

CERTIFICATE OF SERVICE

This is to certify a copy of the foregoing was served upon the following by US Mail, postage prepaid, and by electronic mail on this 30th day of August, 2012.

DONALD J. McTIGUE (0022849)

**Counsel of Record*

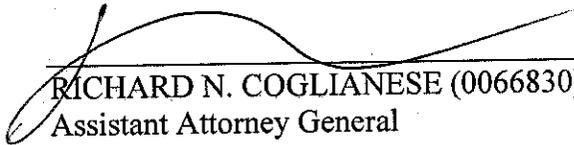
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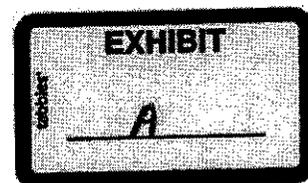
Assistant Attorney General

State of Ohio)
)
County of FRANKLIN) ss:

AFFIDAVIT OF MATTHEW M. DAMSCHRODER

Now comes MATTHEW M. DAMSCHRODER, first being duly cautioned and sworn, attesting as follows:

1. From June 2003 to January 2011, I was employed by the Franklin County (Ohio) Board of Elections, where I served in the positions of Director and Deputy Director, performing the statutory duties of those offices, and such other duties as assigned to me by the Board relating to the administration and conduct of elections in Franklin County.
2. On January 10, 2011, I was appointed by Secretary of State Jon Husted to the position of Deputy Assistant Secretary of State and State Elections Director in the Elections Division of the Ohio Secretary of State's Office, where I am responsible for developing and implementing policies, procedures and guidelines for the administration of federal, state and local elections to assist county boards of elections in the fulfillment of their statutory duties as well as having oversight of the statewide voter registration database, the receipt, review and distribution of statewide candidate and issue petition filings, and campaign finance regulations and related filings.
3. I am a Certified Elections Registration Administrator ("CERA"), the nation's sole professional designation for local elections administrators, offered through the Election Center and Auburn University.
4. Based on my years of employment at the Franklin County Board of Elections, my professional training and accreditation, and my responsibilities at the Secretary of State's office, I have first-hand knowledge of the responsibilities and tasks of the eighty-eight county boards of elections in preparing for and conducting an Election.
5. On Wednesday, August 15, 2012, the Ohio Ballot Board met and approved the ballot language for Issue 2.
6. More than a week later, Voters First sued the Ballot Board and the Secretary on Thursday, August 23, 2012.
7. The law required the Secretary of State's Office to certify to the 88 county boards of elections the form of official ballot for the November 6, 2012 general election not later than the 70th day before the election (August 28, 2012). To ensure compliance with the federal and state mandate that ballots be ready for military and overseas (UOCAVA) voters by the 45th day before the election (September 22, 2012) and for the proper administration of the



election, generally, the ballot language for Issue 2 and the form of official ballot were issued to the boards of elections on Friday, August 24, 2012.

8. Preparing ballots for the election is one of the most fundamental and critically important duties that election officials have. The process for programming and proofing ballots is time-consuming and requires great attention to detail. The Secretary of State has thus far issued five Directives on these and related processes for the November 6, 2012 general election:
 - a. Directive 2012-31: General Election Ballot – Order of Offices and Issues
 - b. Directive 2012-34: Ballot Layout Instructions
 - c. Directive 2012-37: Ballot Quantities
 - d. Directive 2012-38: Ballot Proofing Requirements
 - e. Directive 2012-39: Candidates for Statewide Office
9. Once the form of official ballot is certified by the Secretary of State's Office to the boards of elections, they can begin building their ballot. This is a relatively complex task, which can take several days to more than a week for any one county, depending on the size of the county and the number of election districts active for this election. For more than half of the counties, the process – and time consideration – almost doubles as they must program both for touchscreen voting devices (used on Election Day and in some instances for in-person, absentee voting) and optically scanned paper ballots (used for UOCAVA and by-mail absentee voting and as Election Day backup paper ballots pursuant to a consent decree).
10. Many counties contract with a vendor to program the central tabulating system. To save county taxpayer funds, most counties pay the vendor to come to the county only once for this purpose. Additional trips to the county usually incur additional costs. The vendor reviews all of the ballot styles with the county board of elections to make sure the central tabulating system is properly programmed (including layout and spacing of ballot language) for all ballot styles on all voting systems (optical scan and touchscreen).
11. There are fewer vendors providing this service to counties than in 2010, so vendor availability is limited and at a premium.
12. HB 509 (129th General Assembly) permits the national conventions of the Republican and Democratic Parties to certify the names of nominees for president and vice-president by September 7, 2012. These names can be easily entered by the county once the candidate's place on the ballot has been allocated during the programming of the central tabulating system and should not delay any county from beginning its programming process before September 7.
13. To reduce taxpayer expenditures, the voting system vendors record the audio for statewide ballot issues once so that counties do not have to pay for their own recording of the ballot language to be played on the audio ballot for visually impaired voters using accessible voting

equipment. Once the language is recorded, it will cost the vendors, and thus the counties' taxpayers, additional funds to re-record the language.

14. Changing ballot language after the central tabulating system has been programmed has several negative effects.
15. First, a change in the length of the issue will necessitate a review of all ballots and styles to make sure that the spacing has not changed. It will be particularly important to review whether the place for the voter to respond "yes" or "no" on the ballot is not placed where the voter may have difficulty determining where to respond for State Issue 2 (due to an unnecessary column or page break). Every local issue that follows must also be reviewed to ensure changes to the positioning of Issue 2 did not change the layout of those issues in an adverse way.
16. Second, a change in ballot length can change the number of pages (both paper pages and screen "pages") the voter will face when marking the ballot. If the length of the ballot due to increased ballot language pushes the length of the ballot onto an additional page, county boards of elections may have seek additional funds from their county commissioners to pay for increased outbound postage. The voter's cost to return a voted ballot may increase as well.
17. Both Cuyahoga and Lorain counties have the additional requirement to provide a Spanish language translation for the complete text of their ballot, and programming that language into their ballot layout. This adds time to the process for programming and proofing the central tabulating system. While Cuyahoga and Lorain counties often share the expense of this process, this additional step adds to the complexity of any changes made to the ballot language for Issue 2 as the language would have to be re-translated at an additional cost and with additional time.
18. Boards are instructed to compare ballot text to the original source material provided for the particular candidate or issue. The best practice for proofing prescribed by the Secretary of State in Directive 2012-38 involves one person reading aloud what should be printed on the original source material while the another person follows along on the proof provided by the vendor. This is a very time consuming, but necessary, process for boards to complete to ensure the accuracy of the ballot.
19. Once internal proofing is complete, boards must post ballot proofs for at least 24 hours in a publicly accessible place in the board office and notify certain parties of those postings. If any changes are necessary, the board must repeat the notification, proofing, and posting requirements to ensure that making the change, another part of the ballot was not inadvertently changed.
20. Boards must complete logic and accuracy (L&A) testing for optical scan paper ballots to ensure that ballots provided to UOCAVA voters on September 22, 2012 can be accurately tabulated. When combined with conducting L&A testing on touchscreen voting machines that may be used for in person absentee voting, this adds significantly to the complexity and

time – usually several days – needed for this task. A change in ballot language may require a board of elections to redo its L&A testing.

21. In an large county, like Franklin County, these processes means that thousands of ballot styles need to be reprogrammed, proofed, and tested for accuracy. In a smaller county, while they may have fewer ballot styles, there are fewer employees and limited resources available to pay vendors complete these tasks.
22. Federal and state laws require boards of elections to issue ballots to UOCAVA voters 45 days before the election. For the November 2012 General Election, ballots must be ready to be issued no later than September 22, 2012.
23. This late challenge to the Ballot Board's language for Issue 2 may jeopardize the ability of boards of elections to provide complete ballots to UOCAVA voters by September 22, 2012.
24. The U.S. Department of Justice has notified the Secretary of State's Office that it will be monitoring Ohio's performance relative to issuing UOCAVA ballots on September 22, 2012.
25. If the ballot language for Issue 2 is changed, and given the aforementioned complex and time consuming processes, it is possible that boards of elections may have to issue ballots containing the current Issue 2 language, or when impossible, a ballot containing only federal contests to comply with federal law, to UOCAVA voters on September 22, 2012 and then issue a subsequent ballot containing all contests and the final ballot language for issue 2 at a later date.
26. Issuing two absentee ballots to military and overseas voters will create significant confusion for military and overseas absentee voters – who already have unique burdens receiving and returning their ballots – as well as a security problem for boards of elections who will have to determine which of the two ballots to count, if either are returned.
27. The Secretary of State is also responsible for advertising the proposed amendments, the ballot language, the explanations and arguments, if any, once a week for three consecutive weeks preceding the election as required by the Ohio Constitution. The publication must be in at least one newspaper of general circulation in each of the 88 counties in the state of Ohio. Leading up to the third week before the election, there are many steps that are taken in order to have this information published.
 - a. The Secretary of State must have time to finalize and proof language that will be published.
 - b. The Secretary of State must coordinate with all of the newspapers of general circulation across the state where this information will be published.
 - c. Knowing the specific ballot language and length of language is critical to coordinating all of that is needed for the publishing in all of these separate newspapers, including the cost of printing and publishing, which is subject to Controlling Board approval.

28. With all of the above in mind, the time that Plaintiffs permitted to lapse between the time the ballot board approved language and the time that this complaint was filed is significant. Due to the numerous complex tasks boards must complete to create the ballot for the general election, a change to the ballot language at this stage would have a negative impact on boards of elections preparing the ballot.

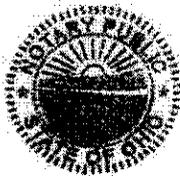
29. All of the above statements are true to the best of my knowledge, information and belief.

Further Affiant sayeth naught.



Matthew M. Damschroder
Deputy Assistant Secretary of State
and State Elections Director

Sworn to and Subscribed before me this 30th day of August, 2012, in the City of Columbus,
County of Franklin, State of Ohio. In testimony whereof, I set my hand and official seal:



BRANDI R. LASER BESHES, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.06 R.C.



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BEFORE THE OHIO BALLOT BOARD

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In the Matter of the :
Examination of the :
Proposed Constitutional :
Amendment. :

- - -

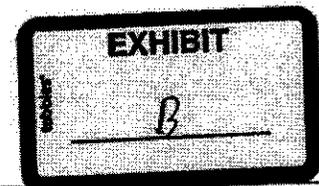
PROCEEDINGS

before Secretary of State Jon Husted, Chair; Mr. Fred
W. Strahorn, Vice Chair; Senator Keith Faber;
Mr. Mark Griffin; and Mr. William N. Morgan, Ohio
Ballot Board, at the Statehouse, Finan Finance
Hearing Room, One Capitol Square, Columbus, Ohio,
called at 1 p.m. on Wednesday, August 15, 2012.

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1 MS. SCHUSTER: And Secretary Husted.

2 SECRETARY HUSTED: Here.

3 Let the record reflect that there is a
4 quorum present. The purpose of today's Ballot Board
5 was to establish, to prescribe, and certify the
6 ballot language and in some instances explanations
7 for statewide issues and to direct the means by which
8 information about those issues is disseminated to the
9 voters.

10 I want to note that today is the
11 effective date of Senate Bill 295 which repealed
12 House Bill 194. Since -- since the law has been
13 repealed and there is no longer -- it is no longer
14 necessary for the issue to be considered by this
15 Board.

16 Also I have set the order of the two
17 statewide ballot issues. Issue 1 will be the
18 question regarding the Ohio Constitutional Convention
19 that is set forth in Article 16, Section 3 of the
20 Ohio Constitution; and Issue 2 will be the proposed
21 redistricting amendment.

22 In order to prepare for today's meeting
23 the Secretary of State's staff spoke with interested
24 parties about the ballot language. Based on those
25 conversations there is prepared draft language. The

1 draft is included in the Board members' binders and
2 is available to the public at the front table.

3 At this time anyone wishing to address
4 the Board today regarding the ballot language for
5 proposed -- for the proposed redistricting amendment,
6 please make sure you have signed up at the front
7 table so that we can recognize you. Remember, we are
8 not here to debate the merits of the issue. Anyone
9 who addresses the Board today is asked to limit their
10 comments to the matters related to the ballot
11 language.

12 The first item we will address is the
13 ballot language for the proposed Constitutional
14 amendment on redistricting. We are ready for public
15 comment at this time. That list is forthcoming. And
16 we will begin with Mr. Don McTigue whose representing
17 the petitioners in the matter.

18 Mr. McTigue, please come forward.

19 MR. McTIGUE: Thank you. Good afternoon,
20 Mr. Secretary, members of the Ballot Board. I do
21 represent the petitioners. And the committee for the
22 petitioners is composed of Ann Henkener, Sam Gresham,
23 Ellis Jacobs, Richard Gunther, Daniel Tokaji, also
24 representing Voters First which is the ballot issue
25 committee promoting this issue.

1 We have submitted to the -- to the Board
2 a legal memo from my office, one page, probably
3 shortest legal memo I've ever done. That's because I
4 left it up to someone else in my office. But it
5 really hits the salient points, and you've heard it
6 from me before.

7 I think the two most important points are
8 that ballot language must fairly and accurately
9 present a statement of the question to be decided.
10 And, secondly, the use of language which is in its
11 nature persuasive argument in favor or against an
12 issue is prohibited. And those are the standards
13 enunciated by our courts.

14 I've also submitted on behalf of the
15 petitioners proposed language. I've included with
16 that a proposed title which I appreciate is the -- up
17 to the Secretary of State, but I would just note
18 that's the -- our proposed title for the Secretary's
19 consideration.

20 With regard to the actual text of the
21 ballot language we tried to meet the actual legal
22 standards that the courts have announced. One is you
23 have to be comprehensive enough to hit material
24 points so that voters are fairly informed of what
25 they are being asked to vote on.

1 Now, fairly informed means two things.
2 It means, of course, that you have -- you haven't
3 left out material matters that go to kind of the
4 heart of what's being proposed. And, second, it has
5 to be fair language meaning it can't be argumentative
6 or in the nature of being argumentative or
7 persuasive. It has to be as neutral as possible.

8 So with that in mind we submitted
9 language which is 12 -- or, I'm sorry, 11 paragraphs
10 that contain a fair amount of substance. We start
11 out in paragraph 1 with what is, of course, the if
12 nothing else, the absolute bottom or core thing that
13 is being accomplished here by this proposed amendment
14 which is to establish the Ohio Citizens Independent
15 Redistricting Commission for the purpose of drawing
16 boundaries for Ohio State legislative and
17 congressional districts.

18 We've also added that it would be done
19 once following approval of this amendment and then
20 once every 10 years following the federal census. We
21 also include in that paragraph how this is a change
22 from current law. And so under current law a state
23 board which we all know is the Apportionment Board,
24 although that name actually isn't in the Constitution
25 but that -- we've referenced a state board determines

1 state legislative districts and the General Assembly
2 determines congressional districts so we're
3 putting -- right off the bat in paragraph 1 we're
4 telling people this is about appointing -- or not
5 appointing but of establishing a citizens commission
6 and basically replacing the way we do it now. We're
7 changing from who does it now to a new commission and
8 that their job is to draw state legislative and
9 congressional districts.

10 From there we go to paragraph 2. Now, we
11 start talking about what, you know, redistricting
12 plans, you know, what the -- what the requirements
13 are and what the limitations are. That's what the
14 next few paragraphs deal with.

