

NEW YORK STATE  
LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND  
REAPPORTIONMENT

PUBLIC HEARING  
CONGRESSIONAL AND STATE LEGISLATIVE REDISTRICTING

Legislative Office Building, 2nd Floor

Hearing Room A

Albany, New York

Monday, January 30, 2012

10:30 a.m.

TASK FORCE MEMBERS PRESENT:

SENATOR MICHAEL F. NOZZOLIO, Co-Chair

ASSEMBLY MEMBER JOHN J. MCENENY, Co-Chair

SENATOR MARTIN M. DILAN

ASSEMBLY MEMBER ROBERT OAKS

DEBRA LEVINE

ROMAN HEDGES

WELQUIS LOPEZ

LEWIS HOPPE

INDEX

	Page
ROBERT BAIN RESIDENT TOWN OF GUILDERLAND	12
DANIEL J. DWYER MAYOR CITY OF RENSSELAER	22
MICHAEL CUEVAS EXECUTIVE DIRECTOR SCHENECTADY COUNTY REPUBLICAN COMMITTEE	27
JAMES SOTILLE FORMER MAYOR OF KINGSTON	38
MICHAEL MCMAHON MONTGOMERY COUNTY COMMISSIONER OF SOCIAL SERVICES	42
SUSAN LERNER EXECUTIVE DIRECTOR COMMON CAUSE NY	46
BRIAN PAUL RESEARCH AND POLICY COORDINATOR COMMON CAUSE NY	61
GUSTAVO RIVERA STATE SENATOR 33rd SD	95
CLAUDIA TENNEY ASSEMBLY MEMBER 115th AD	108
BILL MAHONEY RESEARCH COORDINATOR NYPIRG	117
BARBARA BARTOLETTI LEGISLATIVE DIRECTOR LEAGUE OF WOMEN VOTERS NYS	132

Demographic Research and Reapportionment, 1-30-2012

ALEX CAMARDA CITIZENS UNION	158
RACHEL FAUSS CITIZENS UNION	161
BETH MURPHY RESIDENT ULSTER COUNTY	189
JEFF STERLING RESIDENT NEW BALTIMORE	200

1 Demographic Research and Reapportionment, 1-30-2012

2 (The public hearing commenced at 10:30  
3 a.m.)

4 ASSEMBLY MEMBER JOHN J. MCENENY, CO-  
5 CHAIR, NYS LEGISLATIVE TASK FORCE ON DEMOGRAPHIC  
6 RESEARCH AND REAPPORTIONMENT: Good morning. My  
7 name is Jack McEneny. I am the co-chair of the  
8 Legislative Task Force on Redistricting and I am  
9 joined with my co-chair and other members here.  
10 The purpose of this hearing--and I'll allow other  
11 members here to speak briefly before--is to get a  
12 more specific criticism of the maps that are out  
13 there. Now we have had 14 public hearings and an  
14 incredible amount of written and oral testimony,  
15 much of it submitted even outside the 14 public  
16 hearings, which were held across the state of New  
17 York.

18 This is an opportunity to move, perhaps,  
19 from the general to the specific. To give us  
20 ideas, you all have a set of maps, and if you've  
21 been following us regularly, you've probably  
22 downloaded them on your own as well, and it's a  
23 time to come in now and say this works, this  
24 doesn't, this should be changed. Now, will the

1 Demographic Research and Reapportionment, 1-30-2012

2 maps be changed? Historically, the maps have  
3 always been changed; sometimes to small degree,  
4 sometimes to large degree. And the way those  
5 maps are changed and the reasons for changing  
6 those maps has a great deal to do with the input  
7 from people like yourselves, who represent not  
8 only yourselves as individuals and citizens, but  
9 also in many cases, groups within the state of  
10 New York.

11 We have a limit as to how long people  
12 can talk. We advertise something like five  
13 minutes. We have never enforced five minutes,  
14 but we would ask you to be succinct, to give us  
15 as specific information as you possibly can.  
16 This is not to talk about how LATFOR functions or  
17 whether there should be an independent group. We  
18 know where you stand on that. One way or  
19 another, that's out there. This is to come in  
20 and criticize these maps and let us know where  
21 the changes should be made.

22 I am joined today on the panel here, on  
23 the Assembly side by my ranker, if you will, Bob  
24 Oaks, and also our citizen representative, Dr.

