

# SENATE JOURNAL

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PROCEEDINGS

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ADDENDUM

FOURTH DAY

(Monday, June 6, 2011)

The following remarks regarding **CSSB 4** were ordered reduced to writing and printed in the *Senate Journal*:

**President:** Members, the Chair lays out on second reading Senate Bill 4. The Secretary will read the caption.

**Secretary of the Senate:** Committee Substitute Senate Bill 4, relating to the composition of the congressional districts for the State of Texas.

**President:** Chair recognizes Senator Seliger to explain the bill.

**Senator Seliger:** Thank you very much, Mr. President. The map that was passed out of Committee on Friday, had a map called C130. Once the amendments were rolled in, that map became C136, which I believe everyone has at their desk now. It is on the map in front of us. As we discussed on Friday, this process continues to be driven about the fairness of the process and the legality in an area and a topic that has been very much discussed in courts, in court cases, in decisions for a long time. Our task did not come without challenges. Adding four congressional seats is easier and it's better for a state than losing congressional seats. So, as from that perspective, Texas' situation is better than some other states. I would argue, all other states. Placing the four new districts, however, is not so easy. Every region would've preferred one of the state's new congressional districts, but not all regions had the population to justify that. At the end of the day, redistricting is about the voters and compliance with law. After all, what we're talking about is who among 36 people is going to represent 25 million Texans. This map impacts every voter. This map does not satisfy all Members of Congress nor does it satisfy every Senate or House Member. I am particularly proud of how this map accommodates the population growth throughout this state and respects the intricacies of the Voting Rights Act. In terms of relevant data, the 2010 population of the State of Texas is 25,145,561 people. Each district consists of 698,488 Texans, and the law requires the deviation in those districts to be just about zero, nothing. Whereas in the Senate map, it could be about 40,000 higher or lower than the ideal number, in congressional maps it's just about zero. There're four new districts, four new congressional districts, and the placement fell where the population growth was the most significant. In District 33, which is in the Dallas-Fort Worth area, there is a new Arlington-based district that includes all of Parker County and a portion

of Wise County that balances the map. District No. 34 is in the Rio Grande Valley. It is a Latino opportunity district and it's combined from Cameron and Hidalgo counties. District 35 is in Central Texas. It is a new Latino opportunity district based in San Antonio traveling north to Travis County. The concept for this district, interestingly, came to us from MALDEF's PlanC122. In District 36 it starts in Harris County and goes up through southeast Texas. I move passage to engrossment.

**President:** Senator West, for what purpose do you rise, Sir?

**Senator West:** A question of the author.

**President:** Are you feeling better?

**Senator West:** I'm feeling pretty good, but I still have that little cough. Thanks for asking.

**President:** Well, okay. Will Senator Seliger yield?

**Senator Seliger:** I will.

**President:** Thank you.

**Senator West:** Senator Seliger, you said there's been certain amendments to this map that was voted out of Committee?

**Senator Seliger:** Yes, Sir.

**Senator West:** What amendments were made to the map?

**Senator Seliger:** Let me find the committee amendments.

**Senator West:** Okay.

**Senator Seliger:** The most significant difference is in Congressional District 36 in the Houston southeast district. This was an amendment made when the map changed from 125 to 130. There was, I believe, one technical correction made in the area of Harris County and Williamson County around The Woodlands to put that area back together.

**Senator West:** Now, are these your amendments or someone else's amendments?

**Senator Seliger:** I think that amendment was offered by Senator Williams.

**Senator West:** Okay. How many amendments were offered? Do you recall?

**Senator Seliger:** I do not recall.

**Senator West:** Okay. Do you recall whether any Democrats offered any amendments?

**Senator Seliger:** Senator Gallegos had two demonstration maps and an amendment that was a new statewide map.

**Senator West:** And for purposes of the record, Senator Gallegos is a Mexican American. Is that correct?

**Senator Seliger:** Yes, he is.

**Senator West:** Okay. Did, was his, any of his amendments accepted?

**Senator Seliger:** His statewide was an entirely new map, which was essentially MALDEF's map, and, no, it was not acceptable—

**Senator West:** It's not.

**Senator Seliger:** —and was voted down.

**Senator West:** So, the, how many, you don't recall how many amendments were accepted, but do you recall whether you accepted any Democrat's amendments to this map?

**Senator Seliger:** I think not. I think the other amendment was Senator Uresti's amendment, and that had to do with the Dallas-Fort Worth area, and it was not accepted.

**Senator West:** Okay. Do you recall whether all Republican amendments were accepted?

**Senator Seliger:** The only one I recall was Senator Williams' and it was accepted.

**Senator West:** Okay. And so, you do not recall whether or not you rejected any Republican Member's amendments?

**Senator Seliger:** Not those formally offered, there were a lot of ideas brought to me by both Republicans and Democrats during the process, and I feel certain that a good number of those were not, but in terms of amendments to the bill, no others.

**Senator West:** Okay, good transition. Let's talk about information going into creation of this particular map. Did any Democrats have any input into development of the map that was passed out of Committee?

**Senator Seliger:** Absolutely.

**Senator West:** Okay. When you say that they had input can you describe exactly what type of input Members, specifically Democrats, had?

**Senator Seliger:** Various ideas and preferences that they wanted to see in various parts of the state.

**Senator West:** Would it surprise you that most ethnic minority Democrats will say they didn't have input nor did they see this map until you laid it out? Would that surprise you?

**Senator Seliger:** No, it would not.

**Senator West:** That would not surprise you?

**Senator Seliger:** No.

**Senator West:** Okay. Would it surprise you also that they would say that the Members of this body, that ethnic minority, would say they never had input into this particular map? Would that surprise you?

**Senator Seliger:** That Members of ethnic minority said they had no input into this map at all—

**Senator West:** Into the creation of the map that was passed out of the Committee, I think it was Plan 130?

**Senator Seliger:** It was 130. Because I had discussions with Members who chose to offer ideas and preferences, I think that would be a mild surprise, yes.

**Senator West:** Well, what I'm going to do is ask the Members of the ethnic minority, Senators, that if they had input into the process, I want them to make certain that they affirmably state that they had input into the process on this floor. Absent that, I'm just going to assume, and I hope anyone that reviews this record will assume, that they did not have input into the process.

**Senator Seliger:** Okay.

**Senator West:** Secondly, you called this the fair map?

**Senator Seliger:** Yes, Sir, I do.

**Senator West:** Okay. Let's talk about fairness. When we begin to look at population growth in the State of Texas, where did most of that growth come from? What ethnic groups did that growth come from?

**Senator Seliger:** Most of it was Hispanic.

**Senator West:** Okay. And you indicate that Texas will have 36 congressional seats?

**Senator Seliger:** Yes.

**Senator West:** And under your now new PlanC136, how many districts will be districts that ethnic minorities can elect a candidate of their choice now?

**Senator Seliger:** There would be, eight will be determined by Spanish surname voter registration, Hispanic opportunity districts, and three African American.

**Senator West:** Under the present plan, how many seats can Hispanic, Mexican Americans, elect a candidate of their choice?

**Senator Seliger:** I think African American is still three and I believe Hispanic opportunity districts are seven.

**Senator West:** So, you're saying, under the current map there's about 10 seats that ethnic minorities can elect a candidate of their choice?

**Senator Seliger:** I believe that's correct.

**Senator West:** Okay. Let's talk about Tarrant County for a second.

**Senator Seliger:** Okay.

**Senator West:** I know I'm in Dallas County, and sometimes there's a divide between Dallas and Tarrant, and I understand that. But as it relates to the ethnic minority population, specifically the African American population in Fort Worth, let me be more specific, southeast Fort Worth, what congressional district are they in under your plan?

**Senator Seliger:** Southeast Fort Worth would be in the, depending upon where you start, the eastern segment of that, Congressional District 6 and 12.

**Senator West:** 6 and 12?

**Senator Seliger:** Unless you want to call that part coming down from 26 in southeast, I think it possibly could be.

**Senator West:** When you begin to look at the Dallas-Fort Worth Metroplex, there's over, what, two million, two million ethnic minorities that live in that area, Hispanics and African Americans? Or, do you know?

**Senator Seliger:** I've heard that figure, and let's say it's correct.

**Senator West:** Okay. And, again, folks that they're now in Tarrant County, did you even give a thought of trying to develop a district where an ethnic minority could win in Tarrant County?

**Senator Seliger:** Yes, Sir, we did assess that.

**Senator West:** Okay. And did you develop a congressional seat where an ethnic minority could win?

**Senator Seliger:** There is not one in C136.

**Senator West:** May I ask you why?

**Senator Seliger:** Yes. Because we felt that there was not a majority-minority district and that we could not produce a performing district there. We tried and, once again, that was a MALDEF suggestion, too, that was very carefully analyzed.

**Senator West:** You said that you tried. What did you do in order to try to develop a district that could do that?

**Senator Seliger:** Assess the population and where their location was and tried to see if we could produce a map that under Section 2 would be required in the Dallas-Fort Worth area.

**Senator West:** Did you give any thought of trying to combine the populations of Dallas and Tarrant County to come up with an effective minority district?