15 No. 2 is redistricting plans could not be
16 adopted with the intent of favoring or disfavoring a
17 political party, incumbent officeholder, or
18 candidate.

19 3, the Ohio Citizens Independent
20 Redistricting Commission would be balanced to not
21 favor any political party and to reflect the
22 diversity of Ohio. Those are provisions that are in
23 the amendment. It would be composed of 12 citizens
24 of the state, 4 affiliated with the largest political
25 party, 4 affiliated with the second largest political

1 party, and 4 who are not affiliated with either
2 political party.

3 No. 4, members of the commission must be
4 persons with the relevant skills and capacity for
5 impartiality. Now, I would say what I'm reading here
6 to you is language that is -- that comes directly out
7 of the proposed amendment.

8 Paragraph 5, certain persons would not be
9 eligible to serve on the commission including
10 officeholders, candidates, political party officials,
11 paid lobbyists, and certain public employees and
12 family members. That is an attempt to condense a
13 rather long paragraph about ineligibility and
14 basically hit what we would consider to be probably
15 the principal people who would be affected in terms
16 of not being eligible to be on the commission and
17 convey that information to the voters.

18 Paragraph 6, the Commission would be
19 required to adopt state and federal redistricting
20 plans that most closely meet the following four
21 factors: Community preservation, competitiveness,
22 representational fairness, and compactness. And,
23 again, those four factors are all set out in the
24 actual full text of the amendment. There is no made
25 up words here. These are the words that are in the

1 amendment including that this -- that the plans that
2 they adopt must closely meet these following four
3 factors.

4 Paragraph 7, legislative districts must
5 be comprised of contiguous territory and be of
6 relatively -- be relatively equal in population, and
7 comply with the Ohio and United States Constitution
8 and the federal law.

9 Now, this -- this deals with a couple of
10 different requirements or limitations that apply to
11 the plans. There is the requirement to be contiguous
12 which is in the amendment. We have population
13 requirements in the amendment where there's sort of a
14 high and a low percentage of variance, and while we
15 haven't listed all of the -- what those percentage
16 variances are here, those variances are ones that are
17 established or been upheld by federal courts
18 involving state and congressional redistricting plans
19 and so they are within those parameters and
20 essentially what it achieves is districts that are
21 relatively equal in population and so we try to say
22 that in a way that would easily convey it to the
23 voters that that is a requirement.

24 No. 8, the public could submit proposed
25 redistricting plans to the commission and the

1 commission would be required to give full and fair
2 consideration to such plans. Again, this is in the
3 amendment. The phrase "full and fair consideration"
4 is in the amendment. Again, we are not making this
5 up. It's in the amendment. I'm not making it up,
6 and I'm not taking what's in the amendment and then
7 changing the language and making up something
8 different to put in the summary -- or in the ballot
9 language.

10 No. 9, the commission would be required
11 to make relevant data available to the public, make
12 publicly available all proposed plans, allow public
13 comment before adopting a plan, and conduct all of
14 its business in meetings open to the public. This
15 takes a number of provisions in the amendment all
16 going towards the openness of the process and tries
17 to put it all together there in the ballot language
18 for people to see. That we believe is a key issue
19 that this amendment -- or a key reform that this
20 amendment proposes.

21 No. 10, any eligible Ohioan would be --
22 or could apply to be a commission member. Now, this
23 paragraph distills the step-by-step process how we
24 get from an applicant pool down to a commission made
25 up of 12 good and true Ohioans.

1 We start with, again, any eligible Ohioan
2 would be able to apply to be a commission member.
3 Any eligible Ohioan is essentially anybody that
4 doesn't fit -- who isn't knocked out in those
5 ineligibility requirements that I mentioned.

6 Now, from all applicants a bipartisan
7 pane of eight Ohio appellate judges would select 42
8 persons and 14 affiliated with the largest political
9 party, 14 affiliated with the second largest
10 political party, and 14 not affiliated with either
11 party and this would form three pools of applicants.
12 Then three persons from each may then be removed --
13 or may be removed from each pool by the Speaker or
14 the House of Representatives and by the Leader of the
15 House of the opposite political party.

16 From those remaining three members would
17 be randomly selected from each pool. So you would
18 end up having from each pool through random selection
19 three affiliated with the largest party, three
20 affiliated with the second largest party, and three
21 not affiliated with either party. Then those nine
22 select the final three applicants -- final three
23 members, one from each -- and, again, be one from
24 each of the two major parties and one not affiliated
25 with a party.

1 So in the end you have what we mentioned
2 before, a commission composed of 12 members, 4
3 affiliated with the largest party, 4 with the second
4 largest, and 4 who are not affiliated with either
5 party.

6 Lastly, paragraph 11 specifies that the
7 affirmative vote of 7 of the 12 commission members
8 will be required to adopt a redistricting plan. So
9 the effect of that, although it's not here in the
10 language, is that if you have, say, four Democrats
11 and you need seven votes, you're going to have to
12 pick up the other three from either Republican
13 members or from the unaffiliated voters or from a
14 combination.

15 In the event -- the paragraph goes on in
16 the event the commission is not able to agree on a
17 plan by October 1 of the year following the census,
18 an action may be initiated in the Ohio Supreme Court
19 and the court would be required to adopt from among
20 all plans submitted to the commission, not from new
21 plans but all the ones that were submitted to the
22 commission, the plan that most closely meets the
23 factors -- all the factors described earlier. We
24 believe that this language distills all of the core
25 reforms that this amendment proposes and does so in a

1 very clear and nonargumentative manner by using the
2 language that is in the actual amendment.

3 We also believe that the ordering we have
4 here is a sensible ordering in terms of starting with
5 what this -- this is first and foremost about which
6 is establishing this new commission and then how it's
7 composed and what its job is. So we would
8 respectfully request that the Board adopt this
9 proposed language.

10 Now, Mr. Chairman, I do have some
11 comments on the staff draft submitted and also the
12 draft submitted by the opposition. Would you like
13 those comments now or after they --

14 SECRETARY HUSTED: Please.

15 MR. McTIGUE: Okay. I'll first address
16 the staff draft. In paragraph 1 it says remove the
17 authority of elected representatives and grant new
18 authority to appointed officials to establish
19 congressional and state legislative districts.

20 Well, first of all, it's inaccurate. If
21 we -- if we want to talk about who currently does the
22 district -- drawing the districts, we have the Ohio
23 Apportionment Board which is, of course, as we know,
24 made up of three statewide officials and then a
25 person appointed -- or two people appointed by

1 leadership in the General Assembly.

2 Those are not necessarily elected
3 representatives. We've had in the past members of
4 the Ohio Apportionment Board who are not even members
5 of the General Assembly, and even if a member of the
6 General Assembly gets appointed to the Apportionment
7 Board, we've seen in recent years lots of people who
8 hold General Assembly seats not by election but by
9 appointment by their caucuses to fill vacancies so it
10 is just on its face inaccurate.

11 The -- that would apply as well when we
12 come to the General Assembly approving congressional
13 plans. Not every member of the General Assembly is
14 elected. Some of them are appointed to fill
15 vacancies so it's incorrect.

16 It's also incorrect where it says grant
17 new authority -- well, it's probably -- it's not
18 something that I'm going to quibble about in terms of
19 where it says appoint -- to appointed officials, but
20 I take that back. I am going to quibble about it
21 because it is more than a quibble. It says
22 appointed -- it's granting the new authority to
23 appointed officials. They're not -- that final 12, 9
24 of those are chosen by lot. That's not an
25 appointment, okay? They are not appointed officials,

1 okay?

2 What we have, the process that we have,
3 is that we have the bipartisan panel of judges
4 selecting the initial pool of 42 people. So they are
5 appointing a pool of qualified applicants but those
6 are not the commission members. That's a pool from
7 which then ultimately 9 of the final 12 are selected
8 by lot so it's not accurate to say that they are
9 appointed officials.

10 SECRETARY HUSTED: Mr. McTigue, I would
11 like as the Secretary of State who approves the
12 appointment as you call it, those are actually
13 elections under Ohio law as those individuals are
14 elected by the legislature.

15 MR. McTIGUE: Yeah. You're talking about
16 to fill vacancies?

17 SECRETARY HUSTED: For example, when --
18 when former Senator Strahorn becomes future
19 Representative Strahorn, he will be elected on the
20 floor of the House of Representatives to fill the
21 unexpired term.

22 MR. McTIGUE: Yes. I understand that but
23 then to the --

24 SECRETARY HUSTED: Just as the Secretary
25 of State who signs these things, I just thought I

1 would --

2 MR. McTIGUE: I appreciate that. It's an
3 election by a different body than the general public
4 is your point and so they're elected. They're just
5 not elected by the general public and I think
6 that when you're talking about --

7 SECRETARY HUSTED: I just -- I just
8 wanted to correct the record.

9 MR. McTIGUE: I understand.

10 SECRETARY HUSTED: Thank you.

11 MR. McTIGUE: But in terms of what's
12 being presented in the ballot language I think
13 virtually every voter would interpret that as meaning
14 people who were elected by the voters in the general
15 public.

16 Now, in paragraph 2 of the staff draft,
17 again, it uses the word "appointed individuals" and
18 that's wrong for the reasons I've already indicated.
19 It says "from a limited pool." Now, it is, I think,
20 rather argumentative and misleading to talk about a
21 "limited pool" without describing how that pool gets
22 established because this -- what you have left out
23 here, starting point, is that every eligible Ohioan
24 can apply to become part of that pool. That's not in
25 here. I think that's a key point.

1 That's the starting point and then from
2 the people who apply you have 42 people who are put
3 in that pool. So it's misleading to have just this
4 reference and I think to the average voter it conveys
5 the idea of that, well, there's only a limited number
6 of people in Ohio who can have a chance to be on this
7 commission. And the fact of the matter is everybody,
8 except for certain people who are ineligible such as
9 candidates and officeholders and lobbyists, everybody
10 else is eligible and has a chance to get on this
11 commission.

12 Now, paragraph 3 the -- the paragraph 3
13 says that it's to -- it's essentially accurate except
14 to bring up again the point about adopted by elected
15 representatives, okay? The -- certainly the members
16 of the Apportionment Board, at least the non-three
17 statewide officeholders, are not elected
18 representatives necessarily unless somebody from the
19 General Assembly gets appointed. So, again, that is
20 somewhat incorrect.

21 And overall -- then kind of my overall
22 comment about this language is that there is a
23 tremendous amount of information missing here. It's
24 very, I think, limited in scope in terms of informing
25 people about the material parts of this proposed

1 amendment. It is a long amendment. It can get
2 complicated sometimes. And this simply leaves out
3 way too much information. And I would also argue
4 that that -- that the order here, I think there
5 should be a different order. There should be more in
6 here about -- well, what's missing here should
7 probably come right after paragraph 1, talking about
8 creating a commission, what should come after that is
9 what the requirements are for legislative districts.

10 And I see very, very -- actually I'm not
11 sure I actually see anything in here about the
12 requirements for the districts now that I look at
13 this other than there has to be -- it has to be done
14 every 10 years but in terms of the important --

15 SECRETARY HUSTED: Could you repeat
16 yourself there?

17 MR. McTIGUE: Sure. I don't see much in
18 here, if anything at all, about the requirements for
19 the districts themselves other than that you have to
20 do it every, you know -- once immediately and then
21 once every 10 years. There are key factors that have
22 to go into redistricting plans and those -- those are
23 in the amendment, but they're not in this language.

24 And, now, with respect to the language
25 submitted by the opposition, I have some similar

1 comments. First of all, the one thing I'll say is
2 that we are very similar to their proposal --
3 proposed language at least in length. Ours might
4 actually be a little bit longer, but after that, a
5 lot of the similarity goes away.

6 In paragraph -- in their -- in their
7 paragraph -- paragraph 1, they say, again, "appointed
8 state commission." That's inaccurate for the reasons
9 that I've already discussed and I won't repeat. They
10 talk about in here drawing boundaries for districts
11 for Ohio's delegates to the United States House of
12 Representatives. But I believe the actual amendment
13 says for members of congress, okay, or for
14 representatives to the United States Congress.

15 With regard to their paragraph 2 which is
16 talking about funding, they -- they include what is
17 essentially some argumentative language. First of
18 all, they say any -- that the General Assembly must
19 provide for any and all funds necessary. You know,
20 they've added the phrase "any and all." The -- which
21 is done purely for argumentative purposes.

22 The actual language is that the -- that
23 the General Assembly -- I'm going to just read you
24 the exact language, "The General Assembly shall make
25 appropriations necessary to adequately fund the

1 activities of the commission including" and then
2 lists some things that I'm going to talk about, okay?
3 Well, that sounds a lot different than this
4 argumentative language where it says "provide any and
5 all funds" so that is language that shouldn't be
6 there.

7 Second, the sentence goes on to talk
8 about funds for commissioner salaries. It says
9 "commissioner and staff salaries." The word
10 "salaries" used in conjunction with the
11 commissioner -- with commissioners is also
12 argumentative and not necessarily accurate. What the
13 proposed amendment says that the funding would
14 include but not be limited to funds to compensate
15 commission members. That's not necessarily "salary."
16 I think the word "salary" implies a certain thing to
17 laypeople. "Compensation" could be a per diem.
18 "Compensation" could be just a reimbursement of
19 travel expenses.

20 Here the -- what you're saying is that --
21 or what this language is saying and is saying to
22 voters is that there are -- that these commissioners
23 are going to be paid salaries. We just don't know
24 that. You can't get that out of that language. You
25 can't know what's going to happen.

1 Then they do a -- they in -- they change
2 the word "legal counsel" to "attorneys," and I know
3 that, you know, attorneys are legal counsel and legal
4 counsel and attorneys, same thing, but I think the
5 word "attorneys" is chosen because it's a little more
6 pejorative, no offense, no offense intended to myself
7 or anyone else whose an attorney, okay?

8 Then with regard to "consultants" or
9 "expert" they say "expert consultants." They've
10 added a word. They added the word "consultants."
11 That's not in the amendment. It says "experts" and,
12 again, why they added the word "consultants" because
13 it's argumentative, it's persuasive. The word
14 consultants tends to be a little pejorative.

15 No. 3, that's fine.

16 No. 4, permit commission members to
17 determine their own salaries. I think that that's
18 argumentative. I don't see that anywhere in, you
19 know, in the actual amendment. I mean, first of all,
20 there is the use of the word "salaries." It says
21 that funds have to be provided to compensate
22 commission members, and it says the General Assembly
23 appropriates these funds, but it doesn't say who
24 actually decides what the compensation is. Even if
25 you were to change the word "salaries" to

1 "compensation," it doesn't say in the amendment that
2 they determine this.

3 5, don't have a problem with 5.

4 6, we have one problem and that's the
5 word "veto." Obviously the word "veto" is chosen
6 here because it's a hot -- it's more of a hot button
7 term. The actual language in -- again, they are
8 changing language that's in the actual amendment.
9 The language in the amendment uses the word
10 "eliminate" from the pools. But here the word "veto"
11 I think carries a somewhat different connotation.

12 Then No. 7 they say -- they say that the
13 amendment provides that no commission member can be
14 removed by the General Assembly or executive branch
15 for any reason. They've added the words "for any
16 reason." Why? I mean, it's -- they've gone beyond
17 what is in there. They've added it for argumentative
18 purposes.