1 Demographic Research and Reapportionment, 1-30-2012

2 Roman Hedges, who has participated in many  
3 redistrictings and has also taught on the  
4 subject. And we are also joined by our executive  
5 directors on each end, and I'm going to stop now  
6 and pass it on to my co-chair, Senator Mike  
7 Nozzolio and then open it up to the people on the  
8 panel here if they wish to make opening remarks.

9 SENATOR MICHAEL F. NOZZOLIO, CO-CHAIR,  
10 NEW YORK STATE LEGISLATIVE TASK FORCE ON  
11 DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT: Thank  
12 you, Assemblyman McEneny. On my far left, your  
13 right, is Executive Director of the LATFOR Task  
14 Force, Debra Levine; the Senate Citizen  
15 representative on the task force, Welquis Ray  
16 Lopez; and our Senate Minority ranker on this  
17 committee, good friend, Senator Martin Dilan.

18 Before others speak, I wish to echo the  
19 co-chairs comments relative to this process. It  
20 is the first of nine hearings we will be  
21 conducting across the state to take testimony  
22 from primarily citizens who are interested in the  
23 question of communities of interest, that the  
24 maps proposed are reflective of the Voting Rights

1 Demographic Research and Reapportionment, 1-30-2012

2 Act of the State of New York, the New York States  
3 Constitution, the United States Constitution,  
4 that we believe strongly that they, as presented,  
5 are legal and appropriate. For the first time  
6 ever, there is an Asian district created that the  
7 majority Asian district in Queens at the New York  
8 State senate level, and that district was the  
9 creation of the result of many hours of testimony  
10 from the Asian American community, primarily the  
11 borough of Queens, but in a number of meetings  
12 afterwards, where communities put forth their  
13 intentions to establish communities of interest.  
14 And we hope these hearings will continue in that  
15 process to further enhance it and develop it.

16 I'd also like to indicate that I just  
17 came from the Senate Finance and Assembly Ways  
18 and Means Committee, as Assemblyman Oaks is also  
19 wearing his two hats as ranker on Ways and Means,  
20 but the testifiers were asked to summarize their  
21 testimony. The written testimony will be part of  
22 the record. Submit that today or in the future  
23 and that testimony becomes part of the permanent  
24 record of the LATFOR proceedings. Maximize your



1 Demographic Research and Reapportionment, 1-30-2012

2 impact and the amount of time you have available  
3 by summarizing your testimony. Please just don't  
4 sit and read it. Summarize it and ensure that  
5 those comments are put forward.

6 I should also add that your testimony  
7 and the testimony on every task force hearing  
8 that we conduct will be available for viewing on  
9 the LATFOR website. That website contains a  
10 video record, for the first time in our state's  
11 history, of those who testify. So, we appreciate  
12 your comments and welcome those comments to be  
13 part of the permanent record. With that, any  
14 other members of the task force wish to comment?  
15 Mr. Hedges?

16 ROMAN HEDGES, NEW YORK STATE LEGISLATIVE  
17 TASK FORCE ON DEMOGRAPHIC RESEARCH AND  
18 REAPPORTIONMENT: No.

19 SENATOR NOZZOLIO: Assemblyman Oaks?

20 ASSEMBLY MEMBER ROBERT OAKS, NEW YORK  
21 STATE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC  
22 RESEARCH AND REAPPORTIONMENT: I'll just welcome  
23 everyone today and look forward to hearing the  
24 input from people. It's been a long time. I

1 Demographic Research and Reapportionment, 1-30-2012

2 know people gave a great deal of input before.  
3 It's been a long time getting to this point, but  
4 clearly, this is a process that needs to move  
5 forward and needs to move forward judiciously,  
6 and this is the first of three weeks of hearings  
7 that we'll be holding and clearly, I look forward  
8 to--I'm sure I'm going to have suggestions to how  
9 these maps could be changed; I look forward to  
10 hearing yours. Thank you.

11 MR. HEDGES: I want to welcome everyone,  
12 but I also want to make particular point.  
13 Several groups and individuals submitted plans in  
14 the first round of hearings; common cause, a  
15 coalition of voting rights groups that produced a  
16 plan that they call the unity plan. We took a  
17 lot of very, very important ideas from those  
18 submissions and from those plans. The concepts,  
19 the ideas were really very, very influential in  
20 causing us to put together the plan that is front  
21 of you. We look forward to more of that, whether  
22 it's in the form of specific observations about  
23 ideas that you like or ideas that you didn't  
24 like, whether it's about approaches to

1 Demographic Research and Reapportionment, 1-30-2012

2 constructing plans. It's really important to  
3 hear from you. We think we've done a good job of  
4 putting together ideas about community and how to  
5 comply with the Voting Rights Act, and we're not  
6 unmindful of the fact that others have different  
7 views on those subjects, and we're looking  
8 forward to hearing about where you agree and  
9 where you disagree with us. And thank you very  
10 much.