**Senator Seliger:** We did look at that.

**Senator West:** And what was the result?

**Senator Seliger:** We could not construct a district that met the requirements that would produce such a district.

**Senator West:** Okay. And in terms of what, the numbers, or what?

**Senator Seliger:** More, I think, the contiguity, it was interesting as you listened to the remarks—

**Senator West:** I'm sorry, you said what?

**Senator Seliger:** The contiguity, the contiguousness of the parts of the district. It was interesting, one of the criticisms that Nina Perales had of our map, and hers is a particularly pertinent opinion because of her experience in Voter Rights Act cases, and one of the criticisms she had was oddly and bizarrely shaped districts. Now then, the MALDEF map, there was such a map that by any measure was a very, very oddly shaped map, that had tentacles to reach out to capture certain populations. And it was our estimation that that sort of design would not be required by the Voter Rights Act, so odd was the shape.

**Senator West:** Thank you very much, again. That's a great transition to the next question. Do you perceive that, and I'm in Tarrant County, initially, do we have any oddly shaped congressional districts in Plan 136?

**Senator Seliger:** I think that there are some districts all over the map that could be considered oddly shaped.

**Senator West:** Okay. And, but, there was no effort to come up with an oddly shaped district that where an ethnic minority would have an opportunity of electing a candidate of its choice?

**Senator Seliger:** I don't think I saw anything as oddly shaped as that one that had the tentacles reaching out, no.

**Senator West:** Then you would agree with me that, I'm looking at PlanC136 in Tarrant County, that proposed Congressional District 12 was oddly shaped? Would you not?

**Senator Seliger:** I don't know that it's, that I would describe it necessarily as oddly shaped. It still doesn't have the multiple tentacles reaching out in different directions.

**Senator West:** Well, let's see. We say multiple tentacles, how many tentacles would be multiple, two, three, four?

**Senator Seliger:** I don't have that map in front of me. I can't tell you.

**Senator West:** And so, two is not oddly shaped, if you have two tentacles?

**Senator Seliger:** It depends on how they looked and what the conformation was.

**Senator West:** In summary, you're saying, for purposes of the record, that ethnic minority Senators had an opportunity to have input into this particular process, and they did. And that you attempted to draw a congressional seat in Tarrant County, based in Tarrant County, correct me if I'm wrong about this, but you weren't able to do so because any attempt to do so would have created an oddly shaped district. Is that correct?

**Senator Seliger:** I think so. I think, one, that that is the sort of thing that gets additional scrutiny from the courts. And it wasn't just a Tarrant County district, it was a district that spanned Dallas and Tarrant counties, not completely dissimilar to the one in the MALDEF map.

**Senator West:** Let me ask this, Congressional District 30, and I think you and I had an initial discussion about this, did you end up putting more African Americans and Hispanics in that district and taking more Anglos out than are currently in the district?

**Senator Seliger:** I think that was your assertion, and that may have been the case.

**Senator West:** Okay. Let me ask this then, under the current map that's in effect, the occupant, the candidate in that, the elected officer is Eddie Bernice Johnson. Let's just take that as a given. She has been successful at putting together a coalition of African American, Hispanics, and Anglos over the past 18 years and they have effectively chosen her as their Representative. The number, the percentage of African Americans, Hispanics, and Anglos has not been as high as you are currently proposing. Given the fact that she has historically won those races, the several races

she's been involved in, with a specific amount of African Americans, Hispanics, and Anglos, why would you see a need to increase the number of African Americans and or Hispanics and reduce the number of Anglos in her district?

**Senator Seliger:** Is the question, why were the number of African Americans increased or the number of Anglos decreased?

**Senator West:** It was basically both, because it seems as though her district now is just predominately African American and Hispanics, and she is no longer allowed, being allowed if this becomes law, to represent Anglos of a significant portion in her district. Surely, that's not your intent?

**Senator Seliger:** No, it's not at all. And if there is, if in moving Anglos out, the analysis would then be, if in so doing, does it create packing in that district, which is against the law. And it is our estimation that it does not create packing, and, therefore, it's acceptable under the law. It simply moves some Anglo voters out. At the same time, if African American voters were moved in there, does that create a packing situation where those Anglo Americans could not contribute to the composition of a new African American opportunity district? And we believe that's not the case, either.

**Senator West:** What is, how do you define packing?

**Senator Seliger:** This is the layman's term for packing by putting so many members of a protected group into a district that you could not create a district in an adjoining area with those voters in it.

**Senator West:** Okay. Well, let me just say to you that in Congresswoman Johnson's district you decreased the number of Anglos in that district, I think about 5 percent, somewhere off in there. I may be wrong on that number, but you did decrease them by a significant number, and you increased the African Americans in that district. And what I'm saying to you, and, hopefully, you will take a look at it and reconsider it, is that historically, Congresswoman Johnson has been able to get elected and reelected by a, you know, smaller percentage of the individuals that you had placed in the district, a smaller percentage of African Americans that you have placed in the district and also Hispanics. And she's been able to put together a coalition of African Americans, Hispanics, and Anglos in order to win election after election. And in your map, and I haven't looked at 136, the numbers, at least in 130, you reduced the number of Anglos and increased the number of ethnic minorities that would be in her district. And, for some, I don't understand the rationale behind that, and I assume that you're saying that the rationale is because we're just going through redistricting.

**Senator Seliger:** Well, you can assume what you will, but the truth is just because a person has been winning an election historically—

**Senator West:** Yes, Sir.

**Senator Seliger:** —and a population is increased, it ensures that they continue to win it in the future and it doesn't violate the law. Then it becomes, I think, maybe not a relevant point when it comes to consideration of the law in that case. And then, what I can't see, just off the top of my head, in the adjoining districts, what the motivation was in terms of Anglo voters there in Districts 32, 5, and 24.

**Senator West:** Well, those are just a few questions that I have of you, Sir. Appreciate the opportunity to be able to ask you those questions, and we'll see what happens. Thank you.

**Senator Seliger:** Thank you, Senator.

**President:** Senator Hinojosa, for what purpose do you rise, Sir?

**Senator Hinojosa:** To ask the author a couple of questions.

**President:** Will Senator Seliger yield?

**Senator Seliger:** I will.

**Senator Hinojosa:** Senator Seliger, looking at the map and, as you well know, one of the fastest growing areas in the State of Texas is South Texas, Rio Grande Valley, and I thought at one time from different drawings that I saw that we would end up gaining an extra congressional seat in the Valley. But from what I see we're still the same, at the same place, even though we grew by 28 percent during the last 10 years. In addition to that, it seems that Hidalgo County, my county where I reside, was divided in three ways. And what happened is, while you stated that we added a new congressional district down in South Texas, in reality, District 34, Congressional District 34 is not new. That is the old Congressional 27 District. What happened, it was just a change in the numbers, switch numbers around, but the area's pretty much the same. And it's even made it worse in terms of the way Hidalgo County's been divided and not having a community of interest along the lines that are somewhat jagged. We gave some of the territory, west part of Hidalgo County, out to Congressional District No. 28, which is Congressman Henry Cuellar. Congressman Hinojosa, No. 15th, stays pretty much going up north like a spaghetti. And then we have Congressional District 34, which is old 27. So, we really have more than gone backwards instead of going forwards in trying to have three congressional districts where the deciding vote, as you may, would be down to, on the Rio Grande Valley. I mean, how do you explain those changes? I know that when you made your initial statement, presentation, you were talking about South Texas or the Valley gaining an additional congressional district, but I don't see it.

**Senator Seliger:** I think, as we discussed in Committee, that it's, however you chose to construe the map is perfectly okay and acceptable. District 27, which used to go all the way down to the very tip of Texas and had Nueces County in it, has been moved up and still has Nueces County, and that 34 is substantially different than the old 27, and so we call it a new county. And so, whether one wants, chooses to call District 34 a new district or District 27 a new district is a matter of interpretation, and I accept any interpretation.

**Senator Hinojosa:** Well, would you agree that the territory in district, new district congressional, new District 34, what is the old territory for Congressional District 27? I mean, it's the same territory pretty much, except for leaving Nueces County out and running it up north, but territory's the same. The only changes that have been made have been the numbers.

**Senator Seliger:** A lot of it is the same, but when you start changing those counties from Guadalupe and Gonzales and Karnes, I think it's substantially different. Once again, if it is one's preference to call that an old district that's been reconfigured in a new district, simply in the eye of the beholder, and I accept that view.

**Senator Hinojosa:** Well, I respectfully disagree. I live down in South Texas in the Rio Grande Valley, and I can tell you that we're going backwards instead of forward in a way that the congressional district's been drawn. And Congressional District 34 is not new. The territory that it occupies is what used to be old Congressional District 27, except for Corpus—

**Senator Seliger:** Okay.

**Senator Hinojosa:** —anyway.

**Senator Seliger:** Thank you.

**President:** Senator Rodriguez, for what purpose do you rise, Sir?

**Senator Rodriguez:** To ask Senator Seliger some questions, Mr. President.

**President:** Senator Seliger yield?

**Senator Seliger:** I will.

**Senator Rodriguez:** Senator, first of all, I guess I ought to take up Senator West's remarks about your checking with some of us on this plan, and I, for one, have to say that I was never consulted on this congressional redistricting plan, isn't that correct?