19 No. 8 says require the Commission to
20 establish new and federal legislative districts for
21 the 2014 elections and to do so, again, it says in
22 2010 and every 10 years thereafter. There's a couple
23 of problems here. They don't do so again in 2020,
24 okay? The census is done in 2020. The new plans
25 would be adopted in 2011 for elections in 2012, and

1 the first part of this sentence talks about -- uses
2 the word "for" the 2014 elections. If you were going
3 to make this consistent, you would say and to do so
4 again for the 2022 election and every 10 years
5 thereafter.

6 I think it's also important to -- when we
7 say every 10 years thereafter, it's because of the
8 fed -- it's following the federal census. I think
9 the voters need to know that that's how this 10 years
10 comes about. So those are the problems that we see
11 or the objections we see with that.

12 No. 9, no problem. No. 10, no problem.

13 No. 11, it says replace the requirement
14 that all state legislative and congressional
15 districts be compact with a requirement that they
16 comply with Ohio and federal Constitutional
17 provisions and federal statutory provisions. That's
18 just outright wrong.

19 That's not what the amendment says. The
20 amendment says that in Article 2, Section 7,
21 Paragraph C, "the Commission shall adopt the
22 redistricting plan within its judgment most closely
23 meets the following factors without violating
24 paragraphs A and B of this section," then has the
25 four factors, No. 4, compactness. It's there. They

1 are required to adopt districts that meet -- that
2 come closest to meeting these four factors including
3 compactness as long as they don't also violate the
4 federal Constitution. But we know that -- that
5 compactness is possible without violating the federal
6 Constitution. But on its -- on its face it's just --
7 it's just wrong, what is said here.

8 Those are my objections to the
9 opposition's language and at this point would be
10 happy to answer questions, or try to.

11 SECRETARY HUSTED: Thank you,
12 Mr. McTigue. I was not going to have any questions,
13 but you mentioned something in your remarks that
14 prompted me to ask one here. On page 3 of the actual
15 amendment it says "no member of the commission shall
16 be subject to removal by the General Assembly or any
17 member of the executive branch." And you took issue
18 with their addition in their language "for any
19 reason." What reason would there be to remove
20 somebody?

21 MR. MCTIGUE: Well --

22 SECRETARY HUSTED: And what power is
23 granted in here for that to happen?

24 MR. MCTIGUE: I understand that and I
25 think that it -- when -- I don't think there would be

1 a reason but that's not the point of my comment or my
2 objection. My objection is they are adding that
3 language to the argu -- basically for argumentative
4 purposes. They are going beyond what is in the
5 actual amendment.

6 SECRETARY HUSTED: Okay. So you don't
7 see any -- any authority in here to -- that is in
8 this amendment that allows them to remove somebody.

9 MR. McTIGUE: Correct.

10 SECRETARY HUSTED: Okay. Senator Faber.

11 SENATOR FABER: Just to follow up on that
12 to make sure I'm clear, you have a problem with the
13 words "any reason."

14 MR. McTIGUE: Yes, because it's
15 essentially put in for argumentative purposes because
16 it's fitting a pattern that we see here where they
17 are adding or changing language that's not --

18 SENATOR FABER: Would the legislative be
19 able to adopt standards with regard to commission
20 eligibility requiring somebody not to be a felon?

21 MR. McTIGUE: I don't believe that the
22 General Assembly would have authority to establish
23 eligibility standards. I think the amendment, which
24 if the amendment is approved by the voters of Ohio,
25 that that will --

1 SENATOR FABER: Okay. I just wanted to
2 make sure I understood how you are reading that to
3 make sure I understood your argument.

4 MR. McTIGUE: But I do think that the
5 commission members, there is a provision -- just to
6 more fully answer there is a provision for commission
7 members to adopt their own rules, and I think that
8 within the scope of their rules they could adopt
9 something that would exclude persons with felony
10 convictions.

11 SECRETARY HUSTED: Let me follow up on
12 that question now. The commission itself could
13 establish rules that would limit eligibility?

14 MR. McTIGUE: I think that based on in
15 terms of, you know, I think to -- I think they could
16 to an extent, yes, if it's -- things especially going
17 to, you know, qualifications as an elector, things
18 like that but, you know, in the -- in the end the
19 purpose of this language that is in the amendment was
20 so that the commission members would truly be
21 independent of elected officials, okay?

22 SECRETARY HUSTED: I understand. This is
23 a really important question. Do they or don't they
24 in your opinion have the ability to establish rules
25 that would limit someone's eligibility?

1 MR. McTIGUE: I'm not certain.

2 SECRETARY HUSTED: There's no shaking
3 heads in the background so I --

4 MR. McTIGUE: Pardon?

5 SECRETARY HUSTED: I said if you -- I
6 said there are heads shaking no in the background.

7 MR. McTIGUE: Well, then I'm going to --
8 I'm assuming that may be my client shaking their
9 head.

10 SECRETARY HUSTED: I think it is.

11 MR. McTIGUE: So I would say the answer
12 is no, they cannot because I'm actually thinking more
13 about the actual rule about the where the commission
14 can adopt its own rules. Those are actually rules of
15 procedure, rules go to the criteria for plans and
16 things like that. They are not rules about
17 eligibility. I believe I misspoke.

18 SECRETARY HUSTED: And, therefore, they
19 would not be able to remove somebody once appointed.

20 SENATOR FABER: I think that's correct.

21 MR. McTIGUE: That's correct.

22 SECRETARY HUSTED: Okay.

23 MR. McTIGUE: Except, well, they are not
24 appointed but, yeah.

25 SECRETARY HUSTED: However we agree on

1 that terminology.

2 Okay. Additional questions.

3 No additional questions. Thank you for
4 your testimony.

5 MR. McTIGUE: Thank you.

6 SECRETARY HUSTED: We would like to call
7 forward David Langdon from Protect Your Vote Ohio.

8 Thank you. Please continue, provide
9 testimony, and then we'll follow up with questions.

10 MR. LANGDON: Thank you, Mr. Secretary,
11 members of the Board. My name is David Langdon. I'm
12 here on behalf of Protect Your Vote Ohio.

13 My testimony today, I'm going to go about
14 this a little bit differently than Mr. McTigue did.
15 Rather than going through each individual proposal
16 point by point what I would like to do, I think, is
17 address the three proposals collectively and attempt
18 to put for lack of a better term some labels on them.

19 I think what we have in both the
20 proposals that the proponents have submitted as well
21 as the proposal that we have submitted we have an
22 attempt to pick out a lot of details of this
23 amendment, and I think it's only natural that each
24 side is going to pick out the details that they think
25 are most favorable to them in terms of encouraging

1 the vote that they ultimately want to get. And so on
2 the one hand we have these two proposals and, yes, as
3 Mr. McTigue pointed out, they are very different, and
4 to a certain degree I think they are -- in essence,
5 what you have going on is some cherry picking. We
6 are picking things out of the proposed amendment that
7 we like, and we're attempting to put it into the
8 ballot language. So we have that as one proposal.
9 We can, you know, go over each of those individually
10 and pick and choose which ones we want.

11 On the other hand, what we have, I think,
12 with the draft that's been provided by staff is a
13 proposal that is -- that is very high level that
14 attempts to just hit on the very main points in a
15 nonargumentative fashion simply identifying here are
16 the four or five key issues in this amendment without
17 going into detail or great detail on any of those.

18 And I think the problem ultimately that
19 you face as a Board in determining ballot language is
20 when you start getting into details which ones do you
21 include and which ones do you -- do you exclude.

22 Mr. McTigue kept referencing the language
23 that's directly from the proposed amendment. Well,
24 if we are going to use language directly from the
25 proposed amendment, why just certain parts of it?

1 Why not all of it? And, again, we come back to this
2 tension which is the more details that we add the
3 more arbitrary it becomes why we're including these
4 particular details and leaving out those particular
5 details.

6 And so ultimately the decision that needs
7 to be made here is are we going to deal with this in
8 a very short, summary fashion where we're identifying
9 the key issues in this amendment, or are we going to
10 pick out all of the minute details and include some
11 of them but not all of them? And if we're going to
12 take this or adopt this latter approach, how do we go
13 about determining which details should be included
14 and which details shouldn't be included?

15 With that said I would like to now
16 address a few of the points that Mr. McTigue -- or
17 that the proponents have proposed in their -- in
18 their draft language more by way of illustration of
19 this problem that we run into when we try to include
20 some details and exclude other details.

21 I think a perfect example is in point No.
22 5 of their proposal where they talk about the
23 eligibility requirements, and they identify a number
24 of folks that could not be -- would not be eligible
25 to serve on the Commission, yet as I look this over,

1 I don't see any mention of what I believe is a rather
2 key exclusion and that is anyone who hasn't voted in
3 two out of the last three even year general
4 elections. I don't know what the exact numbers would
5 be, but I have to believe that would be in the
6 millions when we're talking about Ohioans who haven't
7 voted in two out of the last three even year general
8 elections.

9 Additionally, we don't have any mention
10 in here of the fact that local elected officeholders
11 are, in fact, eligible. We -- they say officeholders
12 without being specific.

13 So, again, I'm not necessarily arguing in
14 favor of identifying each individual exclusion. The
15 exclusions, no doubt, are expansive and very broad to
16 the point where the exceptions to the rule tend to
17 swallow the rule and so this -- this commission is
18 going to be made up not based on the rule but based
19 on all the exceptions to the rule. Who remains
20 standing at the end after all of these exceptions are
21 applied?

22 But for our purposes we think a very fair
23 way of dealing with this would simply be to say that
24 Ohioans are permitted -- are eligible to be on here
25 subject to several objections -- or, excuse me,

1 exceptions. I think that the language in the -- in
2 the staff's proposed language, "a limited pool," I
3 think is perfectly accurate. It's been suggested
4 that "limited" is an argumentative term, but I don't
5 think it's any more argumentative than using a term
6 like "certain." "Certain" and "limited" are very --
7 very similar and we see that in the proponent's draft
8 language. Certain persons would not be eligible,
9 limited persons, they're not perfectly synonymous,
10 but they are certainly very similar.

11 So whether it says "limited pool" or
12 "certain pool" I don't think it matters. The point
13 is we're saying eligibility to serve on this
14 commission, there are -- the Ohioans are eligible
15 subject to a number of exceptions. Keep it very high
16 level like that and then not having to get into the
17 minutia in ballot language that's going to list all
18 of the various exceptions where we again at this
19 point will run into a very lengthy -- a lengthy
20 ballot.

21 With respect to -- I think with respect
22 to both the draft that's been provided by staff as
23 well as the draft that's been provided by the
24 proponents, one thing that I -- that we would -- we
25 would suggest be added to the staff's draft would be

1 an additional paragraph or an additional provision
2 that simply says that this proposed amendment would
3 amend the standards and requirements for drawing
4 legislative -- state legislative and congressional
5 districts. I think that that accurately captures
6 what it will do.

7 We would not go so far, however, as to
8 start, again, cherry picking certain aspects of the
9 changes which is what the proponents do. They pick
10 out the ones that presumably are most favorable to
11 them without getting into all of the details about
12 the many, many changes that will be made.

13 Not only do we have what the new
14 amendment will provide but we have all of the things
15 we're going to be basically taking out of the
16 Constitution all of which, if we are going to deal
17 with this issue in a very comprehensive get down in
18 the weeds deal with the minutia sort of way, we
19 really in order to be -- in order to be fair and not
20 be arbitrary, we would have to include all of these
21 types of provisions.

22 And I can give you -- I can give you a
23 few examples. One point I will touch upon the issue
24 of compactness. Currently in the Constitution there
25 is a requirement for compactness. Now, this may

1 be -- this may be a subtle change but what we will
2 have now is no longer a strict compactness
3 requirement. We're going to have these four factors
4 that are going to be subjectively weighed and
5 determined, and the commission will, in essence, have
6 all -- in its judgment is the language of the -- of
7 the amendment. Whether compactness actually is going
8 to fit into that we don't know but what we don't have
9 any longer or what we won't have any longer if this
10 amendment were to pass is that specific requirement
11 of compactness.

12 There are also a number -- of course, a
13 number of inconsistencies in the standards and
14 requirements that are in the proposed amendment. For
15 example, at one point the amendment reduces the
16 required population ratios, the deviation ranges. I
17 believe it's currently 95 to 105, and we shrink that
18 to 98 to 102 in one provision. But then in a later
19 section of Article 11 those deviation ranges are --
20 remain in there as they are currently now. In other
21 words, we're going to have -- we're going to have
22 these conflicting deviation ranges in two different
23 parts of the same article of the Constitution.

24 And so, again, the point isn't for me to
25 get up here and encourage you all to address all of

1 this in the ballot language, not at all. I think
2 what we're trying to say is all of this argues in
3 favor of keeping this very short, hitting on the main
4 key points of what the amendment would do without
5 getting into detail, and doing it in a manner that
6 doesn't use argumentative language but simply
7 identifies what the amendment would do.

8 So the -- I guess what I'm -- in
9 conclusion what I would say would be -- is that
10 conceptually -- certainly conceptually we believe
11 that the draft that's been provided by the staff is
12 very fair, it avoids getting into all of these -- all
13 of these details and getting into all of the minutia.

14 If the Ballot Board is inclined to do
15 that, then certainly we would want to engage on those
16 issues and start talking about the actual details
17 that are ultimately going to be included. As I said
18 previously, the one -- the one thing we think should
19 be added to the draft that was provided by staff is a
20 bullet point this simply indicates there are changes
21 that are going to be made to the process of
22 redistricting both at the legislative state level as
23 well as congressional redistricting.

24 And I think the one -- the one additional
25 point that we might add, and I recognize that this --

1 this may run the risk of getting into -- getting a
2 little bit too much into the minutia, but I think
3 it's -- in light of the Secretary's comments I think
4 it's arguably important, I would leave it all to you
5 to decide if you think -- if it's too detailed but I
6 think the fact that the commission members basically
7 can't be removed for any reason is something that
8 ultimately should be in there. Again, the question
9 of whether that's too much detail or not we would
10 leave to you.

11 If there are any questions.

12 SECRETARY HUSTED: Any questions?

13 Mr. Griffin.

14 MR. GRIFFIN: Thank you, Mr. Secretary.

15 Mr. Langdon, thank you for coming here today. I just
16 want to understand, first of all, your views of the
17 staff draft. You had said in the opening of your
18 remarks you thought it was at too high a level. What
19 did you mean by that?

20 MR. LANGDON: No. I don't mean too high
21 a level. What I was doing was ultimately comparing I
22 think what you have in the two proposals that have
23 been provided by the proponents and the opponents are
24 a lot of details and what you have from the staff
25 draft is -- is a very basic summary taking the major

1 provisions of the Consti -- of the proposed
2 Constitutional amendment and simply identifying what
3 they are.

4 MR. GRIFFIN: And certainly your proposal
5 is more detailed than the staff's proposal.

6 MR. LANGDON: Correct.

7 MR. GRIFFIN: And that's because you
8 thought more detail was important for the voters of
9 Ohio, correct?

10 MR. LANGDON: The reason that we
11 submitted a proposal that included more detail was in
12 the event that the Board should want detail and not
13 want a more summary-type fashion like the staff has
14 presented, we would like to put in our wish lists and
15 so that's, in essence, what we have done with
16 those -- with those details, but ultimately we're
17 very comfortable and we think the most appropriate
18 way to handle ballot language is to deal with it in a
19 high level fashion where the main issues are simply
20 identified and not described in painstaking detail
21 and many provisions are arbitrarily left out.

