to do something that will reflect what's happening with the population shift and changes. This is designed to deal with the issues the court has found as relates to our congressional districts. One is that we failed as a state to recognize the growth of minority populations in Texas. Secondly, looking at those fractured precincts and districts that have been split up, and put them back together to minimize breaks in the districts. With that, members, I move adoption.

[Amendment No. 5 was tabled by Record No. 13.]

[Amendment No. 1 was withdrawn.]

[Amendment No. 6 by C. Turner was laid before the house.]

C. TURNER: This amendment is simply a legislative findings amendment. It's not a map. It simply establishes a baseline that if we do adopt this interim map as the legislatively enacted map, it states that the interim map provides for four congressional districts in which African American voters have the opportunity to elect the candidates of their choice in Districts 9, 18, 30, and 33. We find that the congressional districts in this plan provide Latino voters an opportunity to elect the candidate of their choice in Districts 15, 16, 20, 23, 28, 29, 34, and 35. I move adoption.

DARBY: Members, again, these are legislative findings that I don't think are proper within the bill, so therefore, I move to table.

C. TURNER: This is simply a pretty noncontroversial legislative finding on the 12 districts where currently minority voters have the opportunity to elect the candidates of their choice. This simply enumerates in which four African American voters have the opportunity and in which eight Latino voters have the opportunity, and it provides a baseline for future deliberations and litigation over redistricting. So I would ask that you vote no on the motion to table.

[Amendment No. 6 was tabled by Record No. 14.]

[**SB 4**, as amended, was passed to third reading by Record No. 15.]

SB 2 DEBATE - SECOND READING

DARBY: Members, this is the last one. This is an agreed-to map. **SB 2** simply reflects the court ordered interim map used in the 2012 election cycle for state senators. This was agreed to by the three-judge panel from the United States District Court in the Western District of Texas. They've raised lawsuits and all of the plaintiffs have agreed that this interim plan should be approved. I don't believe there are any amendments, and I would urge this body to pass this senate bill to engrossment. I move passage.

S. THOMPSON: I want to speak in opposition to **SB 2**. I want to note for the record that **SB 2** does not fairly reflect the population or voting strength of minority citizens in Harris County and surrounding counties. There are over 1.8 million Latinos and over 938,000 African Americans in Harris County and Fort Bend County combined. If you add Asians and other minority residents to the two counties, the overall total is about 3.5 million minorities compared to 1.5 million Anglos. Under **SB 2**, these minority residents are packed into three senate districts—Senate District 6, represented by Senator Sylvia Garcia; Senate District 13, represented by Senator Rodney Ellis; and Senate District 15, represented by Senator John Whitmire, and then cracked among several others. Senate District 13 has a black and Hispanic population of nearly 90 percent. Senate District 6 has a non-Anglo population of 88 percent. Senate District 15 has a combined black and Hispanic population of 72 percent.

The other five senate districts are very carefully constructed to absorb some minority population, but not enough to permit minority voters to elect their candidates of choice. In each of these districts, the combined population is over 30 percent, but just under 50 percent. In each one, minority voters are overwhelmed by Anglo voters who bloc vote against minority preferred candidates.

When the Texas Legislature drew the senate map in 2011, there was an opportunity to create a fourth minority district, Senate District 17 in the Harris County region. According to the 2010 census, the total minority population in Senate District 17 had grown to just over 62 percent. The black population alone was almost 20 percent. Rather than take the next step and empower the minority voters in Senate District 17, the legislature did just the opposite and reversed the growing influence of black and other minority voters in the district by cracking the minority population into other districts. The total minority population was reduced by over 10 points and the black population was cut by a third.

Senate Districts 6, 13, and 15 were packed to levels far higher than necessary to allow voters an opportunity to elect their candidates of choice. By doing this, the Texas Legislature denied the opportunity to create a fourth

minority district, Senate District 17 in the Harris County region. Packing or over-concentrating minority voters into districts, as the state did in 2011 with respect to Senate Districts 6, 13, and 17 and which remains under **SB 2**, effectively wasted votes that might have been used to create an additional effective opportunity district in Senate District 17. **SB 2** is specifically designed to dilute the minority voting strength and discriminates against the voting rights of minority citizens in our state, particularly in the Harris County region. For this reason, I respectfully vote against **SB 2**.

C. TURNER: I'll be very brief. I completely agree with Representative Thompson's comments as relates to Harris County. I will vote for this bill because it does, in my view, represent a restoration of communities of interest in Tarrant County, which I represent. They had been split apart in the legislatively enacted maps two years ago. The interim map did restore Senate District 10, restoring many communities of interest in Fort Worth and in Arlington. This map represents, I believe, the essential elements of the settlement agreement with the plaintiffs in that case in the State of Texas, so I will vote for **SB 2**.

WALLE: Mr. Speaker, may I request that Chairwoman Thompson come back to the mic just for a quick question? Madam Chair, is it your view and your opinion that, based on the demographics of Harris County, that you could create another majority opportunity district particularly for Harris County? Is that your view?

S. THOMPSON: Absolutely, and I think it was intentionally drawn where there would not have been an opportunity district created out of Senate District 17.

WALLE: Just by the numbers that you spoke about earlier, 1.8 million Latinos in Harris County, is it your view that you could potentially create another majority Latino senatorial district or a coalition district?

S. THOMPSON: I do believe that, and you wouldn't have to do fracturing in order to be able to achieve that goal.

WALLE: And is it your view that this current map fractures those communities of interest, be it black, Hispanic, or Asian, that those communities are cracked to maintain the status quo?

S. THOMPSON: I do believe that, and it also dilutes the voting power of those minorities who are left in that district because it gives them no opportunity to have representation and to be able to elect a candidate of their choice.

WALLE: That's right, and that candidate of choice could be Hispanic, could be African American, could be Anglo, so long as they have the opportunity to elect the candidate of their choice.

S. THOMPSON: Absolutely.

DARBY: Members, with that I would move passage for **SB 2** and let's get this phase of redistricting behind us. Move passage.

[**SB 2** was passed to third reading by Record No. 16.]