**Senator Seliger:** You were not consulted. You chose not to come by my office, which is always open to you. Choose not to be consulted or to consult, Senator, that's entirely up to you.

**Senator Rodriguez:** Okay. I was not consulted. So, I wanted to, I wanted to point that out.

**Senator Seliger:** You didn't ask to be.

**Senator Rodriguez:** Well, I never actually recall getting an invitation to go to your office on the congressional redistricting. I remember you asking me like two days before revealing the Senate redistricting plan to come by your office to go over the Senate redistricting plan, but I was never told that I had the opportunity to visit with you on the congressional. Is that not right?

**Senator Seliger:** But you knew we were doing congressional redistricting.

**Senator Rodriguez:** Well, I was like everybody else, frankly, under the impression that somebody's working on these things, but nobody seems to have any information as to when, where, how, or anything until the plans are actually revealed. So, that's at least my experience with it. I just have a couple of observations I want to make about Congressional District 16, which is El Paso, that's Congressman Reyes', and then Congressman Canseco's from Bexar County, San Antonio. And what I observed here, and I think the Members can see that very plainly here in far West Texas, is that this map splits at least two communities, what we call the Lower Valley of El Paso, in that Congressman Reyes' district has been pulled up farther north and then Canseco's district extended, splitting the Lower Valley between Congressman Reyes and

Congressman Canseco. And the example that I'll give to you is that Fabens, for example, a farming community, remains in the congressional district of Congressman Reyes, that's District 16, but Tornillo, which is a community adjacent to Fabens, is now in the Canseco District 23. Now those two communities, I can tell you from experience that covers having run for five different terms as county attorney and campaigning in all of El Paso County, are communities of interest. Fabens and Tornillo, they're farming communities. The same families live in both communities. In fact, when you campaign door to door, the people from Fabens take you to Tornillo, the people from Tornillo take you to Fabens. And so, I think it's illustrative of what happened here with these two congressional districts in terms of splitting, in my view, the community of interest for those Lower Valley residents. But it doesn't stop there. It also goes across the Franklin Mountains, the Canseco Congressional District 23. Actually, it encircles Congressman Reyes' District 16 from the Lower Valley and then goes up around on the northeast of El Paso and then across the Franklin Mountains, which are the southernmost portion of the Rocky Mountains in the United States, and goes into the far west side precincts, or some select, I should say, west side precincts, in order to achieve, I suspect, the protection of Congressman Canseco's seat, because all of those areas in the northeast and into those west side precincts over the Franklin Mountains are precincts that are heavily Republican Anglo precincts. So, don't you think that that particular configuration between Congressional District 23 and Congressional District 16, in fact, reflects a potential violation of the federal Voting Rights Act, and that it definitely splits communities of interest?

**Senator Seliger:** No, Sir.

**Senator Rodriguez:** You do not.

**Senator Seliger:** No.

**Senator Rodriguez:** Did your lawyers tell you that that was not a problem?

**Senator Seliger:** The lawyers felt like what they had was defensible, and so we went with that.

**Senator Rodriguez:** Well, I—

**Senator Seliger:** There are no guarantees.

**Senator Rodriguez:** —I think, you know, in far West Texas we have an example. And there's others I know in Central Austin and other parts of the state, but I think here in far West Texas, I think we have a classic example of dividing communities of interest in order to achieve a very partisan purpose. And, unfortunately, I think the people of Tornillo, who have the historical affinity with the folks in Fabens and the rest of the folks in the Lower Valley, all of a sudden are now being represented from someone out of San Antonio instead of their community. And I think that that's a bad reflection on the drawing of this map. So, I'm not going to be able to support this. I wanted to tell you that with all due respect. I appreciate you answering my questions, Sir.

**Senator Seliger:** As shocked as I am, I appreciate your attention, and thank you.

**Senator Rodriguez:** Thank you.

**President:** Senator Zaffirini, for what purpose do you rise, Ma'am?

**Senator Zaffirini:** Thank you, Mr. President. To ask questions of the author.

**President:** Will Senator Seliger yield?

**Senator Seliger:** I will.

**Senator Zaffirini:** Thank you, Mr. President. Senator Seliger, at last Friday's hearings we heard from the three attorneys, whom I believe you hired for—

**Senator Seliger:** Yes, Ma'am.

**Senator Zaffirini:** —the Redistricting Committee. And they stated at the time that they had just received the plan when it was released to the public. Is that correct?

**Senator Seliger:** Plan 130. Yes, Ma'am.

**Senator Zaffirini:** Plan 130. And they also stated under questioning that they had not advised you or the staff or the Committee that they considered Plan 130 in compliance with the Voting Rights Act.

**Senator Seliger:** I'm sorry, I don't recall exactly what they said or the context.

**Senator Zaffirini:** Well, they did that. That was under my questioning. I asked them if they had advised you or the Committee or the staff, if I recall correctly, whether the plan was in compliance, and they said that they had not. They had not had the opportunity to review the plan because they had seen it only when it was released to the public. Do you not recall that?

**Senator Seliger:** No, Ma'am, but I respect your recollection.

**Senator Zaffirini:** Have they advised you since then that Plan 130 or now Plan 136, is in compliance?

**Senator Seliger:** What is in 136 was a technical correction and lawyers, both in this body and in the House, have reviewed that, and they didn't change any of the Voter Rights Act's parameters in terms of packing and cracking and treatment of Spanish surname voter registration voters.

**Senator Zaffirini:** But my question is, did those three attorneys who testified before our Committee—

**Senator Seliger:** I said no.

**Senator Zaffirini:** —they have not advised you that it is in compliance with the Voting Rights Act?

**Senator Seliger:** I have not heard from them on C130. I heard 136 at this point.

**Senator Zaffirini:** So, how can you proceed and ask the Members of this body to vote for a plan that your own attorneys, whom you hired, have not advised you is in compliance with the Voting Rights Act?

**Senator Seliger:** Because it has been looked at by other attorneys involved in the process, and I'm satisfied that it meets the requirements of law. There's no requirement to have the specific approval of any given attorney or attorneys. Clearly, going this point forward, those attorneys will review all of this, and they'll see it all.

**Senator Zaffirini:** But these are the attorneys whom you hired to advise you and the Committee and the staff.

**Senator Seliger:** Yes, Ma'am, but 130 was a more recent iteration of that map.

**Senator Zaffirini:** But if you hired these specific attorneys, why would you not ask their advice?

**Senator Seliger:** Like I said, C130 was quickly done based upon input in the House hearing that only took a day or, take place a day or two ahead of the time when C130 was laid out as a committee substitute.

**Senator Zaffirini:** Well, was it a waste of our taxpayers' money then, if we hired these attorneys and didn't ask for their advice, but listened to others?

**Senator Seliger:** I do not think it was a waste of taxpayers' money to utilize these attorneys, no.

**Senator Zaffirini:** Who are the other attorneys that you listened to? You said other attorneys had reviewed the plans.

**Senator Seliger:** Certainly, there has, has been a review made and certain parts of it have been looked at by the Attorney General's Office. Our Committee director is an attorney. The Speaker's Counsel has looked at it, as well as the Committee director for the House of Representatives, who is also an attorney.

**Senator Zaffirini:** And the Committee director is the same person who drew the plan?

**Senator Seliger:** Yes, he is.

**Senator Zaffirini:** So, the same person who drew the plan is advising you that his work is in compliance with the Voting Rights Act.

**Senator Seliger:** To the degree that he has reviewed it, because as he drew the lines he found a lot of instances where they were not correct and changed them. It was an invaluable service.

**Senator Zaffirini:** And, again, I ask you, were any of, as far as the Senate goes, I don't know about the House, as far as the Senate goes, were any minority Members involved in developing this particular Plan 130 or 136 or 125, for that matter?

**Senator Seliger:** Minority Members of the Senate?

**Senator Zaffirini:** Yes.

**Senator Seliger:** Not that I recall. I might've discussed parts of it with individual Members, but not that I recall.

**Senator Zaffirini:** Well, as I mentioned at the Redistricting hearing, Senator, I have served on every Redistricting Committee since 1987 when I first came to the Texas Senate, and, basically, the practice was that the Redistricting Committee Chair brought people together, brought Senators together, didn't wait for Senators to go to his office, and I say "his" because they were all men, but didn't simply wait to be approached, but actually brought us together and invited us to participate in drawing

lines and drawing maps and working out the differences in congressional districts and Senate districts, not the House districts. Did you at any time call upon any Members of this Senate to participate in developing any of these plans?

**Senator Seliger:** Oh, I talked with a number of the Members. Yes, Ma'am.

**Senator Zaffirini:** But did you call—

**Senator Seliger:** But mostly the ones who chose to say, I want to say something about congressional redistricting.

**Senator Zaffirini:** Did you, as Chair of the Committee, approach any Senators and ask them to participate in developing this plan?