22 MR. GRIFFIN: Let me ask a little bit
23 about detail and accuracy. I want to address the
24 title that you have put on your proposed
25 Constitutional amendment. Last year this same Board

1 considered a proposal that would affect President
2 Obama's Affordable Care Act and entitled that -- it
3 followed the title of the issue that was before it
4 which ran something along the lines of the title of
5 Protect Freedom to Choose Medical Care.

6 In this situation there's a very clear
7 title here with respect to Establish the Ohio
8 Citizens Independent Redistricting Committee. You
9 chose not to put that title in your -- in your
10 heading; is that correct?

11 MR. LANGDON: That is correct.

12 MR. GRIFFIN: Okay. And you would agree
13 if we followed the same standards that we did just a
14 year ago, that we should include the same title as
15 was put on the original petition using that same
16 logic, correct?

17 MR. LANGDON: Well, I wasn't present for
18 those arguments and so I don't know what the standard
19 was applied nor do I know what logic was applied nor
20 do I know if logic was applied. I wasn't here when
21 it was done.

22 MR. GRIFFIN: Okay. It would certainly
23 be inappropriate partisan to take a title when it
24 suits purposes in one set of ballot issues but then
25 to ignore a similar title in a following one. You

1 would agree you want the same standard applied to
2 both, right?

3 MR. LANGDON: I think that each one of
4 these issues has to be addressed on its own merits.
5 I could see how it would be appropriate to include a
6 self-selective -- we have to remember these are
7 self-selected titles. These are titles that are not
8 scrutinized by anyone. The Ohio Attorney General
9 does not scrutinize the title. The Ohio Attorney
10 General scrutinizes and ultimately has to approve the
11 summary but not the title. The title can for all
12 intents and purposes can say whatever the petitioners
13 want the title to say so does that mean that it is
14 automatically appropriate for that title, whatever
15 they choose, to be in the ballot language?

16 I don't think any of us have to go very
17 far in terms of using our imagination as to words
18 that could be in a self-selected title that none of
19 us would want on the ballot so I don't know that a
20 standard was established and, again, I wasn't here so
21 I can't speak to it, but I don't think there was a
22 standard that was necessarily established with the
23 particular amendment that you are referring to. I
24 think each one has to be analyzed on its own
25 individual merits.

1 MR. GRIFFIN: Okay. Just so we're clear
2 your position before this Board is that because it's
3 a fact specific issue, a self-selected title might be
4 appropriate for last year's Affordable Care Act and
5 Protection and Freedom for Ohio to Choose Medical
6 Care, but in your view it would be inappropriate to
7 use a title of Ohio Citizens for Independent
8 Redistricting Commission in this case?

9 MR. LANGDON: In my view each particular
10 ballot title, which by the way isn't decided as I
11 understand it by this particular Board, each
12 particular ballot title has to be decided upon its
13 own merits by -- by the Secretary of State.

14 MR. GRIFFIN: Let me ask you about
15 paragraph 1 of your proposed amendment language.
16 Your first sentence is remove the power of
17 redistricting from the public's elected
18 representatives, correct?

19 MR. LANGDON: That is what it says, yes.

20 MR. GRIFFIN: Okay. And you heard the
21 colloquy between Mr. McTigue and Secretary Husted
22 regarding how some members of the House of
23 Representatives or the Senate are, in fact, elected
24 when there are -- even though they are fill-in vacant
25 seats. You heard that colloquy.

1 MR. LANGDON: I did.

2 MR. GRIFFIN: Okay. And you heard
3 Secretary Husted indicate that, well, because they're
4 elected by their caucus they are, in fact, elected.
5 You heard that?

6 MR. LANGDON: I heard that if that's
7 going to be your next question.

8 MR. GRIFFIN: Okay. And you agree with
9 Secretary Husted's analysis and standard of that?

10 MR. LANGDON: I have no reason to
11 disagree.

12 MR. GRIFFIN: Okay.

13 MR. LANGDON: I believe the Secretary
14 would know, and I believe he is accurate.

15 MR. GRIFFIN: Let me ask you to look at
16 paragraph 4 of the Constitutional amendment and I
17 wanted to direct your attention to about halfway down
18 that paragraph.

19 MS. SCHUSTER: The summary?

20 MR. GRIFFIN: No, the full Constitutional
21 amendment where it says selection as a potential
22 commission member requires the affirmative vote of at
23 least five of the eight judges. Do you see that
24 language?

25 MR. LANGDON: Are you dealing in Section

1 1 of Article 11?

2 MR. GRIFFIN: No, Section 4 --

3 MR. LANGDON: Section 4.

4 MR. GRIFFIN: -- of -- I believe I'm
5 looking at the correct --

6 MS. SCHUSTER: That's the summary.

7 MR. GRIFFIN: The summary, the initiative
8 petition. And I'm looking at I guess it's the -- how
9 would I describe this appropriately?

10 MS. SCHUSTER: It's the summary.

11 MR. GRIFFIN: Oh, the summary.

12 MS. SCHUSTER: And you're looking at the
13 paragraph --

14 MR. GRIFFIN: Yeah, the paragraph --
15 summary paragraph 4.

16 MR. LANGDON: I'm sorry. I don't have
17 the summary in front of me. I only deal in the
18 Constitutional amendment language. The summary is
19 irrelevant now that the petition is on the ballot.

20 MR. GRIFFIN: Okay. Well, you don't
21 dispute that, in fact, commission members would be
22 voted upon by an affirmative vote of at least five of
23 the eight judges, correct?

24 MR. LANGDON: Repeat the question,
25 please.

1 MR. GRIFFIN: You don't disagree with the
2 proposed Constitutional amendment the commission
3 members would be elected by an affirmative vote of at
4 least five of the eight judges. That's true, right?

5 MR. LANGDON: Sure. If you say so.

6 MR. GRIFFIN: Okay. So -- well, no, it's
7 not me saying so. You are here today. You've
8 studied the Constitutional amendment, and I want to
9 know whether you disagree with my reading of it.

10 MR. LANGDON: If you would kindly point
11 me to the provision, then I could look at it, and I
12 could then tell you if I agree. I don't have it
13 memorized, I can tell you that.

14 MR. GRIFFIN: Okay. Do you understand as
15 you stand here today how members are finally
16 appointed and do you have an opinion as to whether
17 they're appointed by a vote of judges or not?

18 MR. LANGDON: I believe that they are
19 ultimately randomly selected, nine of them, and then
20 those nine that are randomly selected choose the
21 final three.

22 MR. GRIFFIN: Okay. You don't disagree
23 there is --

24 SECRETARY HUSTED: I can help you with
25 that. It seems like your argument may be with me and

1 not with him.

2 MR. GRIFFIN: No, no, I'm not. I'm not.

3 And actually I agree with your analysis.

4 SECRETARY HUSTED: I can tell you that
5 where I found is in the Ohio law. Your conclusion
6 would not be available in Ohio law.

7 MR. GRIFFIN: Mr. Langdon, you don't
8 disagree there's a voting process, do you?

9 MR. LANGDON: A voting process for?

10 MR. GRIFFIN: For an affirmative vote of
11 five of the eight judges.

12 MR. LANGDON: Can you point me to the
13 provision so I can look at it?

14 MR. GRIFFIN: Sure. I believe it was
15 made available to everyone on the desk over on your
16 left.

17 MR. LANGDON: Right, and there are 16
18 sections to Article 11, several of which are being
19 amended, several of which are being repealed, one of
20 which is being adopted. All I'm asking you to do is
21 point me to the provision, and I'll turn to my page
22 and look at it.

23 MR. GRIFFIN: I believe a copy is
24 available over on that table over there.

25 MR. LANGDON: I have a copy.

1 MR. GRIFFIN: It's paragraph 4 --

2 MR. LANGDON: I'm waiting for the section
3 number.

4 MR. GRIFFIN: It's paragraph 4 of the
5 initiative petition summary.

6 MR. LANGDON: That's a summary. Can you
7 point to me where it is in the actual language?

8 MR. GRIFFIN: No. I just want you to
9 look at the summary right now. Do you disagree --
10 can you take a look at that? Please do.

11 MR. LANGDON: May I get a copy of the
12 summary?

13 MR. GRIFFIN: Yes.

14 MR. LANGDON: Okay. Paragraph 4,
15 Mr. Griffin?

16 MR. GRIFFIN: Yes, that's correct.

17 MR. LANGDON: Okay. Your question again?

18 MR. GRIFFIN: Okay. First of all, I read
19 that correctly, didn't I, that even to be a potential
20 commission member requires affirmative vote of at
21 least five of the eight judges?

22 MR. LANGDON: According to this summary
23 that's the case, if this summary is accurate, yes.

24 MR. GRIFFIN: Okay. And you don't
25 disagree that because of that election, they're also

1 an elected state commission?

2 MR. LANGDON: They are an elected state
3 commission?

4 MR. GRIFFIN: That's right. Your
5 language says it's an appointed state commission but,
6 in fact, there's an election process that goes on
7 here.

8 MR. LANGDON: We could certainly quibble
9 over election versus appointment. I wouldn't have
10 reason to disagree that they are chosen by those
11 judges. We could use that term.

12 MR. GRIFFIN: Okay. And so my issue is
13 when we're talking about elected representatives, you
14 used the term "elected" and yet when there is a vote
15 for commission members, you decided to use the
16 pejorative word "appointed" and my point would be
17 that it needs to be consistent in order to inform the
18 voters as to what's happening here, don't you agree
19 with that?

20 MR. LANGDON: That the word "appointed"
21 is pejorative?

22 MR. GRIFFIN: Absolutely.

23 MR. LANGDON: Do I agree with that? I do
24 not.

25 MR. GRIFFIN: Okay.

1 MR. LANGDON: I don't think it's any more
2 pejorative than "elected" or "chosen." Whatever is
3 accurate, I think, would be the best language that
4 could be utilized here.

5 MR. GRIFFIN: Right. Accurate and
6 consistent between those two.

7 MR. LANGDON: Whatever is accurate as
8 relates to whatever particular provision is being
9 discussed at this point.

10 MR. GRIFFIN: Okay. Let me ask you --
11 let me move on. With respect to funding you don't
12 disagree that they are limited to adequate funding,
13 correct?

14 MR. LANGDON: I believe that the language
15 of the amendment says -- I'll see if I can find it
16 here. It talks about --

17 MR. GRIFFIN: Let me direct your
18 attention to paragraph 7.

19 MR. LANGDON: -- necessary.

20 MR. GRIFFIN: Okay. Necessary.

21 MR. LANGDON: To adequately fund.

22 MR. GRIFFIN: Okay.

23 MR. LANGDON: Make appropriations
24 necessary to adequately fund the activities is what
25 the proposed amendment --

1 MR. GRIFFIN: So a funding -- the funding
2 must be both necessary and adequate, correct?

3 MR. LANGDON: It must be necessary to
4 adequately fund the activities of the commission,
5 correct.

6 MR. GRIFFIN: So it's not true that they
7 are -- the Ohio General Assembly is required to
8 provide any and all funds, only those that are
9 necessary and adequate; isn't that correct?

10 MR. LANGDON: The Ohio General Assembly
11 as I would interpret this would be required to
12 provide appropriations that are necessary to
13 adequately fund the activities of the commission.

14 MR. GRIFFIN: And you agree that the
15 phrase "any and all necessary," "all funds" does not
16 appear anywhere in either the amendment or the
17 summary.

18 MR. LANGDON: Do the words "any and all"
19 appear?

20 MR. GRIFFIN: Funds, yeah. They don't
21 appear.

22 MR. LANGDON: They don't but --

23 MR. GRIFFIN: Those are your words that
24 you are inserting into the description for the
25 ballot.

1 MR. LANGDON: To adequately describe what
2 it does, correct.

3 MR. GRIFFIN: And ultimately you would
4 also agree the word "salaries" does not appear.

5 MR. LANGDON: Throughout the entire
6 Constitutional amendment?

7 MR. GRIFFIN: Correct.

8 MR. LANGDON: I don't know but I would be
9 willing to take your word for it if you tell me --

10 MR. GRIFFIN: Okay.

11 MR. LANGDON: -- that it doesn't.

12 MR. GRIFFIN: And it's true that, in
13 fact, there's no requirement to award salaries of any
14 kind, correct?

15 MR. LANGDON: I think they're required to
16 compensate commission members, to pay necessary
17 staff, office space, et cetera.

18 MR. GRIFFIN: Okay. I want you to answer
19 my question. They're not required to pay salaries,
20 true?

21 MR. LANGDON: I guess it depends on what
22 a salary is.

23 MR. GRIFFIN: The word "expert" does not
24 appear anywhere in the amendment, does it?

25 MR. LANGDON: Again, I'll take your word

1 for it that it doesn't.

2 MR. GRIFFIN: Well, but you've come here
3 today to testify after having reviewed this language,
4 correct?

5 MR. LANGDON: Correct.

6 MR. GRIFFIN: Okay. And you took time to
7 review all the pertinent words so you could be
8 prepared to advocate against it, true?

9 MR. LANGDON: Well, actually I'm
10 testifying now in support of language that has been
11 presented by staff which I ultimately believe is
12 better than ours.

13 MR. GRIFFIN: Well, you came here to
14 testify on behalf of your own language.

15 MR. LANGDON: Conceptually better than
16 ours because as I testified earlier, there are two
17 options that we have here. We have a high level
18 option, and we have a get in the weeds option. We
19 presented a number of specific details. You seem to
20 take issue with the accuracy of some of those
21 details.

22 Well, what I'm now up here saying is that
23 we're comfortable with the conceptual format that's
24 been presented by the -- in the staff draft where we
25 are keeping everything at a very high level and we

1 are avoiding having all of these discussions about
2 whether it's "compensate" or "salary" trying to pars
3 this -- these words of a very technical amendment,
4 none of which has any business being in ballot
5 language.

6 MR. GRIFFIN: Are you withdrawing your
7 language?

8 MR. LANGDON: To the extent that I have
9 added to the draft that the Secretary's office
10 provided, I've recommended two additional changes,
11 yes. We are withdrawing ours, and we are supporting
12 the Secretary's proposed draft with the additions I
13 previously mentioned.

14 MR. GRIFFIN: I just want to be clear,
15 you are withdrawing your language, and the additions
16 that you are proposing, can you be specific about the
17 language that you are proposing to add to the draft?

18 MR. LANGDON: I previously was specific
19 about those, but I can go over that again if you
20 would like me to, yes. We would like to the four
21 paragraphs that are in the draft that has been
22 presented by staff, we believe that two additional
23 paragraphs should be added. No. 1, that the proposed
24 amendment would amend the requirements and standards
25 for drawing congressional and state legislative

1 districts. And, No. 2, that the Commission members
2 can't be removed by the General Assembly or executive
3 branch for any reason. Those would be our two
4 requests that we would ask be added to the staff's
5 draft.

6 MR. GRIFFIN: Mr. Langdon, I would have
7 more questions, but I do understand that we need to
8 move efficiently today. I appreciate your time
9 coming down to speak with us.

10 MR. LANGDON: Thank you.

11 Any other questions?

12 SECRETARY HUSTED: Senator Faber.

13 SENATOR FABER: Thank you. I had a
14 number of questions about your proposed draft,
15 specifically with regard to some of the amendments
16 that were suggested by Mr. McTigue. But with your
17 removal of that, it makes my questions probably more
18 brief.