11 SENATOR NOZZOLIO: Senator Dilan wishes  
12 to speak.

13 ASSEMBLY MEMBER MCENENY: Senator Dilan?

14 SENATOR MARTIN M. DILAN, NEW YORK STATE  
15 LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH  
16 AND REAPPORTIONMENT: Good morning. Good  
17 morning. I, too, am pleased to see what the  
18 number of individuals in the audience and I'm  
19 very eager to hear what you may have to say with  
20 respect to the product of this task force, but I  
21 just want to make it clear that I'm very clear  
22 that this task force indicates that it has  
23 listened to the public, but I would, just for the  
24 record, like to indicate that I played no role in

1 Demographic Research and Reapportionment, 1-30-2012

2 the final product that you see here today. Thank  
3 you.

4 ASSEMBLY MEMBER MCENENY: All right.

5 Our first speaker is Robert Bain of Guilderland,  
6 New York. Mr. Bain, if you're speaking for  
7 yourself, fine; if you're representing a group,  
8 please, for the record, give the name of the  
9 group.

10 MR. ROBERT BAIN, RESIDENT, TOWN OF  
11 GUILDERLAND: Good morning.

12 ASSEMBLY MEMBER MCENENY: Good morning.

13 SENATOR NOZZOLIO: Good morning.

14 MR. BAIN: Good morning chairmen,  
15 members of the task force. My name is Bob Bain  
16 and I'm speaking today as a resident of  
17 Guilderland, New York, and I've been a resident  
18 in that town for 36 years. And first I want to  
19 thank, thank you for the opportunity to speak to  
20 you. I will summarize. Understand that I'm here  
21 today because I support what you have done with  
22 the Town of Guilderland as far as the town being  
23 placed in District 46, and that's exactly where I  
24 think that it belongs. Even though Guilderland

1 Demographic Research and Reapportionment, 1-30-2012

2 is in Albany County, we don't really have very  
3 much in common with our neighbors in the City of  
4 Albany. Guilderland is a suburban town, much  
5 more in common with our neighbors in Schenectady  
6 County, particularly the town of Rotterdam. They  
7 border each other and in my time, I'm a native of  
8 the town of Colonie, but after 36 years--that's  
9 the problem of being number one on the agenda.  
10 So, Rotterdam and Guilderland are together and  
11 then my time there, living, raising our family  
12 there, there's a lot of synergy between the two  
13 towns, and not only the town of Rotterdam, but  
14 the hill towns of Berne-Knox and actually in  
15 Princetown and Duanesburg as well. And I just  
16 know, first of all, how difficult this is, and  
17 that's stating the obvious, but with the changes  
18 and the demographics in 2010 census, it's made  
19 it, in my experience, you know, as an observer,  
20 even more difficult to deal with the changes.  
21 So, and there's a couple of examples. The  
22 economies of Guilderland and Rotterdam are very  
23 retail-based; Albany is commercial government.  
24 Both towns have churches, houses of worship with

1 Demographic Research and Reapportionment, 1-30-2012

2 congregations made up with many people from each  
3 others' towns, so there's a lot of interaction  
4 there. I married a girl from Rotterdam and we  
5 still have a lot of family in the Rotterdam area,  
6 friends. My home--and I'm sure hundreds of other  
7 Guilderland residents--has the Schenectady  
8 mailing address. Parking is a serious in Albany;  
9 not so much in Guilderland. There's a lot of  
10 free parking in Guilderland. I could go on but I  
11 won't.

12 I also believe the task force was  
13 correct in placing our neighbors in the towns of  
14 Berne and Knox in Center 46, as I mentioned  
15 before. Frankly, it's the towns of Guilderland,  
16 Knox and Berne have been sort of isolated in the  
17 western part of the town and that's, that's where  
18 I live. Don't have much in common with the City  
19 of Albany as it pertains to all the other towns  
20 around us. As a community and being involved in  
21 the community, a PTA president at Guilderland,  
22 you deal with the other towns around you. So,  
23 these three towns are communities of interest, if  
24 you will, in my view, and you and your staff

1 Demographic Research and Reapportionment, 1-30-2012

2 should be recognized for doing your homework and  
3 actually looking into the specifics of our region  
4 of this state and then making the proper  
5 connection of these bordering towns and placing  
6 them in senate, that senate district. So, I  
7 thank you for your efforts. I appreciate what it  
8 takes to do this kind of thing, having not been  
9 involved in it directly, but I can only imagine.  
10 And I urge you to keep those towns together in  
11 the District 46 and I thank you for your time.