**Senator Seliger:** Not that I recall.

**Senator Zaffirini:** You didn't approach a single Senator?

**Senator Seliger:** I answered that, Senator.

**Senator Zaffirini:** So, you waited for any Senator to approach you?

**Senator Seliger:** It was very open and welcoming to them.

**Senator Zaffirini:** Did you at any time advise the Members of the Senate that if they were interested, or we were interested in redistricting that we should come to your office or ask for an appointment?

**Senator Seliger:** Well, no Member of the Senate has to have an appointment in my office, in the first place, so the answer to that is, no.

**Senator Zaffirini:** Never. Never advised us. That's very interesting, Senator, because I know since that has been the practice, we who have seniority expected that same practice, that same tradition to be followed and to be given the opportunity to develop the plan. Senator West asked earlier if any minority Member of the Senate were, had been involved in developing this plan. I, as a Member of the Committee, was not involved, did not have any input, other than informal conversations with you, about the Senate plan. I don't recall ever discussing the congressional plan with you. And I'm very surprised, Senator, but I'm especially surprised about the attorneys not giving legal advice. And I also want to know, Senator, were there any minority organizations who participated in developing this plan?

**Senator Seliger:** MALDEF. MALDEF came by my office and showed me their two maps, and we had a fairly lengthy discussion about those maps.

**Senator Zaffirini:** Did you take any of their advice?

**Senator Seliger:** Yes, as a matter of fact that we did. The district that goes between Bexar County and Travis County replicates part of their map.

**Senator Zaffirini:** Really.

**Senator Seliger:** Hum.

**Senator Zaffirini:** And so, they were actually involved in developing this plan.

**Senator Seliger:** Sure.

**Senator Zaffirini:** Was the NAACP involved?

**Senator Seliger:** No.

**Senator Zaffirini:** LULAC?

**Senator Seliger:** There were representatives of LULAC who came to my office with representatives from MALDEF. They are the, they're the task force, and so I think there were, there might've been more than LULAC and MALDEF representatives, I don't recall.

**Senator Zaffirini:** But if I recall correctly, they testified against this plan.

**Senator Seliger:** Yes, we didn't do the map exactly the way that they wanted, and so, they were not in favor of the map.

**Senator Zaffirini:** So, obviously, perhaps you listened to them or met with them, but, obviously, they do not believe their advice was listened to or accepted because, if I recall correctly, Senator, there was one witness who testified in support of part of the plan Friday and every other witness testified against it. Is that correct?

**Senator Seliger:** You were keeping the tabulation; I wasn't, Senator. Whatever.

**Senator Zaffirini:** Do you remember any witness who testified for?

**Senator Seliger:** I remember the names of very few witnesses. There were 50 or 60 of them, I believe.

**Senator Zaffirini:** But do you remember anybody who testified for?

**Senator Seliger:** I believe there were a couple.

**Senator Zaffirini:** All I recall is that one who testified in favor of part of the map, not the entire map. He had not reviewed it. And everybody else, every African American, every Anglo American, every Mexican American, Hispanic American, more generally speaking, every single witness testified against the plan. Is that your recollection, Senator?

**Senator Seliger:** I believe it is. But I don't know how many of those that you called and insisted come there to provide some sort of solid front against the map. It might've been a complete contrivance.

**Senator Zaffirini:** I didn't ask anybody to come testify, either for the Senate map or for the congressional map, nor did I orchestrate attendance at the hearings, although I did send a letter of invitation because my district is far from here and it's, well, it used to be far from here, it won't be in the future, but it's difficult for them to travel to Austin and to come to the hearings. And, of course, I represent a lot of low-income people, so of the witnesses who testified, I did not invite a single one. In fact, I did not invite anyone to come to the congressional redistricting hearing. I'm sorry that you think it was orchestrated, because it didn't seem orchestrated to me. And it seems that many came from Travis County, and they were particularly outraged about what happened to Travis County. Travis County, first of all, divided into four Senatorial districts, and just when we thought things couldn't get worse, they did. Now, Travis County is divided into five congressional districts. How did that come about, Senator? Why is it that Travis County was divided into five congressional districts?

**Senator Seliger:** Senator, you insisted that three was not enough in Bexar County. I thought that you supported the idea of multiple representation in a given county.

**Senator Zaffirini:** Of what?

**Senator Seliger:** You insisted that Bexar County could not live with three Members of the State Senate and had to have four.

**Senator Zaffirini:** That's right. I believe that Bexar County—

**Senator Seliger:** So, I assumed you were a strong advocate of splitting counties up in that fashion.

**Senator Zaffirini:** —we're not talking about Bexar County. My question was about Travis County, not Bexar County. Bexar County had four Senate districts and wanted four Senate districts and has four Senate districts, thanks to Senator Van de Putte, who made that possible, and certainly not to anyone else. Now, I've just been handed a note reminding me that Nina Perales testified on Friday that PlanC130 is unconstitutional, and she is MALDEF's senior legal counsel. And she stated that at Friday's hearings. Do you have a response to that, Senator?

**Senator Seliger:** I have a great deal of respect for her views. This map, if it goes through both Houses and the Governor signs it, it must be submitted to the Justice Department for preclearance under Section 2 of the Voter Rights Act. We've already been informed by a number of people that there will be lawsuits filed, and so, at this point, that may be her assertion, there will be a full and complete, maybe as thorough a judicial scrutiny of a redistricting map as happens to any sort of legislation.

**Senator Zaffirini:** Well, is that part of the problem that there're Members of this body, perhaps even you, who just assume that this will go to the courts, so why worry about it? Why work too hard at this? Is that part of the problem?

**Senator Seliger:** It's going to the courts anyway, Senator. And keep in mind that since 1971, which was the first time after the Voting Rights Act was passed, that the courts have drawn all or part of every map passed, including the ones that you have voted for and supported during your tenure in the Senate.

**Senator Zaffirini:** And, Senator, let's go back to my question about Travis County, which you answered with a question about, or comment about Bexar County. Why is it that Travis County is divided into five congressional districts?

**Senator Seliger:** As I answered at the hearing, as we populate the districts and to get the exact correct number, the interesting thing about Travis County is, opposed to the other counties that have five members of the congressional delegation, Harris County, Dallas County, Bexar County, and, I believe, Tarrant County also has five districts, is that each one has a protected district in them. And so, the Voting Rights Act, I think, dictates that they have a district that is located wholly in that county in order to make it perform. This is not the case in Travis County. And so, as we populated, we did it to get to the right number and met the requirements of the law.

**Senator Zaffirini:** It just seems to me and to others, that Travis County has been targeted, first in Senate redistricting and now in congressional redistricting. I'm not sure why, but there're many people who do believe that. I'm not sure what the reason would be to target Travis County in such an unfair way.

**Senator Seliger:** If that is the way you interpret it, I respect that.

**Senator Zaffirini:** Well, thank you, it is the way that I and others have interpreted it. Senator, do you know if either of the African American Members of this body are supporting this plan?

**Senator Seliger:** If I were to venture a guess and there was a lot of money riding on it, I would guess, neither.

**Senator Zaffirini:** Do you know of any Hispanic Senator who is supporting this plan?

**Senator Seliger:** I don't know, that's why we vote here in a little while, to see who supports it.

**Senator Zaffirini:** You didn't poll the Members of the Senate?

**Senator Seliger:** I, no, I did not poll all the Members of the Senate.

**Senator Zaffirini:** Not any Members of the Senate? You just assume you have the votes.

**Senator Seliger:** Yes, Ma'am. I think it's a good, strong map, and I think it's legal, and I think I have the votes.

**Senator Zaffirini:** And you agree, Senator, that most of the population growth in Texas has been Hispanic.

**Senator Seliger:** It has been.

**Senator Zaffirini:** And you agree that the very Hispanics who are responsible for this growth and, at least, the Hispanic leadership, at least as represented in the Texas Senate, are of the united opinion that this map is unfair to Hispanics.

**Senator Seliger:** I can see that that is your opinion, and I don't concede necessarily that it is true.

**Senator Zaffirini:** And doesn't that bother you, Senator?

**Senator Seliger:** We disagree about things all the time on this floor.

**Senator Zaffirini:** It doesn't bother you that no Hispanics, no African Americans were involved in developing this plan, and that we believe it is unfair?

**Senator Seliger:** I believe it is fair.

**Senator Zaffirini:** There were no Hispanic attorneys who advised you?

**Senator Seliger:** That's not the case, the, the counsel to the Speaker is Hispanic.

**Senator Zaffirini:** But nobody in the Senate.

**Senator Seliger:** No, Ma'am.

**Senator Zaffirini:** There are no Hispanic attorneys in the Senate who advised—

**Senator Seliger:** I don't differentiate House Hispanics and Senate Hispanics, Senator Zaffirini. That one's a little detailed for me.

**Senator Zaffirini:** But we're serving in the Senate, and I don't recall the House attorney ever advising us. Typically, it's the Senate attorneys who advise us. Maybe there was an exception in this case, but the point that I'm making is, I want to know from you if any Hispanics were involved at any stage of developing this plan in the Senate?

**Senator Seliger:** No, not in the Senate.

**Senator Zaffirini:** Well, Senator, I have to tell you I will be voting no. I'm sure you figured that out, but I am very, very disappointed. Thank you.