19 But the first thing I want to do is make
20 sure I'm clear on Mr. Giffin -- Griffin, sorry, asked
21 you a specific question about what's in their
22 Constitutional amendment, and he specifically said is
23 the word "experts" in their Constitutional amendment?
24 I believe just to help you out that the term "expert"
25 is in their Constitutional amendment and I'm going to

1 give you the site to it in just a second to see if
2 I'm wrong. That is in page 3 of the actual
3 Constitutional amendment, not the summary, at Section
4 D where it says, "The General Assembly shall make
5 appropriations necessary to adequately fund the
6 activities of the commission including but not
7 limited to funds to compensate commission members,
8 pay for necessary staff, office space, experts, legal
9 counsel, the independent auditor, and to purchase
10 necessary supplies."

11 And so I just wanted to clarify your
12 answer when you agreed that "experts" weren't there.
13 The other question --

14 MR. LANGDON: I was misled.

15 SENATOR FABER: That's all right. My
16 guess is it was inadvertent.

17 MR. LANGDON: I would assume so.

18 SENATOR FABER: My next question, and
19 this is an interesting question for me in trying to
20 look at this language, Mr. Griffin talked to you at
21 length about the difference between "appointment" and
22 election." As I read through the actual full text of
23 the amendment, there are a number of times the term
24 "selected" is used. I see no mention of the word
25 "elected." It starts out in Section C that "The

1 commission shall consist of 12 members selected as
2 follows." It goes on, and I'm summarizing, but next
3 is, 3, the panel of judges shall be responsible for
4 selecting potential members. No. 5, it says the
5 three shall select from the applicants 42 individuals
6 to serve as potential members. They shall select
7 applicants. The selection of potential members.

8 No. 6 -- or paragraph 6, it also talks
9 about if you're electing people, generally when you
10 elect people, you don't have a right to remove them
11 or deselect them, and it says that the Speaker and
12 the Minority Leader shall eliminate up to three of
13 the members of the panel. That doesn't sound like an
14 election to me if you get to veto or eliminate
15 people.

16 And then you go on to say that then they
17 will go through a process of being chosen by lot. I
18 don't think anybody would argue choosing by lot is an
19 election. And then you go on and say selecting the
20 three final members will be done by the other
21 members. Is that your understanding of the way the
22 Constitutional provision reads and does that help
23 your answer to his question about whose appointed,
24 whose selected, and whose elected?

25 MR. LANGDON: I certainly think use of

1 the term "selection" would be very appropriate. As I
2 had indicated before, they are randomly selected
3 ultimately in the end, nine of them, and then those
4 three, the last three, excuse me, are selected by the
5 first nine that are randomly selected.

6 SENATOR FABER: Okay. That's what I
7 wanted to get to.

8 MR. LANGDON: Ultimately, Senator Faber,
9 we wouldn't be concerned about the use frankly of
10 "selected" versus "appointed" versus "elected."
11 Ultimately I think we want to get at what is the most
12 accurate, and since the language uses "selected"
13 repeatedly "selected" would seem to be very accurate.

14 SENATOR FABER: So if it were changed
15 to -- from "appointed officials" to "selected
16 officials" or "selected members," does that make a
17 difference?

18 MR. LANGDON: In my mind it doesn't. I
19 think there might be -- it might be a little bit
20 clumsy. We might want to say to a commission
21 selected by or selected in the --

22 SENATOR FABER: Okay. There was --
23 Mr. Chairman, and to the witness, there was a lot of
24 discussion and, again, this was in your proposal
25 which I took some exception to based on some of the

1 comments Mr. McTigue had, frankly Mr. McTigue's
2 proposal sounded relatively reasonable to me,
3 particularly his discussion about whether this is
4 congressional or delegates. I've never heard
5 congressmen referred to as delegates, but I assume
6 that is irrelevant since you've withdrawn your
7 proposal.

8 MR. LANGDON: Correct.

9 SENATOR FABER: The other question
10 Mr. McTigue brought up was in the provision where you
11 talked about having to be done for the 2014 elections
12 and then again to do so in 2020 and every ten years
13 thereafter. You would not object to his suggestion
14 that it be so amended to say for the 2022 elections
15 to be consistent.

16 MR. LANGDON: Correct.

17 SENATOR FABER: Last goes to your two
18 provisions to the staff proposal that you would like
19 to see added. And explain to me again why you think
20 it's important that -- and I think Mr. McTigue kind
21 of touched on this as well -- that the staff proposal
22 does not include any discussion about the
23 modification of the existing standards. It seems to
24 me that's an area that you and Mr. McTigue agree on.

25 MR. LANGDON: That is correct. I agree

1 that it should be indicated in the ballot language
2 and the ballot language that there will be changes to
3 the legislative redistricting process, to the
4 standards and requirements that are currently in the
5 Constitution. Where we might disagree is do we then
6 go on and provide examples, not complete set of all
7 of the changes but just certain changes,
8 illustrations for lack of a better term, that we want
9 in there?

10 So I think that it needs to simply say
11 that there will be changes made to the process and
12 leave it at that.

13 SENATOR FABER: But isn't it difficult to
14 say currently there are standards in the Constitution
15 for the Apportionment Board to consider for state
16 legislative districts. My understanding is there
17 aren't the same standards for the congressional
18 districts for the legislature to consider when it
19 does legislative -- legislative passes a bill
20 establishing congressional districts. So is it --
21 help me understand how you would word that.

22 MR. LANGDON: Well, what I believe the
23 amendment will do is will change the standards and
24 requirements for both, for the state legislative
25 districts as well as the congressional districts;

1 and, again, I would advocate not getting into details
2 about what those -- what those changes are, what the
3 standards currently are for congressional districts,
4 what standards currently are for state legislative
5 districts gets us into the minutia where you're
6 literally going to have to include all of it, I
7 believe, not just what's being changed but what's all
8 being pulled out and so that's why we believe that
9 the best approach would be to simply say there are
10 changes being made and this new commission would
11 apply those changes.

12 SENATOR FABER: And the last suggestion
13 as I read -- as I heard you say that you wanted to
14 the staff proposal was a discussion on the removal of
15 commission members?

16 MR. LANGDON: Correct. I think that it
17 would be appropriate to the current draft paragraph 2
18 to -- which does talk a little bit about the
19 commission itself, I think -- we think it would be
20 appropriate to add to that paragraph that these 12
21 selected commission members cannot be removed by
22 anyone for any reason, or we would certainly be
23 comfortable if we wanted to use the language by the
24 General Assembly or the executive branch.

25 SENATOR FABER: Does the Constitutional

1 provision in your analysis, and this probably isn't a
2 fair question to ask you because I didn't ask it to
3 Mr. McTigue -- Tigie, does it -- can they remove
4 themselves? I mean, I don't see any provision for
5 them to be able to be removed by anyone and I see the
6 shaking of the heads again in -- from some of the
7 proponents of this. I look at this as an unremovable
8 body.

9 MR. LANGDON: As I understand it, the
10 amendment makes implicit provision for in the event
11 somebody doesn't serve that then can be -- they then
12 can be replaced. It doesn't specifically state
13 how -- how that would happen, what are the reasons
14 that somebody could not serve, and as we've heard,
15 there is no -- there is no authority for the
16 legislature and presumably no regulatory authority to
17 address those details so I wouldn't disagree that
18 it's arguable that once you're on there you're
19 irremovable -- unremovable.

20 SENATOR FABER: Okay. Thank you.

21 MR. LANGDON: Which is -- which is why we
22 think it would be important to add that one
23 provision.

24 SECRETARY HUSTED: Thank you for your
25 testimony.

1 And are there any further questions

2 MR. STRAHORN: Mr. Secretary.

3 SECRETARY HUSTED: Mr. Strahorn.

4 MR. STRAHORN: Thank you, Mr. Secretary.

5 And if the Secretary would indulge me, a really quick
6 story just to sort of eliminate some of the back and
7 forth that has gone on. I participated in a kids
8 voting celebration once, and one of the routines that
9 we did were to talk about the 10 most funny or dumb
10 comments made by politicians. And me being a
11 Democrat I know what Democrats thought were funny
12 about Republicans, but I didn't necessarily know what
13 Republicans thought were funny about Democrats, and
14 so we had to work that out.

15 So just to say that I know some of this
16 stuff is subjective and so I get that, you know, we
17 may look at language one way, and other people may
18 not see that the same way.

19 And so having said that, you know, there
20 are certain things that you've pointed out that I'm
21 not inclined to disagree, the "select" versus
22 "appointment" language. And the -- while I do
23 probably agree with Attorney McTigue that for any
24 reason can be pejorative, if it actually turns out to
25 be accurate, then I'd have to be inclined to agree

1 with you on that.

2 However, I would say this that the -- a
3 lot of times when we pass these amendments, there's
4 enacting legislation where if something is silent and
5 it makes sense, that it may be able to be addressed.
6 In that sense I don't know what the actual answer to
7 that is, but it stipulates that the legislature can't
8 remove them but enacting legislation might be
9 something to be addressed under what circumstances
10 under which a commissioner might be able to be
11 removed.

12 But my question -- my question is a
13 clarifying question. I think I heard you testify or
14 answer a question that compactness was already part
15 of the law in terms of the way districts were
16 supposed to be drawn; is that correct? Did you say
17 that before?

18 MR. LANGDON: I did, yes, Mr. Strahorn.

19 MR. STRAHORN: Okay. This isn't a gotcha
20 question, I looked at the map and I would like your
21 opinion about if you've seen the way the districts
22 have been drawn, that in your opinion are those
23 districts drawn with compactness in mind given that
24 that's already in the law?

25 MR. LANGDON: Are you asking if the

1 current districts that have been --

2 MR. STRAHORN: Yeah.

3 MR. LANGDON: That are being utilized
4 right now are compact?

5 MR. STRAHORN: Well, okay.

6 MR. LANGDON: I'll answer, I haven't
7 looked at all of this.

8 MR. STRAHORN: A follow-up question I'm
9 trying to get at. And so my follow-up question is,
10 okay, I've looked at some of them and I'm not
11 trying -- and both parties have done it, I'm not
12 getting into that, but what I'm getting into was
13 there was a commentary that you made about wanting
14 to -- preferring not getting into the weeds and
15 talking -- looking at the draft that was prepared by
16 staff and not getting into the weeds on this.

17 And, again, maybe this is subjective but
18 given the severity of what we're talking about, I
19 mean, this is a very consequential thing, can you
20 elaborate -- can you elaborate on why, given the
21 severity of what we're talking about, that you feel
22 that it might be in the best interest of the general
23 public that we not get into the weeds on this a
24 little bit.

25 MR. LANGDON: Well, I think we get into

1 certain philosophical views on what does -- what does
2 the best ballot look like. And my only concern
3 with -- I recognize there are two approaches.
4 There's the very high level approach and then there's
5 the get in the weeds approach. The concern with --
6 with the minutia is that it ends up -- we end up
7 having these arbitrarily chosen details without all
8 of the other details and it -- we end up, in essence,
9 campaigning on the ballot. And as a Ballot Board are
10 you saying, okay, well, we'll give them these three
11 golden little nuggets in the details, and we'll give
12 them, the other side, their three? Ultimately is
13 that really in service to the voter to get little
14 bits and pieces, little illustrations without --
15 without getting all of the details?

16 So ultimately what I'm saying is you
17 either give none or as few as possible details and
18 deal with it at a high level very conceptually or if
19 you're going to do the details, you have to do them
20 all in order for it to be fair which in essence has
21 us then reproducing the entire amendment on the
22 ballot which I don't think we want to do in my
23 opinion.

24 MR. STRAHORN: And just one last
25 question, Mr. Secretary, Mr. Langdon, given that and

1 let's use the scenario where I believe that because
2 of the severity of this, and at least the spirit of
3 what this is is to restore more control to the
4 general public about what happened, and the theory is
5 if the districts are more competitive, that the
6 elected officials are more responsive, and either
7 party would tend to be less extreme. Given that
8 would seem to be a laudable goal that we were more
9 responsive to what the general public, the 11 point
10 something million people, residents of the State of
11 Ohio, really care about, do you believe it's possible
12 to go ahead and do this in a -- in a larger way and
13 get into the weeds and that there is some language
14 that's neutral? And, I mean, I give you a lot of
15 credit about if it's accurate, it's accurate. Even
16 if it's pejorative, if it's accurate, it's accurate.
17 I give you a lot of credit about that.

18 But a lot of this stuff I believe that
19 while there is a term that leans more this side and a
20 term that leans more that side, there has got to be
21 neutral language that we can both agree on that
22 accurately describes what we're trying to do given
23 the severity of what we're trying to accomplish which
24 I think you would agree it's a laudable goal that
25 government needs to be more responsive to the general

1 public. I'm asking about do you believe we could get
2 to that neutral language even though there's clearly
3 a spectrum of, you know, leaning one way or the other
4 but even with that spectrum that there's neutral
5 language in there on the big points that we could
6 agree on? Or do you think it's always going to be
7 pejorative one way or the other?

8 MR. LANGDON: Whether you could get to
9 the point of pure neutrality probably not but what I
10 think you could do is certainly strive -- strive for
11 that. And, again, to reiterate the best way to do
12 that, I think is to deal with the amendment in the
13 high level conceptual terms but simply identify to
14 the voter what they are going to be voting on and not
15 in any way encourage or discourage them from voting
16 as a result of what's in the language.

17 MR. STRAHORN: And, Mr. Secretary, the
18 way I resolved my issue was to bring a Republican in
19 to help me write the jokes for the Democrats so I
20 think it can be done.

21 SECRETARY HUSTED: Congratulations.
22 Thank you.

23 We are waiting for an amended draft of
24 the proposal that the staff had generated. We're --
25 the amendment to that would essentially very

1 generically describe that there is -- this changes
2 essentially the rules for how state legislative and
3 congressional districts are drawn so that it is clear
4 that the standards -- that the standards we are using
5 are part of that language. And I want to -- I want
6 to also make sure that everyone knows that I would
7 have liked to have placed the entire text as it was
8 written by the proponents on the ballot. But the
9 reason that we did not go in that direction has to do
10 with the fact that it would have doubled the cost for
11 someone to send a mail-in ballot back and it would
12 have doubled the cost of sending the initial ballot
13 out to the voter which would have generated
14 substantial cost and maybe have had an impact
15 potentially on participation.

16 And so we -- I asked the staff to then
17 draft at that point summary language that was brief
18 and would do the best job possible of neutrally or
19 generically describing the issue.

20 The -- the discussion that we had today I
21 know got into a lot of specifics because we -- we --
22 while maybe the dictionary definition of a word may
23 be neutral perhaps the way that it is injected into a
24 sentence or into an issue can have alternative
25 meaning. I will give you the example of the very

1 title of this, to Establish the Ohio Citizens
2 Independent Redistricting Commission.

3 Now, under Article 11, Section 5, it
4 clearly states that it is independent, that they
5 are -- there are actually political parties that are
6 required to be a part of the commission. Now, people
7 will disagree about whether that means bipartisan,
8 independent. It is quite a subjective issue in my
9 opinion, and I appreciate the efforts that all of you
10 have taken to air your views on these issues and to
11 try to suggest alternative language that would
12 satisfy the variance of opinions, it doesn't appear
13 to me that we've been able to develop any consensus
14 on that matter.

15 At this point in time I want to
16 distribute the -- did you get this? Okay.
17 Distribute the addition of what will be item 4 and
18 that item 4 would read as such "change the standards
19 and requirements in the Constitution for drawing
20 legislative and congressional districts." That is
21 how it will read. It would be placed in between the
22 previous item 3 and the previous item 4 and become
23 item 4.