12 ASSEMBLY MEMBER MCENENY: Okay. Thank  
13 you very much, Mr. Bain. Our next speaker is  
14 Mayor Daniel--I'm sorry. All you do is sit down,  
15 Mr. Bain, I'm sorry.

16 MR. BAIN: That's all right.

17 ASSEMBLY MEMBER MCENENY: Senator, I'm--

18 SENATOR DILAN: Yeah, one quick  
19 question. You indicate that you feel you have  
20 more in common with the other counties that are  
21 in the new 46?

22 MR. BAIN: The, the other towns.

23 SENATOR DILAN: 46? Can you tell me how  
24 the other towns are similar to Guilderland and

1 Demographic Research and Reapportionment, 1-30-2012

2 what's the contrast between Albany, the rest of  
3 Albany and the other towns?

4 MR. BAIN: I, I think, I think, Senator,  
5 similar neighborhoods, similar types of housing,  
6 and again, not issues. I didn't want to get into  
7 all the details about, like, parking and that  
8 kind of stuff, but it's just our sporting teams  
9 in the two towns and the towns around, we play  
10 each other in the same division. Very rarely do  
11 we have any opportunity to be playing the, the  
12 teams in Albany. The, the sport in, in my town  
13 in Guilderland, Guilderland High School, the  
14 sporting athletic programs and dinners that they  
15 have at the end of the season are routinely held  
16 at the Mallozzi's Banquet House in Rotterdam.

17 SENATOR DILAN: Okay.

18 MR. BAIN: My daughter went to dance  
19 school at the dance studio on Carmen Road in  
20 Guilderland for a number of years, and when Ms.  
21 Barb sends, has her recital every spring, with  
22 about 5, 600 students--

23 SENATOR DILAN: But I asked you how does  
24 it--



1 Demographic Research and Reapportionment, 1-30-2012

2 MR. BAIN: --it's, it's, it's--

3 [Crosstalk]

4 SENATOR DILAN: --other counties.

5 MR. BAIN: It's held in Schenectady, so  
6 there's a lot of interchange between the people  
7 in the suburbs, more the suburban region--

8 SENATOR DILAN: That would apply--

9 MR. BAIN: --than it is to--

10 SENATOR DILAN: --to Greene--

11 MR. BAIN: --city.

12 SENATOR DILAN: --County? That would  
13 apply to Greene County and Montgomery County  
14 also?

15 MR. BAIN: I, I can't speak for that  
16 because I've never lived in Greene County.

17 SENATOR DILAN: But they're in the 46.

18 MR. BAIN: Right.

19 SENATOR DILAN: So, you can't speak--

20 MR. BAIN: But I haven't lived there.

21 SENATOR DILAN: --to those.

22 MR. BAIN: I'm, I'm representing--

23 SENATOR DILAN: You only know--

24 MR. BAIN: --my town and my issues.

1 Demographic Research and Reapportionment, 1-30-2012

2 SENATOR DILAN: Okay. Well, I'm, I'm  
3 just going based on the comment that you made.  
4 My next question; are you affiliated with any  
5 organization or did you just come here on your  
6 own? How did you get--