**Senator Seliger:** I'm shocked again, but I respect your opinion.

**President:** The Chair lays out the following floor amendment, Floor Amendment No. 1 by Senator Seliger. The Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 1 by Seliger.

**President:** The Chair recognizes Senator Seliger on Floor Amendment 1.

**Senator Seliger:** Members, what this amendment does, and it is more of a technical amendment, it takes back Dallas County Precincts No. 2223 and 2220. They were removed from Congressional District 5, kind of by mistake, and they are just going back to Congressional District 5. The only other affected boundaries are simply to balance the populations to see to, see to it that each district is 698,488 citizens. This amendment is agreed to by all the parties involved and the swap is approximately 3,000 people total. I move adoption. Oh, I don't move adoption until it's been distributed.

**Senator Ogden:** Mr. President.

**President:** Senator Ogden, for what purpose do you rise?

**Senator Ogden:** The plan that I'm looking at doesn't match the description of the author, so I want to make sure that I'm looking at the right plan, but what plan number are we supposed to—

**Senator Seliger:** On Map 136, this is amendment to the, that map.

**Senator Ogden:** Why did I get handed Plan C121?

**Senator Seliger:** C121, I think, is a different amendment and may be Senator Gallegos or Senator West.

**Senator Ogden:** Alright. So, we need, they handed out the wrong plan. So, we need to get it straightened out because—

**President:** Members, to the best of my knowledge, the amendment that we handed the Secretary is on C137.

**Senator Ogden:** Okay, thank you.

**Senator Seliger:** I apologize for the confusion. No, it's not his fault.

**President:** Senator West, for what purpose do you rise, Sir?

**Senator West:** Just making sure that I understand what this amendment is doing. Senator Seliger, can you go back over this amendment again?

**Senator Seliger:** Yes, Sir. In drawing up the maps, we moved precincts, Dallas County Precincts 2223 and 2220 into Congressional District 32. This simply moves them back to Congressional District 5.

**Senator West:** Okay.

**President:** Have the Members received their copy of C137? Chair recognizes Senator Seliger for a motion.

**Senator Seliger:** I move adoption of Floor Amendment No. 1.

**President:** Members, you heard the motion by Senator Seliger. Is there objection from, from any Member? Chair hears no objection from any Member, and Floor Amendment No. 1 is adopted. Chair lays out Floor Amendment No. 2 by Senator West. The Secretary will read the amendment. And that number is C121.

**Secretary of the Senate:** Floor Amendment No. 2 by West, PlanC121.

**President:** Chair recognizes Senator West to describe Floor Amendment 2, which is on C121.

**Senator West:** Thank you very much, Mr. President and Members. This plan is effectively a statewide substitute for my desk-mate's plan, Senator Seliger. This plan demonstrates what is required for a fair and legal plan that meets the requirements of the Voting Rights Act because it provides electoral opportunity for the rapidly growing Latino and African American populations that are responsible for the additional four congressional districts received from the 2010 Census. In the past decade, Members, roughly 90 percent of the state's population growth was Latino, African American, and Asian. Texas is now a majority-minority state and only 45 percent Anglo. The current 32 district map contains 11 districts where Latinos, African Americans have been able to elect the candidate of choice. Ten effective minority opportunity districts and the 11th district that is effective, that is an effective minority coalition district. We heard testimony in Committee that the Seliger map would leave only 10 effective districts, and I think that's exactly what Senator Seliger said, one less than the current map. And that, my friends, is retrogression. Retrogression. It's caused because District 23, 27, and 25 would no longer provide opportunity for minority voters. My amendment preserves all 10 existing minority opportunity districts and creates three additional effective minority opportunity districts and shows that a 36 district map can and must create nine effective Latino opportunity districts and four effective African American opportunity districts. The nine proposed Latino districts are all solidly effective and compare very favorably to those proposed by MALDEF and other Latino advocacy organizations. This amendment demonstrates that any plan that fails to create at least 13 minority opportunity districts will violate both Section 5 and Section 2 of the Voting Rights Act. And this plan sets the standard for a fair, and let me underscore fair, and legal plan. The Fair Texas Plan creates three minority opportunity districts. South Texas, District 33, is the seventh Latino opportunity district anchored in western Hidalgo and Starr counties, the Rio Grande Valley, and extending north into the southwest, into

southwest Bexar County. All seven South Texas border districts have a majority Hispanic voting-age population. The two new districts that are created in the Dallas-Fort Worth area, that area that we always talk about, is one of the fastest growing in the country. Dallas and Tarrant County, Members, are home to over, to almost, I should say, 2.1 million people of color, more than enough population for three districts. In the last decade, Dallas County lost 198,000 Anglo residents and is now only 33 percent Anglo. But the Seliger map only maintains the one existing minority opportunity district. And when you begin to look at the numbers in that particular district compared to what they are now, he significantly decreases the number of Anglos in the district and increases the number of African Americans and Hispanics, even though you can maintain the number of Anglos in that particular district. Just one in eight districts that include all of parts of Dallas County, Dallas or Tarrant County, just one of the eight districts. District 34, is an effective Latino opportunity district that provides almost 1.4 million Latinos who reside in Dallas and Tarrant counties the opportunity to elect their candidate of choice, 71 percent Hispanic with a Hispanic voting-age population of 66 percent—Members, it can be done if we want to be fair—the combined minority non-Anglo citizens voting-age population of 65 percent. This district was offered as an amendment in the Committee by, I believe, Senator Uresti. District 35 is an effective African American opportunity district that includes the Tarrant County African American communities in southeast Fort Worth, Forest Hill, Everman, and areas of African American population growth in southwest Dallas County. District 35 is similar demographically to District 9 in Harris County, 37 percent African American, 27 percent Hispanic, with a majority-minority citizen voting-age population. District 36 is similar to District 14 in the Seliger plan, although this plan could accommodate a second Latino district in Harris County. Travis County, instead of being split five ways, is split only two ways, Senator Watson, in this amendment, compared to the five ways that my colleague has it split right now. And we believe, by doing so it allows the Latino population to have a voice in electing another Congressperson in Travis County. So, Members, I would move adoption of Floor Amendment No. 2. Eager to debate it.

**President:** Senator Davis, for what purpose do you rise?

**Senator Davis:** To ask some questions of the author of the amendment, please.

**President:** Will Senator West yield?

**Senator West:** Yes, I will.

**Senator Davis:** Senator West, do the proposed districts in the map that you've just submitted compare to those that were supported by MALDEF and other minority advocates?

**Senator West:** I'm so sorry, say that again.

**Senator Davis:** Do the proposed districts in the map that you've just presented compare to those that were supported by MALDEF and the other minority advocates?

**Senator West:** Every one of the nine Latino districts in the Fair Texas Plan are at least equally effective as the districts proposed by MALDEF. District 33 is based in western Hidalgo and Starr counties, and this plan could accommodate another Latino majority district in Harris County, provided it does not disrupt or dilute any of the three existing minority districts.

**Senator Davis:** Are the proposed Latino districts majority Spanish surname voter registration or Hispanic citizen voting-age population?

**Senator West:** Well, according to the case law that I've looked at in the DOJ guidelines, the effectiveness of a minority opportunity district is not determined by a single statistical measurement but requires an analysis of electoral returns, turnouts, and a number of other factors. All of the proposed Latino districts except one are majority Hispanic citizen voting-age population and all 13 of the opportunity districts have a majority-minority citizen voting-age population.

**Senator Davis:** Does the creation of new minority opportunity districts dilute an existing district in Dallas County?

**Senator West:** No, not at all. Congresswoman Johnson supports the addition of two effective minority opportunity districts in the Dallas-Fort Worth area, and District 30 retains all of its African American base in the City of Dallas.

**Senator Davis:** And then, finally, Senator West, under your proposed map, are there any incumbents that would be paired?

**Senator West:** There are three technical pairings. It would be McCaul and Doggett. This pairing benefits both of them. Doggett would have a district, a Democratic district that was wholly in Travis County. McCaul would have a safe district because he loses Democratic Travis County precincts but retains the majority of his district in a Republican base in Harris and in rural counties. Canseco and Gonzales, Canseco does not live in his current district, he lives in Lamar Smith's district, and he could run in either Districts 22 or 33, both open seats, or District 28, which has been, which contains much of his district right now. The other pairing would be between Sessions and Hensarling. These two live very close to each other, and this pairing is forced by the requirement to create new minority districts. Still, both would keep a majority of their current districts and also their electoral base.

**Senator Davis:** Thank you, Senator West.

**President:** The Chair recognizes Senator Seliger on Floor Amendment 2.

**Senator Seliger:** Thank you, Mr. President. Members, this essentially redraws the map of the State of Texas all the way from Nueces County to Lubbock County, and I respectfully move to table.