24 Okay. At this point is there any
25 discussion?

1 MR. STRAHORN: Mr. Chair, Mr. Secretary,
2 I'm -- are you submitting this or about to submit
3 this for us to vote on this being the ballot language
4 with that change?

5 SECRETARY HUSTED: I'm submitting this as
6 the -- placing this before you as for this Board's
7 consideration.

8 MR. STRAHORN: Would it be possible to
9 hear a response from Mr. McTigue as to --

10 SECRETARY HUSTED: The new insertion
11 sentence?

12 MR. STRAHORN: Yeah.

13 SECRETARY HUSTED: Certainly.

14 Mr. McTigue, would you like to see a copy
15 of this and offer any analysis and opinion? It's
16 item 4.

17 MR. MCTIGUE: The only comment I have is
18 that with regard to the addition of paragraph 4 is
19 that it doesn't really serve the voters well. It
20 gives them an inkling that something is being
21 changed. But if I'm a voter saying, oh, they are
22 changing something, I don't know, is that good or
23 bad? Well, what is it that they are changing, okay?

24 And so, you know, the standards that
25 exist is that you have to inform voters of all

1 material provisions. This doesn't meet that
2 standard. Thank you.

3 SECRETARY HUSTED: Mr. McTigue, as the
4 chief elections officer of the state, that's why I'm
5 very proud of the fact all voters in all 88 counties
6 will receive an opportunity to request an absentee
7 ballot and they then can do so and have 35 days in
8 which to review the actual proposal and make their
9 decision. And so we have continued to upgrade the
10 elections process to give them that opportunity.
11 Thank you.

12 MR. STRAHORN: Mr. Secretary, is it
13 possible to have a brief recess for me and
14 Mr. Griffin to discuss maybe adding some other
15 changes of our own to see if the Board would
16 entertain that?

17 SECRETARY HUSTED: I would prefer we just
18 move forward.

19 MR. STRAHORN: Okay. Thank you,
20 Mr. Secretary.

21 MR. McTIGUE: Mr. Secretary, can I keep
22 this or do you need this?

23 SECRETARY HUSTED: Yes, you may. We'll
24 make additional copies available for everybody at the
25 front table, if we can make that.

1 Senator Faber.

2 SENATOR FABER: Mr. Secretary, if it's
3 the will of the Chairman, I would move that we
4 approve the staff recommendation as the proposed
5 ballot language.

6 MR. MORGAN: Second.

7 SECRETARY HUSTED: We have a motion and a
8 second. I'm just going to give everybody time to
9 read it one more time before we vote on it and --

10 MR. GRIFFIN: And will you entertain any
11 discussion prior to the vote?

12 SECRETARY HUSTED: Sure.

13 I just mentioned to Mr. McTigue that if
14 he hasn't sued me and I wasn't in federal court with
15 him, I would have had more time to work on this.

16 Okay. Are there any questions?

17 Mr. Griffin.

18 MR. GRIFFIN: Yes. I would just like to
19 make a few comments. I mean, I do think that the
20 draft No. 4 which we were looking at has some of the
21 same deficiencies that Mr. McTigue addressed before
22 in that it doesn't talk about important things
23 regarding impartiality, diversity, and others. But
24 just -- just quickly, and I'll be very brief,
25 Sections 1 and 2 describe the same people using

1 different words, Section 1 uses the term "officials"
2 and Section 2 uses the term "individuals." Just as a
3 matter of drafting, even if you like this, it ought
4 to be consistent and use the term "individuals." But
5 I think for the reasons -- and I know that we have to
6 move on. For the reasons I think I've discussed
7 already I don't think this is accurate or informative
8 for the voters, and I would ask that it be voted
9 down.

10 SENATOR FABER: Was that a friendly
11 amendment to change the second "individuals" to
12 "officials"?

13 MR. GRIFFIN: I'm not sure if I can
14 characterize it as "friendly." I am merely pointing
15 out an imperfection in the proposal.

16 MR. STRAHORN: An editorial.

17 MR. GRIFFIN: An editorial, yes.

18 SENATOR FABER: I would ac -- I would not
19 be opposed, Mr. Secretary, Chairman, to change the
20 word "appointed individuals" in the second paragraph
21 to "appointed officials."

22 MR. GRIFFIN: And that certainly was not
23 my proposed amendment but.

24 MR. MORGAN: Second.

25 SECRETARY HUSTED: We'll accept -- we'll

1 accept Senator Faber's motion to amend, and we have a
2 second.

3 Are there any objections?

4 Then let the wording stand in the second
5 paragraph as removing the word "individuals" and
6 replacing it with "officials."

7 MR. GRIFFIN: I would simply submit that
8 I think that that makes it more pejorative which I
9 appreciate may have been Mr. Faber -- not Mr. Faber's
10 intent but certainly the effect.

11 MR. STRAHORN: Hang on a second.

12 SECRETARY HUSTED: Mr. Strahorn.

13 MR. STRAHORN: Thank you, Mr. Secretary.
14 And just to make a brief comment, and as I stated to
15 you privately, I really am sensitive to and commend
16 you on the things that you have had to deal with and
17 look at and try to make this process not just in this
18 room but the considerations you've taken into account
19 about the cost of this to the voters and try to make
20 that balancing act. I think you've done that well to
21 make sure that the additional cost didn't also drive
22 down voter participation.

23 Having said that, as I stated to the
24 questioning, I think the gravity of what this
25 amendment tries to accomplish which -- and reasonable

1 people can agree to disagree but I think it seeks to
2 make government more responsive to the public. And
3 given that I think it really does need more time,
4 although I understand what your constraints are, I
5 think this deserves more time to figure out what's
6 the best way to communicate with the general public
7 because they are busy with their lives and raising
8 children, in some cases working two jobs, and I think
9 it's very easily -- very easy for them to get off
10 track if this isn't explained properly to them, and
11 you could find people voting for something that they
12 didn't want or vice versa.

13 And so because of that reason I'm -- I
14 would ask the Board to vote no, and I'm going to vote
15 no. However, I do that with all respect to you
16 because I know you've done a tough job in trying to
17 shepherd this amendment throughout this process.

18 So thank you, Mr. Secretary.

19 SECRETARY HUSTED: Thank you,
20 Mr. Strahorn.

21 We have a motion and a second. Are there
22 any further comments?

23 Then, secretary, would you please call
24 the roll.

25 MS. SCHUSTER: Mr. Morgan.

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MR. MORGAN: Yes.

MS. SCHUSTER: Senator Faber.

SENATOR FABER: Yes.

MS. SCHUSTER: Mr. Griffin.

MR. GRIFFIN: No.

MS. SCHUSTER: Mr. Strahorn.

MR. STRAHORN: No.

MS. SCHUSTER: Secretary Husted.

SECRETARY HUSTED: Yes.

The motion has been adopted. It is by a vote of 3 to 2.

The Ohio Revised Code Section 3505.062(F) requires this Board to direct the means by which the Secretary of State will disseminate information concerning the proposed state issue -- concerning proposed state issues to voters. I propose that this Board authorize my office to provide a sufficient number of paper copies of the information -- information regarding the 2012 state issues to the boards of elections, members of the state legislature, public agencies, and other interested persons.

Additionally, this information will be published on the Secretary of State's website for easy access.

1 Do we have a motion?

2 MR. GRIFFIN: Before -- can I ask --

3 SECRETARY HUSTED: Mr. Griffin.

4 MR. GRIFFIN: -- a question?

5 SECRETARY HUSTED: Uh-huh.

6 MR. GRIFFIN: Before we address what -- I
7 guess I'm interested in what information the state
8 ballot issues will be disseminated. HB 194 had been
9 pending. Will we be addressing that?

10 SECRETARY HUSTED: Early on if you heard
11 my earlier comments today, today is the day in which
12 the effective date of Senate Bill 295 occurs which
13 repeals House Bill 194 and, therefore, there is no
14 longer a reason for this Board to consider the
15 matter.

16 MR. GRIFFIN: Okay. And do we have that
17 discretion under the statute? Is there a statutory
18 authority that lets us avoid that?

19 SECRETARY HUSTED: I believe we are fully
20 compliant with the Constitution and the laws of the
21 State of Ohio.

22 MR. GRIFFIN: And is there --

23 SECRETARY HUSTED: We are actually
24 considering a motion on -- on another issue. If you
25 would like to bring something up at the end.

1 MR. GRIFFIN: No, I understand. And I
2 was asking so that I knew what issues we were
3 approving, the dissemination information, but I
4 understand your answer and we can move on.

5 SECRETARY HUSTED: Yep. We have a motion
6 and a second. Is there any further discussion?

7 Secretary, please call the roll.

8 MS. SCHUSTER: Mr. Morgan.

9 MR. MORGAN: Yes.

10 MS. SCHUSTER: Senator Faber.

11 SENATOR FABER: Yes.

12 MS. SCHUSTER: Mr. Griffin.

13 MR. GRIFFIN: Yes.

14 MS. SCHUSTER: Mr. Strahorn.

15 MR. STRAHORN: Yes.

16 MS. SCHUSTER: And Secretary Husted.

17 SECRETARY HUSTED: Yes.

18 Regarding the advertising of the
19 amendment , Ohio Revised Code 3501.17(G)(1) requires
20 the state to bear the entire cost of the advertising
21 in newspapers and any -- of any state ballot issues
22 and arguments for and against the issues and to
23 reimburse the Secretary of State out of the Statewide
24 Ballot Advertising Fund for all expenses the
25 Secretary of State incurs for that advertising. The

1 Secretary of State may request such funds from the
2 Statewide Ballot Advertising Board either before or
3 after placing the advertisement.

4 The Ohio Constitution requires that the
5 full text of the state issues and ballot arguments --
6 full text of the state issues and ballot arguments
7 for and against the issue be published once a week
8 for three consecutive weeks before the election. The
9 Ohio Revised Code 3505.062(G) requires the Ohio
10 Ballot Board to direct the Secretary of State to
11 contract for that advertising.

12 Accordingly, I propose that the Ballot
13 Board authorize my office to contract for the
14 required advertising of the state issues that will
15 appear on the November 6, 2012, ballot and to
16 authorize me to request the controlling board to
17 transfer sufficient funds for this purpose.

18 Do we have a motion?

19 SENATOR FABER: So moved.

20 SECRETARY HUSTED: It's moved. Do we
21 have a second?

22 MR. MORGAN: Second.

23 SECRETARY HUSTED: And a second. We have
24 a motion and a second.

25 Secretary, would you please call the

1 roll.

2 MS. SCHUSTER: Mr. Morgan.

3 MR. MORGAN: Yes.

4 MS. SCHUSTER: Senator Faber.

5 SENATOR FABER: Yes.

6 MS. SCHUSTER: Mr. Strahorn.

7 MR. STRAHORN: Yes.

8 MS. SCHUSTER: Mr. Griffin.

9 MR. GRIFFIN: Yes.

10 MS. SCHUSTER: Secretary Husted.

11 SECRETARY HUSTED: Yes.

12 The motion carries.

13 Is there any further business to be
14 brought before the Board at this time?

15 MR. GRIFFIN: I know that you have to
16 move on to other things, do we have a moment to just
17 talk about whether we are obliged by any law to put
18 HB 194 on the ballot and the basis for it?

19 SECRETARY HUSTED: You are certainly --
20 you are certainly free to do so.

21 MR. GRIFFIN: Okay. And as I read the
22 statute, it looks like it uses the shall language
23 which would compel us to put it on the ballot or to
24 discuss it. Is -- and I guess perhaps I'm addressing
25 this to counsel. Is there either Constitutional or

1 statutory authority which would give us discretion
2 not to do that?

3 SECRETARY HUSTED: Well, I can just tell
4 you at this point it's the judgment of the Chair that
5 there is no longer an issue to be repealed. I
6 believe that under the authority granted to this
7 Board and under the Ohio Constitution is the state
8 statute, that we're fully compliant with both. And
9 as a practical matter, to place a ballot issue on the
10 Board would cost approximately a million dollars in
11 advertising itself, and it seems as though it would
12 be in these difficult budgetary times a waste of
13 money to place an issue on the ballot that has
14 already been repealed.

15 MR. GRIFFIN: And have we sought a legal
16 opinion that says we cannot put it on the ballot?

17 SECRETARY HUSTED: I have not seen a
18 legal opinion that says we must.

19 MR. GRIFFIN: Okay.

20 SECRETARY HUSTED: Any other issues to be
21 brought before the Board?

22 Hearing none, we stand adjourned.

23 (Thereupon, the meeting was concluded at
24 2:57 p.m.)

25

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, August 15, 2012, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

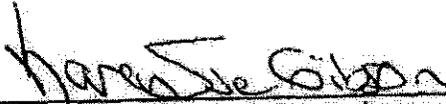
(KSG-5573)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, August 15, 2012, and carefully compared with my original stenographic notes.



Karen Sue Gibson, Registered
Merit Reporter.

(KSG-5573)

McTigue & McGinnis LLC
ATTORNEYS AT LAW

545 EAST TOWN STREET
COLUMBUS, OHIO 43215

TEL: (614) 263-7000 | FAX: (614) 263-7078

DONALD J. MCTIGUE
MARK A. MCGINNIS
J. COREY COLOMBO
MICHAEL P. STINZIANSKY, OF COUNSEL

ATTORNEY GENERALS OFFICE

MAR 19 2012

March 19, 2011

RECEIVED
CONSTITUTIONAL OFFICES

Hon. Mike DeWine
Ohio Attorney General
30 E. Broad Street
Columbus, Ohio 43215

Re: Summary Petition

Dear Attorney General DeWine:

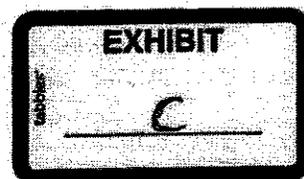
I am hereby filing with your office on behalf of my client, Voters First, and pursuant to R.C. § 3519.01(A), a petition to approve a summary of a constitutional amendment on legislative redistricting to be proposed by initiative petition. The petition contains 1,720 signatures of electors on 64 part-petitions and the summary and full text of the amendment to be proposed.

Please contact me if you have any questions. Thank you.

Very truly yours,



Donald J. McTigue



Number: A099

County: ATHENS

INITIATIVE PETITION

To the Attorney General of Ohio: Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed law and a summary of the same.

TITLE

Ohio Citizens Independent Redistricting Commission Amendment

SUMMARY

This proposed amendment would add and repeal language in Sections 1, 3, 4, 6, 7, 9, 10 and 13 of Article XI of the Ohio Constitution, repeal Sections 8 and 14 of Article XI and add a new Section 16 to Article XI, all regarding the process and criteria for the drawing of legislative district lines for Ohio's congressional and state legislative house and senate districts. The proposed amendment's provisions include among others, the following:

1. Create the Ohio Citizens Independent Redistricting Commission ("Commission") to establish the boundaries for Ohio's state legislative and congressional districts following approval of this amendment and again following each federal decennial census ("census").
2. Any plan adopted by the Commission shall comply with all applicable Ohio and federal constitutional provisions and all federal statutory provisions, including, but not limited to, those dealing specifically with protection of minority voting rights. Each congressional and state legislative district shall be comprised of contiguous territory, and the boundary of each district shall be a single non-intersecting continuous line and be in compliance with all other provisions of Article XI. The Commission shall adopt the redistricting plan that in its judgment most closely meets the following 4 factors without violating federal and state constitutional provisions, federal statutory provisions or the above contiguity requirement: a) community preservation by minimizing the number of governmental units that must be divided between different districts, combining areas of whole governmental units giving preference in order named to counties, municipalities, contiguous townships, and city wards; b) competitiveness by maximizing the number of districts where the average political party indexes, determined using actual election results from recent representative statewide elections, does not lean toward one party by more than 5%; c) representational fairness by balancing the number of districts leaning toward each political party so that the number of districts leaning toward each party closely corresponds to the preferences of the voters of Ohio as determined using actual election results from recent representative statewide elections; and d) compactness by creating districts that are compact. No plan shall be adopted with intent to favor or disfavor a political party, incumbent or potential candidate.
3. In no event shall any state House of Representatives district contain a population of less than 98% nor more than 102% of the ratio of representation in the House of

Representatives, except where reasonable effort is made to avoid dividing a county in accordance with Section 9 of Article XI. In no event shall any state Senate district contain a population of less than 98% nor more than 102% of the ratio of representation in the Senate. Where the population of a county is not less than 95% nor more than 105% of the ratio of representation in the state House of Representatives, reasonable effort shall be made to create a House of Representatives district consisting of the whole county

1. The Commission will consist of 12 members chosen as follows: by January 1 of the year the census is conducted, the Chief Justice of the Ohio Supreme Court will select by lot a panel of 8 judges of the Ohio courts of appeals ("judicial panel"); no more than 4 of whom may be members of the same political party; by April 1 of that year the judicial panel will appoint an independent auditor to assist the panel in determining the eligibility of potential members of the Commission; by May 1 of that year any Ohio citizen, not otherwise disqualified under the amendment, may apply for appointment as a member of the Commission; by August 1 of that year the judicial panel will select from among such applicants 42 to serve as potential Commission members, which shall include the 14 most qualified applicants affiliated with the two largest political parties based on the votes received by political party candidates at the most recent election for governor and the 14 most qualified applicants not affiliated with either of the two political parties during the 5 years prior to the selection; selection as a potential Commission member requires the affirmative vote of at least 5 of the 8 judges and is to be based on having relevant skills and abilities, including a capacity for impartiality, and reflecting the diversity of Ohio; by August 15 of the year the census is conducted, the speaker of the House of Representatives and the highest ranking member of the House not of the same party as the speaker may each respectively eliminate up to 3 persons from each of the three pools of 14 potential members selected by the judicial panel resulting in a final pool of not less than 24 potential members; from this final pool, the judicial panel will choose by lot 3 persons affiliated with the largest political party, 3 affiliated with the second largest political party and 3 not affiliated with either party to serve as Commission members; by October 1 of that year these 9 persons will select from the final pool of potential members 3 additional members, including 1 affiliated with the largest political party, 1 affiliated with the second largest political party and 1 not affiliated with either party; in making this selection of the final 3 members, the members shall seek a total Commission membership that has the relevant skills and abilities, including a capacity for impartiality
5. Provide that certain persons will be ineligible to serve as Commission members as follows: a) a person who or whose immediate family member as defined in the amendment, within 10 years preceding the date of application, served as a federal or state elected official, was a paid employee of the Ohio legislature, the U. S. Congress, or the office of a federal or state elected official, was the director of a state department or agency, or was a paid lobbyist as defined under federal or state law; b) a person who, within 5 years preceding the date of application, was a candidate for federal or state office; was a paid employee or paid consultant of a campaign for a political candidate or political committee as defined by federal or state law; was an official or paid employee of any political party organization; or made monetary contributions to political campaigns or political parties that exceed a total of \$5,000 during a 2 year period, which amount shall be adjusted consistent with the consumer price index in future years; and c) any person who has not voted in at least 2 of the previous 3 general elections conducted in even numbered years.
6. In the event that a Commission member is unable to complete his or her term, the remaining members shall select a replacement member from the final pool of potential Commission members. The total membership of the Commission shall consist of 4

members affiliated with the largest political party, 4 members affiliated with the second largest political party and 4 members not affiliated with either party. Commission members shall not be subject to removal by the general assembly or any member of the executive branch. Commission members shall be ineligible to be elected or appointed to the state legislature for any districts established or modified by that Commission.

7. The Commission is authorized to hire staff, consultants and legal counsel and use the services of existing state employees to fulfill its responsibilities. The general assembly shall make appropriations to adequately fund the Commission, including, but not limited to, compensation for Commission members. All meetings of the Commission shall be open to the public and all records, communications and draft plans of the Commission, its members and staff related to the establishment or possible modification of district boundaries shall be public records. The Commission shall make available to the public in a timely fashion all information that is available to any member of the Commission and that may be used in preparing or evaluating redistricting plans or maps, including measures for the factors required to be used under the amendment and the consideration to be given to all factors. The Commission shall adopt rules for its operation and to guide its application of redistricting factors.
8. The Commission shall provide reasonable opportunity for the public to submit proposed redistricting plans and the Commission shall give full and fair consideration to such plans. Proposed redistricting plans and maps shall be made available to the public a reasonable period of time before approval by the Commission and the Commission shall provide a reasonable opportunity for the public to testify about proposed plans or maps prior to their being approved. The Commission shall make publicly available with each proposed redistricting plan a report that identifies for each district boundaries, population, racial and ethnic composition, compactness measure, governmental units that are divided, and political party indexes. The Commission shall also make publicly available statewide totals of the number of governmental units of each type that are divided, the number of politically balanced districts and the number of districts that lean toward each political party.
9. The affirmative vote of at least 7 Commission members shall be required to adopt any plan. The Commission shall establish and publish the new district boundaries by October 1 of the year prior to the year elections will be held in the new districts. In the event the Commission fails to establish district boundaries by this date, an action may be initiated in the Ohio Supreme Court for the adoption of district boundaries and the Court shall adopt from among the plans submitted to or considered by the Commission the plan that most closely meets the requirements of Article XI and complies with the rules and measures established by the Commission under Section 1(F) and (G) of Article XI.
10. Upon the approval of the amendment, new district boundaries shall be established for Ohio's congressional and state legislative districts to be used in the next regularly scheduled federal and state elections that are held more than one year after adoption of the amendment. Upon approval of the amendment, the Chief Justice of the Ohio Supreme Court shall immediately select by lot a judicial panel in the manner described above. The remaining time frames described above shall be adjusted as necessary by the judicial panel to accomplish the selection of Commission members in time for the Commission to establish new districts for use in the next state or federal election.

11. The Ohio Supreme Court shall have exclusive, original jurisdiction in all cases arising under Article XI. In the event it becomes necessary for any court to establish any district boundaries, it shall select from among the plans submitted to or considered by the Commission and shall adopt the plan that most closely meets the requirements of Article XI and complies with the rules and measures established by the Commission under Section 1(F) and (G) of Article XI. In the event that a court invalidates any district boundaries established by a Commission, the Commission shall reconvene to establish new boundaries. The boundaries established by the court shall not remain in effect longer than one election cycle.
12. Notwithstanding any other provision of the Ohio Constitution or any law regarding residency of state senators and representatives, a redistricting plan adopted under Article XI shall allow 30 days for persons to change residence in order to be eligible for election.
13. Authority for drawing congressional districts will be placed with the Ohio Citizens Independent Redistricting Commission, rather than with the the state legislature where it presently resides.
14. Certain existing provisions of the Constitution, as set forth in the full text of the proposed Amendment, would be repealed.

COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Anni Henkenel	3711 Olentangy Blvd., Columbus, Ohio 43214
Samuel Gresham, Jr.	2491 Waterfall Lane, Columbus, Ohio 43209
Ellis Jacobs	131 E. Davis St., Yellow Springs, Ohio 45387
Richard Gunther	40 W. Stafford Avenue, Worthington, Ohio 43085
Daniel Tokaji	2645 Fairfax Dr., Columbus, Ohio 43220

NOTICE

Whoever knowingly signs this petition more than once, except as provided in section 3501.382 of the Revised Code, signs a name other than one's own on this petition; or signs this petition when not a qualified voter, is liable to prosecution.

MUST USE MOST RECENT ADDRESS ON FILE WITH BOARD OF ELECTIONS
(Sign with ink. Your name, residence, and date of signing must be given)

Signature	County	Township	Rural Route or other Post office Address	Month / Day / Year
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(Voters who do not live in a municipal corporation should fill in the information called for by headings printed above.)
 (Voters who reside in municipal corporations should fill in the information called for by headings printed below.)

Signature	County	City or Village	Street and Number	Ward/Precinct	Month / Day / Year
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1 Signature <i>Susan Mitchell</i>	Print First Name	SUSAN	Initial	
	Print Last Name	Mitchell		

Address on file with the Board of Election (i.e. W - West and Street (i.e. Ave - Avenue))
 191 E. STATE ST

City	Ward/Precinct	Zip Code	County	Date of Signing
Athens		45701	Athens	3-10-2012

2 Signature <i>Alexander Anderson</i>	Print First Name	Alexander	Initial	AA
	Print Last Name	Anderson		

Address on file with the Board of Election (i.e. W - West and Street (i.e. Ave - Avenue))
 4811 Graham Chapel Rd

City	Ward/Precinct	Zip Code	County	Date of Signing
Athens		45701	Athens	3/10/12

3 Signature <i>Sally Wiley</i>	Print First Name	Sally	Initial	J
	Print Last Name	Wiley		

Address on file with the Board of Election (i.e. W - West and Street (i.e. Ave - Avenue))
 3050 Glen Finnan Drive

City	Ward/Precinct	Zip Code	County	Date of Signing
Albany		45710	Athens	3-10-12

4 Signature <i>Marika Bresler</i>	Print First Name	Marika	Initial	
	Print Last Name	Bresler		

Address on file with the Board of Election (i.e. W - West and Street (i.e. Ave - Avenue))
 37 N. Lancaster

City	Ward/Precinct	Zip Code	County	Date of Signing
Athens		45701	Athens	3/10/12

5 Signature <i>J. Mannon</i>	Print First Name	J. Mannon	Initial	J
	Print Last Name	Welch		

Address on file with the Board of Election (i.e. W - West and Street (i.e. Ave - Avenue))
 302 S COURT ST. APT 208

City	Ward/Precinct	Zip Code	County	Date of Signing
Athens	3-1	45701	Athens	3/10/12

6 Signature <i>Nicholas Twell</i>	Print First Name	Nicholas	Initial	
	Print Last Name	Twell		

Address on file with the Board of Election (i.e. W - West and Street (i.e. Ave - Avenue))
 116 N Congress Street

City	Ward/Precinct	Zip Code	County	Date of Signing
Athens		45701	Athens	3/10/12

NOTICE

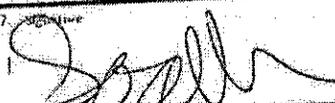
Whoever knowingly signs this petition more than once; except as provided in section 3501.382 of the Revised Code, signs a name other than one's own on this petition; or signs this petition when not a qualified voter, is liable to prosecution.

MUST USE MOST RECENT ADDRESS ON FILE WITH BOARD OF ELECTIONS
(Sign with ink. Your name, residence, and date of signing must be given)

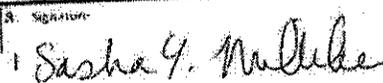
Signature	County	Township	Rural Route or other Post office Address	Month / Day / Year
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(Voters who do not live in a municipal corporation should fill in the information called for by headings printed above.)
 (Voters who reside in municipal corporations should fill in the information called for by headings printed below.)

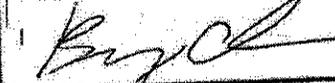
Signature	County	City or Village	Street and Number	Ward/Precinct	Month / Day / Year
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7. Signature 	Print First Name Sarah	Print Last Name Williams	Initial
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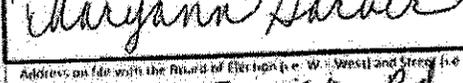
Address on file with the Board of Election (i.e. W - West) and Street (i.e. Ave - Avenue)				
City Athens	Ward/Precinct	Zip Code 70701	County Athens	Date of Signing 3/10/2012

8. Signature 	Print First Name SASHA	Print Last Name MILLIKEN	Initial
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Address on file with the Board of Election (i.e. W - West) and Street (i.e. Ave - Avenue)				
City ATHENS	Ward/Precinct	Zip Code 45701	County Athens	Date of Signing 3/10/12

9. Signature 	Print First Name Brigid	Print Last Name IVERSON	Initial C
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Address on file with the Board of Election (i.e. W - West) and Street (i.e. Ave - Avenue)				
City Athens	Ward/Precinct 1-5	Zip Code 45701	County Athens	Date of Signing 3/10/2012

10. Signature 	Print First Name Maryann	Print Last Name Garber	Initial G.
--	-----------------------------	---------------------------	---------------

Address on file with the Board of Election (i.e. W - West) and Street (i.e. Ave - Avenue)				
City Athens	Ward/Precinct 1-2	Zip Code 45701	County Athens	Date of Signing 3/10/12

11. Signature	Print First Name	Print Last Name	Initial
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Address on file with the Board of Election (i.e. W - West) and Street (i.e. Ave - Avenue)				
City	Ward/Precinct	Zip Code	County	Date of Signing

12. Signature	Print First Name	Print Last Name	Initial
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Address on file with the Board of Election (i.e. W - West) and Street (i.e. Ave - Avenue)				
City	Ward/Precinct	Zip Code	County	Date of Signing

Full Text of Proposed Amendment

(Proposed new language is in bold type. Current language that would be repealed is in italicized, non-bold type and inside brackets. Current language that is not changed is in non-italicized, non-bold type.)

Be it Resolved by the People of the State of Ohio that Article XI, Sections 1, 3, 4, 6, 7, 9, 10 and 13 of the Ohio Constitution be amended, Article XI, Sections 8 and 14 of the Ohio Constitution be repealed and Article XI, Section 16 of the Ohio Constitution be adopted as follows:

Article XI, Section 1. Ohio Citizens Independent Redistricting Commission

[Repeal Current Section 1 - The governor, auditor of state, secretary of state, one person chosen by the speaker of the house of representatives and the leader in the senate of the political party of which the speaker is a member, and one person chosen by the legislative leaders in the two houses of the major political party of which the speaker is not a member shall be the persons responsible for the apportionment of this state for members of the general assembly]

Such persons, or a majority of their number, shall meet and establish in the manner prescribed in this Article the boundaries for each of ninety-nine house of representatives districts and thirty-three senate districts. Such meeting shall convene on a date designated by the governor between August 1 and October 1 in the year one thousand nine hundred seventy-one and every tenth year thereafter. The governor shall give such persons two weeks advance notice of the date, time, and place of such meeting.

The governor shall cause the apportionment to be published no later than October 5 of the year in which it is made, in such manner as provided by law.]