**President:** Chair recognizes Senator West.

**Senator West:** Thank you very much, Mr. Chairman. And I can pretty well count what this is going to be, but I'm going to say a few things so I don't have to say it in my closing, I'm going to say it now. Senator Seliger, the Senate redistricting process that you went through was probably one of the most open processes that I've ever been involved in. The congressional map has been the most closed process that I've

ever been involved in. No ethnic minority had an opportunity to have input into this particular map. The fact of the matter is, when we had a hearing, even the attorneys that we hired to assist us did not have an opportunity to review this before it was laid out. At least, that was their testimony. And so, I must say, Sir, and, obviously, I can count the votes, this has been one of the most closed processes that I've ever witnessed as it relates to congressional redistricting. But I do understand and appreciate that when we do redistricting, we put on our blue jerseys and our red jerseys, and the question then becomes who can get the most votes. And in this instance, during this period of the history of the State of Texas, the Republican Party has the majority, so you will get your way, once again, on redistricting.

**President:** Members, the question before us is the motion to table by Senator Seliger, opposed by Senator West.

The motion prevailed by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Carona.

**President:** Chair lays out Floor Amendment No. 3 by Senator Gallegos, Senator Lucio, and Senator Uresti. The Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 3 by Gallegos, Uresti, and Lucio. This is—

**President:** And we're looking at—

**Secretary of the Senate:** —Plan C—

**President:** Go ahead, Madam Secretary.

**Secretary of the Senate:** —PlanC131.

**President:** C131. Thank you. Chair recognizes Senator Gallegos to explain Floor Amendment 3.

**Senator Gallegos:** Thank you, Mr. President. Members, before I lay out this amendment, and I've been listening to the dialogue between Senator West and Senator Zaffirini and Senator Davis and Senator Rodriguez and others, and I was looking at the map, and over the weekend, as we had a little break over the weekend, I was watching the news, and I'm hoping that y'all saw it, Members, there was a four-year-old out of Australia, and she's the first four-year-old that had her own show at the Chelsea gallery in New York City. In her paintings, she's a four-year-old, her paintings are going for \$30,000 a portrait, and she's only four years old. And when I looked, and when I saw her on CNN and ABC, NBC, and CBS, I thought about this map, and maybe thinking that maybe, since, obviously, she's very creative, she's very artistic, and I thought about the map, and thought maybe we should've hired her to put this map together, especially if she's going, these maps are going for, her portraits are going for \$30,000 a painting, a portrait. Unbelievable young lady. And I can tell you, there's more I can say about the map, and I'm only speaking to the map, Mr.

Chairman, and nobody else on this floor. Let me, what, Mr. President and Members, what this substitute would do is legal under the Voting Rights Act and neither retrogresses any individual district nor does it retrogress statewide. It better honors communities of interest and, first, let me briefly state why improvement is necessary on this map. It is clear that both maps released last week violate the Voting Rights Act with obvious statewide retrogression. This retrogression is even more obvious if you consider the population growth patterns in the 2010 Census. Between 2000 and 2010, roughly 90 percent of the state's population growth in the past decade was non-Anglo. And today, only 45.3 percent of the Texas population is Anglo, 49 percent is African American, Latino, and almost 55 percent is not Anglo. Latinos compose 65 percent of the population growth in Texas since 2000, and are the single largest reason that the state gained four congressional seats. In Harris County alone, there are currently over 1.7 million Latinos in Harris County, 79.7 of the population growth in Harris County between 2000 and 2010 was Latino in Harris County. But in the proposed plan the majority of the districts would be effectively controlled by Anglos, which clearly constitutes statewide retrogression. In other words, one cannot legitimately take a Census which shows that Texas population is fueled by minority growth and legally respond to that Census with a Senate redistricting plan which reduces the number of districts in which minorities control the outcome. The substitute map does not retrogress in any individual district. It also does not retrogress statewide. In this map, every district which is currently represented by the candidate of minority's choice districts, in which minorities control the outcome, minority voters' voices would continue to be heard under this substitute. The proposed Congressional District 29th in Harris County encompasses communities of interest with similar characteristics and needs, including Gulfton, Sharpstown, Spring Branch, and Alief, as well as the north side. The proposed Congressional District 36 encompasses communities of interest with similar characteristics and needs, including Northside Village, Second Ward, Denver Harbor, Magnolia Park, Galena Park, and communities along the channel. Maintaining the Congressional District 36 respects the fast-growing Latino community east side of Harris County which I represent right now. The creation of the CD 29 fairly reflects the growth of the Latino community there in Harris County, it also provides the opportunity to elect an additional candidate of their choice for the Houston minority community. The coalition district contains 57 percent combined Latino and African American citizen voting-age population. And Latinos compose 38 percent of the Dallas County population and 27 percent of the Tarrant County population. In Dallas County, Latinos are the plurality population. Latinos are more numerous than non-Hispanic Whites and more numerous than African Americans. Dallas and Tarrant counties together, from the economic and cultural hub of the North Texas region, growth in the Dallas-Fort Worth Metroplex, from 2000, 2010, made North Texas the second fastest growing area in the nation. 98.58 percent of the total population increase in the Rio Grande Valley between 2000 and 2010 was Latino. The creation of Congressional District 33 fairly reflects the growth of Latino community and delivers the political opportunity that is justly deserved by Latino population of the Border. Moreover, this substitute is more attuned to issues associated with communities of interest. In conclusion, Mr. President, Members, this substitute is a legal map which protects communities of interest, avoids retrogression in each district

and statewide, respects incumbency, regardless of political party, and provides smaller population deviation to ensure every voice is heard. Mr. President, Members, I move the adoption of the floor substitute to the Committee Substitute for Senate Bill 4.

**President:** Thank you, Senator Gallegos. The Chair recognizes Senator Seliger on Floor Amendment 3.

**Senator Seliger:** Senator, would it be unreasonable to ask you to repeat that?

**President:** Before you do that, I had overlooked one other Senator, Senator Seliger, who wished to ask a question. If I may, Senator Lucio, for what purpose do you rise, Sir?

**Senator Lucio:** To ask a question of the author.

**President:** Will Senator Gallegos yield?

**Senator Gallegos:** Yes, Sir.

**Senator Lucio:** To make a comment. Thank you, Mr. President and Members. First of all, Senator Gallegos, thank you very much for your amendment. Members, the presence of this alternative plan demonstrates that it is possible to draw three of the four new districts as additional minority-majority or minority opportunity districts while preserving all seven effective existing Hispanic districts, including one in Dallas and Tarrant counties and another in South Texas, in the South Texas border region between the Rio Grande and South Central Texas. Members, this plan effectively anchors three congressional districts in the Rio Grande Valley, giving South Texas the representation it deserves in the United States Congress. And I would ask you to please consider this, you know, join with us in voting for fairness for Texas and against the retrogression demonstrated, unfortunately, in the proposed plan. Thank you, Mr. President. Thank you, Members.

**Senator Gallegos:** Thank you, Senator Lucio.

**President:** Senator Jackson, for what purpose do you rise, Sir?

**Senator Jackson:** Will the author of the amendment yield?

**President:** Will Senator Gallegos yield?

**Senator Gallegos:** Yes, Sir.

**Senator Jackson:** Senator Gallegos, I'm listening to you, but I'm having a hard time seeing, and I want you to look on your amendment at the map of Harris County. And you stood before this body and you said that your purpose and what you're trying to do is deal with communities of interest, is that correct?

**Senator Gallegos:** That's correct.

**Senator Jackson:** Okay. Tell me how Deer Park's community of interest is served while the City of La Porte, whose school districts overlap the city limits, is served being in two different congressional districts. Where is the community of interest there?

**Senator Gallegos:** Well, I think, I mean, and thank you for throwing me that softball, Senator Jackson. If you look at the population numbers in those areas you will see that most of that area, the population history has been Hispanic, and—

**Senator Jackson:** I disagree with that, Senator Gallegos.

**Senator Gallegos:** You need to read the numbers then. And if you look at, right there at Spencer, I believe it's in your district. The H-E-B has put a store right there near Richey, oh no, Shaver, excuse me, on Shaver that is strictly catered to the Hispanic community. You can't even get in there.

**Senator Jackson:** Okay. Senator Gallegos, tell me—

**Senator Gallegos:** You asked me about, you asked me—

**Senator Jackson:** —tell me—

**Senator Gallegos:** —you asked me if community interest, I'm telling you.

**Senator Jackson:** —and you're obviously incorrect but—

**Senator Gallegos:** No, no, I'm not—

**Senator Jackson:** —let me give you—

**Senator Gallegos:** —I'm not incorrect—

**Senator Jackson:** —I'll give you another chance.

**Senator Gallegos:** —alright.

**Senator Jackson:** Tell me how the community of Shoreacres community of interest is served in a different congressional district than the City of Morgan's Point?

**Senator Gallegos:** Well, I think if you look at the way that the district is drawn that those communities of interest, you know, if you look at those population increases, there's just as many Hispanics there and Blacks, Asians—

**Senator Jackson:** That area calls itself the Bayshore Area, served by the Bayshore Chamber of Commerce, which is the communities of Deer Park, La Porte, Morgan's Point, and Shoreacres. And you've got two of them in one congressional district, two of them in a different one, and I fail to see the communities of interest that you're talking about on the floor, so—

**Senator Gallegos:** Well, I think, Senator Jackson, if you look at the Port of Houston, I represent it up to the Fred Hartman Bridge and then you take over. That's a community of interest to me, and it's just a continuation of my district that serves that. And that's all around Morgan's Point, La Porte, and all the areas that you're talking about.

**Senator Jackson:** I need to get you to come over there and take a look around.

**Senator Gallegos:** Well, I've been, I've been over there, I've taken a look around.

**President:** The Chair recognizes Senator Seliger on Floor Amendment 3.

**Senator Seliger:** Mr. President, I, I'm grateful for the fact that you appointed Senator Gallegos the Vice-chair of this Committee. Nobody could've done a better job of making a case for this map, which is an entirely new map, was one that the Committee did not adopt, and it's one that I don't think is an improvement, and I respectfully move to table the amendment.

**President:** Chair recognizes Senator Gallegos in rebuttal.

**Senator Gallegos:** Thank you, Mr. President. Well, and I don't mind telling you, it was a pleasure to work with my Chairman and all the other Members of the Committee. I mean, even though I disagree with him on, especially, this map, and I would just ask you, Members, I mean, look at the map. I mean, you've got proposed congressional districts coming in, especially in the Dallas area, Senator West, coming in and taking pockets of Dallas County, Tarrant County, just for the sole purpose of having an ideal congressional district. They pick up Hispanics, and they pick up Blacks, and just for the sole purpose of achieving that threshold level. That's not fair. That is not fair. That is not fair and that's what I see on this map. I mean, you've got all the areas, especially in suburban areas going into Houston, Texas, into Dallas, into Tarrant, into Travis, especially, Senator Watson, in Travis County and picking up in some cases, well, picking up populations of Hispanics and Blacks just to come to an ideal number. People in those areas are frustrated and they're tired of being, well, let me just quote you, and these are not my comments, this was a comment of an activist in Dallas, Senator West, you know who she is, she's a lawyer, well-respected. And 10 years ago when I was on this Committee, Co-chaired with Senator Fraser, and she just came up to me and said, our community, this was in Dallas, our community, especially in the Latino community, is tired of being under congressional redistricting, is tired of being everybody's 30 percent bitch. That's exactly what she told me. And this is what I see on a bunch of the areas in this map. It's exactly what I see in this map. Now if you want to, you just come on in and just scoop it up like a shrimp net and pick us up and go to that threshold. This map is nothing but retrogression across the board, and that's why I believe the state, why the substitute alleviates a lot of the Section 2, a lot of the Section 5, and, especially, that hoodwink job that they did in Nueces County, Senator Hinojosa, by completely ignoring 200,000 Latinos and saying that it's a Hispanic opportunity district. Now, are they fooling you? Are they fooling me? No. No. That will never fly in court. That will never fly in court. And, Members, I'm just telling you like I see the map, like I read it, like I've read a bunch of maps, and I respectfully, out of my Chairman, respectfully vote, to vote no on the motion to table.

**President:** Members, Senator Seliger moves to table Floor Amendment No. 3. Senator Gallegos opposes.

The motion prevailed by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Carona.

**President:** Members, one of our Members, Senator Patrick, has an amendment, but it's still being drafted, about 10 minutes away. Why don't we take about a 10 minute, the Senate will stand at ease until 5:10.

(AT EASE)

(SESSION RESUMES)

**President:** Members, the Senate will come to order. The Chair lays out Floor Amendment No. 4 by Senator Patrick. The Secretary will read the amendment.

**Secretary of the Senate:** Floor Amendment No. 4 by Patrick, PlanC140.

**President:** And I'm going to go, I'm going to wait just a moment so that this can be passed out. The Chair recognizes Senator Patrick to explain Floor Amendment 4.

**Senator Patrick:** Thank you, Mr. President. Members, this simply moves 4,700 people that we inadvertently had in the, the other congressional district, both Congressman Brady, Congressman McCaul are fine with it, it does not impact anything other than correcting the district, and I believe it's acceptable to the author.

**President:** The Chair recognizes Senator Seliger on Floor Amendment 4.

**Senator Seliger:** Senator Patrick, this is a question of just moving a couple of precincts—

**Senator Patrick:** Precincts—

**Senator Seliger:** —right?

**Senator Patrick:** —two, yeah, a couple of precincts.

**Senator Seliger:** The amendment is acceptable to the author.

**Senator Patrick:** Thank you.

**President:** Thank you, Senators. Members, the question is adoption of Floor Amendment No. 4. It's acceptable to Senator Seliger. Is there objection from any Member? Chair hears no objection from any Member and Floor Amendment No. 4 is adopted. The Chair recognizes Senator Seliger for a motion.

**Senator Seliger:** Mr. President, I move passage to engrossment, the Committee Substitute to Senate Bill 4.

**President:** Thank you, Senator. Members, you heard the motion by Senator Seliger.

The motion prevailed by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Carona.

**President:** Chair recognizes the Dean of the Senate for a highly privileged motion. The President's desk is clear. The Chair recognizes the Dean of the Senate for a highly privileged motion to adjourn.

**Senator Whitmire:** Mr. President, keeping Senator Patrick's words on our mind, I would move that we adjourn until 5:40 today, 5:40.

**President:** Thank you, Dean. Members, you've heard the motion by Senator Whitmire. Is there objection from any Member? Chair hears no objection, and the Senate will stand adjourned until 5:40.

(SENATE ADJOURNED)

FOURTH DAY

(Monday, June 6, 2011)

**President:** Members, the Chair lays out on third reading and final passage Senate Bill 4 as amended. The Secretary will read the amendment.

**Secretary of the Senate:** Committee Substitute Senate Bill 4, relating to the composition of the Congressional Districts for the State of Texas.

**President:** Chair recognizes Senator Seliger for a motion.

**Senator Seliger:** Mr. President, I move final passage.

**President:** Before you do, let me, I just saw some lights on the board. Senator West, for what purpose?

**Senator West:** To speak against the bill.

**President:** You're recognized.

**Senator West:** This'll be brief. I've already said what I needed to say, but wanted to make certain that the record is clear. I indicated that the Senate redistricting was a very open process. I want to make certain that my words aren't taken out of context. The process that we went through with Senate Bill 10 was a little more open than this. But, there were a lot of issues in Senate Bill 10, Senate Bill, the Senate Bill, such as District 10, when we went through it. So I want to make certain that those discussions that we had, as it relates to that, are part of the record. I think I've said what I need to say, that this particular process as it relates to the congressional redistricting, we put our red jerseys and our blue jerseys on, and, as such, the blue jerseys have been shut out of this entire game called redistricting.

**President:** Senator Lucio, for what purpose do you rise?

**Senator Lucio:** To speak on the bill.

**President:** You're recognized.

**Senator Lucio:** First of all, Governor Dewhurst, I want to thank you publicly for affording me an opportunity to serve on this Redistricting Committee. I cherish that opportunity, not only for me but in behalf of the people that I represent in South Texas, Sir. Secondly, I would be remiss if I didn't also thank my Chairman, Chairman Seliger, who had been very open, very kind, and had wanted very much to work with me, especially. I speak for myself, he's been accessible to me and been willing to answer the questions that I've had on this important topic. Members, I remember being very excited when the Census data came out. I was excited because 90 percent of Texas' growth had come from communities like mine, majority-minority communities. Taking a common-sense approach, that meant only one thing to me,

more diversity in the United States Congress, more minority representation destined to become part of the great 250-year conversation we call American democracy. I have been left greatly disappointed, though. And that is despite the fact that this map only marginally improves federal representations from the communities I represent. The new Congressional District 34 is firmly anchored in Cameron County, my home county, meaning that the Valley now has a better opportunity to elect an additional Member of Congress from that area. For this I am truly grateful. However, while this map is only a slight improvement for the communities I represent, it is not good for the type of communities I represent, elsewhere in the state. Furthermore, this map in no way reflects the path that our state is making or shaping to be, in my opinion. Over the last 10 years, there has been a significant increase in enrollment in our public schools. Of those new students, nine out of 10 are Hispanic. In fact, the majority of students in our public schools are now Hispanic. So, quite frankly, this map belongs in the twentieth century, not the twenty-first. Why? Because twenty-first century Texas is a minority-majority state. It is a minority-majority state. How is it fair that although Anglos only make up 45 percent of our population, they control 72 percent of the congressional districts? It does not make any sense. Worse, it is unfair and a violation of the Voting Rights Act. The map before us today tells us one thing, Members. We are not embracing twenty-first century Texas, and the public agrees. The public testimony at the Redistricting Committee hearing, over 45 witnesses spoke in opposition to the proposed map, and only one partially in favor. So, Members, I am not afraid, and I'll repeat it, I am not afraid of twenty-first century Texas. I embrace it. Most Texans embrace it as well, whether they are Anglo or minority, Democrat or Republican, urban or rural. I encourage you to embrace it, too, here today with your vote. Thank you, Mr. President. Thank you, Members.