- (A) In order to provide for the fair and effective representation of the citizens of Ohio, there is hereby created the Ohio Citizens Independent Redistricting Commission, which shall meet and establish in the manner prescribed in this article the boundaries for each of Ohio's state legislative and congressional districts.
- (B) The Commission shall be established upon the approval of this amendment to the Ohio Constitution by the voters of Ohio and again following each federal decennial census.
- (C) The Commission shall consist of twelve members, selected as follows:
1. Any Ohio citizen shall be eligible to serve as a member of the Commission, unless disqualified by subparagraph two.
 2. The following persons shall not be eligible to serve as members of the Commission:
 - a. Within the ten years preceding the date of application, the person, or a member of his or her immediate family:
 - i. Served as a federal or state elected official;
 - ii. Was a paid employee of the Ohio Legislature, the United States Congress, or the office of a federal or state elected official;
 - iii. Was the director of a state department or agency; or
 - iv. Was a paid lobbyist, as defined under federal or state law.
- For purposes of this paragraph, "immediate family" means spouse, parent, child, sibling, father-in-law, mother-in-law, brother-in-law, or sister-in-law.
- b. Within the five years preceding the date of application, the person:

- i. Was a candidate for federal or state office;
 - ii. Was a paid employee or paid consultant of the campaign for a political candidate or for a political committee as defined by federal or state law;
 - iii. Was an official or paid employee of any political party organization; or
 - iv. Made monetary contributions to political campaigns or political parties that exceed a total of \$5,000 during a two year period, which amount shall be adjusted consistent with the consumer price index in future years;
 - c. Any person who has not voted in at least two of the previous three general elections conducted in even numbered years.
3. On or before January 1 of the year that the decennial census is conducted, the Chief Justice of the Supreme Court of Ohio shall select by lot a panel consisting of eight judges of the courts of appeals of Ohio, no more than four of whom may be members of the same political party. This panel of judges shall be responsible for selecting potential members of the Commission. On or before April 1 of the year that the decennial census is conducted, this panel of judges shall appoint an independent auditor who shall assist the judges in determining the eligibility of potential members of the Commission.
 4. Eligible persons may submit applications for membership on the Commission to the Secretary of State by May 1 of the year that the decennial census is conducted. The Secretary of State shall make available an appropriate application form designed to help determine the eligibility and qualifications of applicants and shall publicize the application process. The Secretary of State shall provide the panel of judges with the applications and any other records necessary to determine eligibility of the applicants.
 5. On or before August 1 of the year that the decennial census is conducted, the panel of eight judges described in subparagraph three shall select from the applicants forty-two individuals to serve as potential members of the Commission. The judges, after adopting a selection procedure, shall select applicants who have the relevant skills and abilities, including a capacity for impartiality, and who reflect the diversity of Ohio. These shall include the fourteen most qualified applicants affiliated with each of the two largest political parties, and the fourteen most qualified applicants who have been unaffiliated with either of these political parties during the prior five years. The selection of potential members shall require the affirmative vote of at least five of the eight judges. The two largest political parties shall be determined based on the votes received by the candidates for Governor in the most recent gubernatorial election.
 6. On or before August 15 of the year that the decennial census is conducted, the speaker of the Ohio House of Representatives and the highest ranking member of the House not of the same political party as the speaker may each respectively eliminate up to three of the fourteen potential members affiliated with the largest political party, up to three of the fourteen potential members affiliated with the second largest political party, and up to three of the fourteen potential members not affiliated with either of these parties. This shall result in a final pool of not less than twenty-four potential members of the Commission.

7. From the final pool of potential members, the panel of eight judges, or their designee, shall choose by lot, and in public, three individuals affiliated with each of the two largest political parties and three individuals not affiliated with either of these parties to serve as members of the Commission. On or before October 1 of the year that the decennial census is conducted, these nine members shall meet to select from the final pool of potential members three additional members, which shall include one member affiliated with the largest political party, one member affiliated with the second largest political party, and one member not affiliated with either of these parties. In selecting the final three members, the members of the Commission shall seek a total commission membership that reflects the diversity of Ohio and that has the relevant skills and abilities, including a capacity for impartiality, which will allow the Commission to fulfill its responsibilities. The nine members selected by lot and the three additional members selected by the original nine members shall comprise the full Commission.
 8. Upon the approval of this amendment to Ohio's Constitution, the Chief Justice of the Supreme Court of Ohio shall immediately select by lot a panel consisting of eight judges of the courts of appeals of Ohio, in the manner described in subparagraph three. The remaining time frames set forth in this paragraph shall be adjusted by this panel of judges, as necessary to accomplish the selection of commission members in time for the Commission to establish new districts for use in the next state or federal election.
 9. In the event that Ohio becomes legally required to modify district boundaries that were established by a Commission at any time prior to the next succeeding decennial census, the Commission, as previously established, shall reconvene to establish new district boundaries.
 10. In the event that any member of the Commission is unable to complete his or her service on the Commission, the remaining members of the Commission shall select a new member from the final pool of potential members. The total membership of the Commission shall consist of twelve members, which shall include a total of four members affiliated with the largest political party, four members affiliated with the second largest political party, and four members not affiliated with either of these parties.
 11. No member of the Commission shall be subject to removal by the general assembly or any member of the executive branch.
 12. Members of the Commission shall be ineligible to be elected or appointed to the State Legislature for any districts that were established or modified by that Commission.
- (D) The Commission is authorized to hire necessary staff, experts, and legal counsel and use the services of existing state employees in order to fulfill the Commission's responsibilities. The general assembly shall make appropriations necessary to adequately fund the activities of the Commission including, but not limited to, funds to compensate Commission members; pay for necessary staff, office space, experts, legal counsel and the independent auditor; and purchase necessary supplies and equipment.
- (E) All meetings of the Commission shall be open to the public. The Commission shall adopt rules for its operation and to guide its application of the redistricting factors.

- (F) All records, communications, and draft plans of the Commission, its individual members, or staff that are related to the establishment or possible modification of any Ohio congressional or state legislative district boundaries are public records.
- (G) The Commission shall make available to the public in a timely fashion all information that is available to any member of the Commission and that may be used for preparing or evaluating redistricting plans or maps, including the measures to be used in evaluating community preservation, politically balanced districts, representational fairness, and compactness in accordance with section 7(C) of this article, as well as the consideration to be given to all factors.
- (H) The Commission shall provide a reasonable opportunity for the public to submit proposed redistricting plans, and the Commission shall give full and fair consideration to plans submitted by the public.
- (I) All proposed redistricting plans and maps shall be made available to the public for a reasonable period of time before being approved by the Commission, and a reasonable opportunity shall be provided for the public to testify about proposed plans or maps prior to their being approved.
- (J) The affirmative vote of at least seven members of the Commission shall be required to adopt any plan.
- (K) The Commission shall establish and publish the new district boundaries no later than October 1 of the year prior to the year elections shall be held in the new districts. In the event that the Commission fails to establish district boundaries by this date, an action may be initiated in the Supreme Court of Ohio for the adoption of district boundaries. The Supreme Court shall select from among the plans submitted to or considered by the Commission and shall adopt the plan that most closely meets the requirements of this article and complies with the rules and measures established by the Commission under paragraphs (E) and (G) of this section.

Article XI, Section 3.

The population of each house of representatives district shall be substantially equal to the ratio of representation in the house of representatives, as provided in section 2 of this Article, and in no event shall any house of representatives district contain a population of less than ninety-~~five~~eight per cent nor more than one hundred ~~five~~two per cent of the ratio of representation in the house of representatives, except in those instances where reasonable effort is made to avoid dividing a county in accordance with section 9 of this Article.

Article XI, Section 4.

The population of each senate district shall be substantially equal to the ratio of representation in the senate, as provided in section 2 of this Article, and in no event shall any senate district contain a population of less than ninety-~~five~~eight per cent nor more than one hundred ~~five~~two per cent of the ratio of representation in the senate as determined pursuant to this Article.

Article XI, Section 6

Upon the approval of this amendment to the Ohio Constitution, new district boundaries shall be established for Ohio's state legislative and congressional districts. The new district boundaries

shall be used in the next regularly scheduled federal and state elections that are held more than one year after the adoption of this amendment. Thereafter, *[D]*district boundaries established by the Ohio Citizens Redistricting Commission pursuant to this Article or by the Ohio Supreme Court pursuant to section 1(K) of this Article shall not be changed until the ensuing federal decennial census and the ensuing apportionment *[or]* except as provided in section 13 of this Article, notwithstanding the fact that boundaries of political subdivisions or city wards within the district may be changed during that time. District boundaries shall be created by using the boundaries of political subdivisions and city wards as they exist at the time of the federal decennial census on which the apportionment is based, or such other basis as the general assembly has directed.

Article XI, Section 7

[Repeal Current Section 7- (A) Every house of representatives district shall be compact and composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line. To the extent consistent with the requirements of section 3 of this Article, the boundary lines of districts shall be so drawn as to delineate an area containing one or more whole counties

(B) Where the requirements of section 3 of this Article cannot feasibly be attained by forming a district from a whole county or counties, such district shall be formed by combining the areas of governmental units giving preference in the order named to counties, townships, municipalities, and city wards

(C) Where the requirements of section 3 of this Article cannot feasibly be attained by combining the areas of governmental units as prescribed in division (B) of this section, only one such unit may be divided between two districts, giving preference in the selection of a unit for division to a township, a city ward, a city, and a village in the order named.

(D) In making a new apportionment, district boundaries established by the preceding apportionment shall be adopted to the extent reasonably consistent with the requirements of section 3 of this Article.]

- (A) Any plan adopted by the Commission shall comply with all applicable Ohio and federal constitutional provisions and all applicable federal statutory provisions, including, but not limited to, those dealing specifically with the protection of minority voting rights.
- (B) Every state legislative and congressional district shall be composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line and must be in compliance with all other requirements of this article.
- (C) The Commission shall adopt the redistricting plan that, in its judgment, most closely meets the following four factors, without violating paragraphs A and B of this section:
 1. Community preservation - minimizes the number of governmental units that must be divided between different districts, by combining the areas of whole governmental units giving preference in the order named to counties, municipalities, contiguous townships, and city wards.
 2. Competitiveness - maximizes the number of politically balanced districts. A "politically balanced district" is a district where the average political party indexes, determined using actual election results from recent representative statewide elections, does not lean toward one party by more than five percent.
 3. Representational fairness - balances the number of districts leaning toward each political party so that the number of districts leaning toward each party closely corresponds to the preferences of the voters of Ohio, as determined using actual election results from recent representative statewide elections.

4. Compactness - creates districts that are compact.

(D) The Commission shall make publicly available with each proposed redistricting plan a report that identifies the following information for each district: boundaries, population, racial and ethnic composition, compactness measure, governmental units that are divided, and political party indexes. The Commission shall also make publicly available statewide totals of the number of governmental units of each type that are divided, the number of politically balanced districts, and the number of districts that lean toward each political party. The Commission shall use this information in evaluating each plan and shall adopt the plan that most closely meets the requirements of this section.

(E) No plan shall be drawn or adopted with intent to favor or disfavor a political party, incumbent, or potential candidate.

Article XI, Section 8

[Repeal Current Section 8 - A county having at least one house of representatives ratio of representation shall have as many house of representatives districts wholly within the boundaries of the county as it has whole ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining house of representatives district.]

The number of whole ratios of representation for a county shall be determined by dividing the population of the county by the ratio of representation for the house of representatives determined under section 2 of this Article.]

Article XI, Section 9

In those instances where the population of a county is not less than ninety-five per cent nor more than one hundred (ten) five per cent of the ratio of representation in the house of representatives, reasonable effort shall be made to create a house of representatives district consisting of the whole county.

Article XI, Section 10

The standards prescribed in sections 3, 7, 8, and 9 of this Article shall govern the establishment of house of representatives districts, which shall be created and numbered in the following order to the extent that such order is consistent with the foregoing standards:

(A) Each county containing population substantially equal to one ratio of representation in the house of representatives, as provided in section 2 of this Article, but in no event less than ninety-five per cent of the ratio nor more than one hundred five per cent of the ratio shall be designated a representative district.

(B) Each county containing population between ninety and ninety-five per cent of the ratio or between one hundred five and one hundred ten per cent of the ratio may be designated a representative district.

[Repeal Current Divisions C and D of Section 10 - (C) Proceeding in succession from the largest to the smallest, each remaining county containing more than one whole ratio of representation shall be divided into house of representatives districts. Any remaining territory within such county containing a fraction of one whole ratio of representation shall be included in one representative district by combining it with adjoining territory outside the county.]

(D) *The remaining territory of the state shall be combined into representative districts.]*

Article XI, Section 13

[Repeal Current Section 13 - The supreme court of Ohio shall have exclusive original jurisdiction in all cases arising under this Article. In the event that any section of this Constitution relating to apportionment

or any plan of apportionment made by the persons responsible for apportionment, by a majority of their number, is determined to be invalid by either the supreme court of Ohio, or the supreme court of the United States, then notwithstanding any other provisions of this Constitution, the persons responsible for apportionment by a majority of their number shall ascertain and determine a plan of apportionment in conformity with such provisions of this Constitution as are then valid, including establishing terms of office and election of members of the general assembly from districts designated in the plan, to be used until the next regular apportionment in conformity with such provisions of this Constitution as are then valid

Notwithstanding any provision of this Constitution or any law regarding the residence of senators and representatives, a plan of apportionment made pursuant to this section shall allow thirty days for persons to change residence in order to be eligible for election

The governor shall give the persons responsible for apportionment two weeks advance written notice of the date, time, and place of any meeting held pursuant to this section.]

- A. The Supreme Court of Ohio shall have exclusive, original jurisdiction in all cases arising under this Article.
- B. In the event that the district boundaries for any of Ohio's state legislative or congressional districts are determined to be invalid by either the Supreme Court of Ohio or the federal courts, the Ohio Citizens Redistricting Commission shall establish new boundaries in conformity with this article.
- C. If at any time it becomes necessary for any court to establish any district boundaries, it shall select from among the plans submitted to or considered by the Commission and shall adopt the plan that most closely meets the requirements of this article and complies with the rules and measures established by the Commission under Section 1(E) and (G) of this Article. In the event that a court invalidates any district boundaries established by the Commission and establishes new district boundaries, the Commission shall reconvene in accordance with section 1(C)(9) of this article to establish new boundaries. The boundaries established by the court shall not remain in effect for longer than one election cycle.
- D. Notwithstanding any provision of this Constitution or any law regarding the residence of state senators and representatives, a redistricting plan made pursuant to this Article shall allow thirty days for persons to change residence in order to be eligible for election.

Article XI, Section 14

[Repeal Current Section 14 - The boundaries of house of representatives districts and senate districts from which representatives and senators were elected to the 107th general assembly shall be the boundaries of house of representatives and senate districts until January 1, 1973, and representatives and senators elected in the general election in 1966 shall hold office for the terms to which they were elected. In the event all or any part of this apportionment plan is held invalid prior to the general election in the year 1970, the persons responsible for apportionment by a majority of their number shall ascertain and determine a plan of apportionment to be effective until January 1, 1973, in accordance with section 13 of this Article.]

Article XI, Section 16.

All sections of this article shall also apply to the establishment or modification of Ohio's congressional districts, except as otherwise required to comply with applicable federal law.

STATEMENT OF CIRCULATOR

I, DAVID T GIVES, declare under penalty of election falsification that I am the circulator of the foregoing petition paper containing the signatures of 10 electors, that the signatures appended hereto were made and appended in my presence on the date set opposite each respective name, and are the signatures of the persons whose names they purport to be or of attorneys in fact acting pursuant to section 3501.382 of the Revised Code, and that the electors signing this petition did so with knowledge of the contents of same. I am employed to circulate this petition by _____

(Name and address of employer). (The preceding sentence shall be completed as required by section 3501.38 of the Revised Code if the circulator is being employed to circulate the petition.)

I further declare under penalty of election falsification that I witnessed the affixing of every signature to the foregoing petition paper, that all signers were to the best of my knowledge and belief qualified to sign, and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.


(Signed)

5041 GREENS BORO CT
(Address of circulator's permanent residence in this state)
Number and Street, Road or Rural Route

Colombus
City, Village or Township

OH
State

43220
Zip Code

WHOEVER COMMITS ELECTION FALSIFICATION IS
GUILTY OF A FELONY OF THE FIFTH DEGREE.