**President:** Thank you, Senator Lucio. Senator Watson, for what purpose do you rise, Sir?

**Senator Watson:** Speak on the bill, please.

**President:** You're recognized.

**Senator Watson:** Thank you, Mr. President. Members, I'm going to be very brief, but based upon a couple of comments that were made during the course of the discussion of these maps, I felt it important to make a couple of points. First of all, the map that we're getting ready to vote on, as I have pointed out before, and I want to say again, systematically silences the voices of the people living in Travis County. It slices, it dices, and it divides Travis County in, really, what is an inexplicable way. Putting it into five congressional districts and ignoring completely and totally the concept of compactness and communities of interest. Not one of the five districts that come into Travis County, not a single one of those five districts has more than 24 percent of the Travis County population. And there's not a single district that is, by definition there's not a single district that is wholly contained in Travis County, unlike what you see across the map. The large counties in Texas all have, they have a district that is wholly contained in their counties. Those counties include Harris, Dallas, Tarrant, Bexar, El Paso, Collin. Denton County has a district that has 78.7 percent of the district in Denton County. Fort Bend has a district with 54.6 percent. Williamson County, 60.5 percent. That doesn't happen in Travis County. So, it's inconsistent with

the way the other counties have been treated. Travis County is treated differently. It's also important to point out this map, as Travis County is a part of this map, inappropriately discriminates against the minority community in Travis County. It's been said today on the floor that one of the reasons you might see these other counties have a district that's wholly contained in that county, is because there is a protected district. It's also been suggested through some amendments, and otherwise, that the only way to protect or to have a protected district and involve Travis County is if you combine it with other counties. But that's not true. The significant growth in Travis County over the past decade has been fueled by growth in the Hispanic population. Over 50 percent of the growth in Travis County has been Hispanic. And importantly, that growth has been predominant in eastern Travis County. But what this map then does is it systematically goes in and divides that minority population into five separate congressional districts. The testimony has been over and over, both on this map and on the Texas Senate map, that in eastern Travis County there has a, there is a compact, cohesive, mature coalition of minority voters able to effectively elect representatives of their choice. This coalition is protected, and it is now being divided. Interestingly enough, there is only one district in Travis County, that touches on Travis County, that has a plurality of Travis County residents, Travis County people in it. And that is a district that runs in western Travis County, it runs up to Brownwood and to the suburbs of Fort Worth up in Johnson County. It has at least a plurality of people, and it is over 67 percent Anglo. That is not the case when you go into eastern Travis County and you see the divisions. The point being that this map discriminates not just against Travis County but it discriminates against the minority population of Travis County that has worked to develop a coalition that elects candidates of its choice. For that reason, when this map is analyzed, as it will be, by the Justice Department, by the courts, one of the things that's going to be clear is that there's a retrogression of minority voting strength in this state in part because of the division of an historic, cohesive, and effective minority coalition vote in Travis County. So, I'll be voting no, and would urge others to vote no. We can do better. We can do better than this map and what it does to the State of Texas. Thank you, Mr. President.

**President:** Thank you, Senator. Senator Gallegos, for what purpose do you rise, Sir?

**Senator Gallegos:** To speak on the bill, Mr. President.

**President:** You're recognized.

**Senator Gallegos:** I mean, you, and I'll be brief, you already know the way I feel. But I just had to get up, with what Senator Jackson asked me on my statewide substitute. You know, was I, because he thought I was splitting communities of interest. But if you look at my substitute it's wholly within Harris County. We don't split up Harris County. It's all in one county. Even most of the other congressional districts that I propose are wholly within Harris. Nobody asked Senator Watson's folks from Travis County why they were split up amongst their communities of interest in five separate congressional districts. Nobody asked Senator Davis' Fort Worth area or Senator West's Dallas area, and they're broken up into eight congressional. Nobody asked those folks, well why are you splitting up communities of interest? The map does it. The map does it. If you go to Houston, the same thing. Some of, Bexar County, nobody asked these people. You know, Senator Jackson

asked me why I split up that. It's all inside Harris County. If you look at the congressional districts that are being proposed by this map, you split up eight congressional districts in Tarrant and Dallas, you split five in Travis County, and a bunch in Houston and Harris County. And then, I don't know how many. I haven't looked at Bexar. But nobody asked those people why are you splitting communities of interest. They just went and did it. They just went and did it. Nobody asked those folks.

**President:** Senator Uresti, for what purpose do you rise, Sir?

**Senator Uresti:** To speak against the bill.

**President:** You're, you are recognized.

**Senator Uresti:** Thank you, Mr. President. Members, good evening. When we started this process back in February with the release of the Census statistics, it was said that the goal was to adopt a plan that was fair and represented the proportionality of the state. In 2008, Republican presidential nominee John McCain received 55.4 percent of the vote, and in 2010 Governor Rick Perry garnered 55 percent of the vote in his reelection. In using some of the same logic that Tom DeLay used in 2003, the Republicans should therefore have about 55 percent of the state's congressional delegation. However, this is not even close to being the case. The plan proposed in Senate Bill 4, Committee Substitute to Senate Bill 4, is designed to elect Republicans to 72 percent of the state's congressional seats. I would ask, in what world would this be seen as proportional? However, putting aside the partisan arguments, I have to say about this map, it's not pleasing. It doesn't reflect the changing demographics of Texas, the change that has already occurred and the change that is coming and it's undeniable. The courts have held that a redistricting plan may not have the intent or the effect of being retrogressive towards minority communities, and this bill clearly does that. According to the last Census, Texas joined California, New Mexico, and Hawaii as a majority-minority state. The percentage of Anglos declined from 52 percent in 2000 to 45 percent in 2010, while the percentage of Latinos rose from 32 percent to 38 percent. Members, 89 percent of the nearly 4.3 million new Texans were non-Anglo. As Texas and America become more and more diverse, the face of our legislatures and Congress must change as well. This map not only fails to reflect that change, it attempts to curb the influence of Hispanics in Texas. Rather than working to address the needs of Hispanics, this map systematically undermines their voting strength. Quite frankly, I don't believe the plan will pass muster with the Justice Department because it reduces the number of districts where minority voters have an opportunity to elect their candidate of choice from 11 of 32 districts to only 9 or 10 out of the new 36 districts. That's going the wrong way, Members, in a state where minority growth over the last 10 years has driven the state's overall population growth. The amendment that I offered in Committee this last Friday evening would have taken a step in the right direction by giving the Latinos of Tarrant and Dallas counties a voice for the first time, instead of being diluted and spread among eight congressional districts, as is now the case. That amendment, unfortunately, was voted down, but it stands as part of the record that will ultimately be used to overturn what appears to be an unjust and illegal map. In closing, Members, this map dramatically retrogresses minority voting strength at the statewide, regional, and district levels. It

clearly violates the Voting Rights Act and will be rejected. Members, we can do better than this, and this map does not represent the future of Texas. It ignores reality, and it stands in the way of the future. Thank you.

**President:** Thank you, Senator. Senator Zaffirini, for what purpose do you rise?

**Senator Zaffirini:** To speak against the bill, Mr. President.

**President:** You are recognized.

**Senator Zaffirini:** Thank you, Mr. President. Mr. President and Members, I rise to speak against the passage of this congressional redistricting bill. Today, I'm reminded of a few years ago when I was having dinner with my husband and six Republicans, including a Republican Member of Congress. And he was quoting one of their colleagues who said, at that time, that he felt that it was as if his party had identified the largest, fastest growing minority and was taking every opportunity to offend it. I believe that this congressional redistricting plan is such an act. Minorities throughout our state will be offended by this plan, just as we have been offended by the Senate redistricting plan. We who rise to speak against it perhaps shouldn't even bother. We know what the vote will be today, 18 to 12. But we rise because we represent not only minorities but all of the Texans in our respective districts. And I believe very strongly that the people of Texas would want a congressional redistricting plan, a Senate redistricting plan, and a House redistricting plan that truly reflects the face of the State of Texas. These plans do not. I thought the Senate redistricting plan was absolutely awful. I thought that it was a closed process. I don't know which if any of you were involved in developing it. I had no opportunity though I was a Member of the Committee. The congressional redistricting plan process was even worse. I couldn't even imagine that to be a possibility. And for that reason, and because I believe that this plan reflects retrogression at its worst and feel very, very strongly that it is illegal and unfair and does not comply with the Voting Rights Act, I vote against it. And I'm delighted that my fellow minority Members and those who represent minorities will vote against it, too. Thank you, Mr. President and Members.

**President:** Thank you, Senator. Chair recognizes Senator Seliger for a motion.

**Senator Seliger:** Mr. President, I move final passage of the Committee Substitute to Senate Bill 4.

**President:** Thank you. Members, you've heard the motion by Senator Seliger.

The motion prevailed by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Carona.

**President:** Senate Bill 4, as amended, is finally passed.

**Senator Seliger:** Thank you, Mr. President—

**President:** Thank you.

**Senator Seliger:** –and Members.

**President:** Thank you. Senator Davis is recognized for a motion

**Senator Davis:** Thank you, Mr. President. As I requested on the earlier legislative day that we were in today, if we could please ask that these comments relative to the congressional redistricting map be reduced to writing and recorded in the Journal.

**President:** Members, you heard the motion by Senator Davis. Is there objection from any Member? Chair hears no objection and the motion is adopted.