7 MR. BAIN: I came here on my own,  
8 Senator.

9 SENATOR DILAN: How did you get--

10 MR. BAIN: Yeah. I've, I've--

11 SENATOR DILAN: How did you hear about--

12 MR. BAIN: --had a--

13 SENATOR DILAN: --this hearing this  
14 morning? And why are you so interested?

15 MR. BAIN: I saw it online.

16 ASSEMBLY MEMBER MCENENY: Excuse me.  
17 Excuse me.

18 SENATOR DILAN: I have the right to ask  
19 questions.

20 MR. BAIN: No, no, that's--

21 SENATOR NOZZOLIO: Pardon, pardon,  
22 pardon me.

23 MR. BAIN: Sorry, Senator.

24 SENATOR NOZZOLIO: Pardon me. Senator,

1 Demographic Research and Reapportionment, 1-30-2012

2 I would appreciate you letting the witness--

3 SENATOR DILAN: I--

4 SENATOR NOZZOLIO: --answer--

5 SENATOR DILAN: I'm asking--

6 SENATOR NOZZOLIO: --the question--

7 SENATOR DILAN: I had--

8 SENATOR NOZZOLIO: --before you ask  
9 another one.

10 SENATOR DILAN: I had, I had the mic  
11 when I was asking the question. I don't  
12 understand what you're doing.

13 SENATOR NOZZOLIO: Let him answer--

14 SENATOR DILAN: I, I was already--

15 SENATOR NOZZOLIO: --before you--

16 SENATOR DILAN: --asking the question.

17 SENATOR NOZZOLIO: --ask, ask, you've  
18 been interrupting him time and again.

19 SENATOR DILAN: I don't think so.

20 SENATOR NOZZOLIO: Well, it appears, I,  
21 I'm--

22 SENATOR DILAN: Well, if--

23 SENATOR NOZZOLIO: --surprised--

24 SENATOR DILAN: --that's the case, I

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2 apologize to you, but go ahead.

3 MR. BAIN: That's not, that's not  
4 necessary.

5 SENATOR DILAN: Go ahead. Well, the  
6 chairman interrupted me. Go ahead.

7 MR. BAIN: Well, my only point is I  
8 really can't speak to those counties, having not  
9 lived in Greene County. Obviously I know where  
10 Greene County is, but I haven't, I haven't lived  
11 in Berne or Knox either. Now, with the other, as  
12 far as the other counties that are in that, that  
13 district, I can't speak to that and that's not my  
14 purpose for being here today.

15 SENATOR DILAN: Well, I thought that  
16 your purpose here today was to speak to the 46th  
17 Senatorial District, as you indicated. However,  
18 after that, I wanted to know how you found out  
19 about this hearing and what was your interest all  
20 of a sudden in redistricting, and if you have any  
21 background in redistricting.

22 MR. BAIN: Well, how I found out about  
23 it was online over the weekend. I think it was  
24 the Times Union blog. It seemed like a good

1 Demographic Research and Reapportionment, 1-30-2012

2 idea, had some ideas.

3 SENATOR DILAN: All right.

4 MR. BAIN: My background is rather  
5 varied. I've been a, I was a lobbyist for the  
6 construction industry here in Albany for 23  
7 years. I later was political director for the  
8 Public Employees Federation, and later I was  
9 appointed to the Department of State as Deputy  
10 Secretary of State by Governor Rock--Rockefeller,  
11 no, I'm not that old--by Governor Pataki, and I  
12 was later also appointed, reappointed by Governor  
13 Spitzer. So, I have a history. I've been around  
14 here a little bit. I'm not currently working in  
15 that business but I have a, I think, a pretty  
16 decent record in town, as a by, getting  
17 bipartisan advocacy success, working with  
18 republicans and democrats, and if I'm not  
19 mistaken, this whole process is meant to be a  
20 non-partisan thing.

21 SENATOR DILAN: I want to thank you very  
22 much. The purpose of my questions were just to  
23 find out your interest in this. Thank you.

24 MR. BAIN: Thanks.

1 Demographic Research and Reapportionment, 1-30-2012

2 ASSEMBLY MEMBER MCENENY: Thank you very  
3 much, Mr. Bain.

4 MR. BAIN: Thanks.

5 ASSEMBLY MEMBER MCENENY: Anyone else?  
6 Thank you.

7 SENATOR NOZZOLIO: Thank you very much.

8 ASSEMBLY MEMBER MCENENY: The next  
9 speaker is Mayor Dwyer of Rensselaer.

10 MAYOR DANIEL J. DWYER, CITY OF  
11 RENSSELAER: Thank you, Mr. Chairman. Good  
12 morning. My name is Dan Dwyer. I'm the mayor of  
13 the City of Rensselaer. I would like to express--  
14 -

15 ASSEMBLY WOMAN DEBRA LEVINE, CO-  
16 EXECUTIVE DIRECTOR, NEW YORK STATE LEGISLATIVE  
17 TASK FORCE ON DEMOGRAPHIC RESEARCH AND  
18 REAPPORTIONMENT: Mayor, please speak--

19 MAYOR DWYER: --my appreciation--

20 ASSEMBLY MEMBER LEVINE: --into the  
21 microphone.

22 SENATOR NOZZOLIO: Can you get the--

23 ASSEMBLY MEMBER LEVINE: Mayor, you need  
24 to--

1 Demographic Research and Reapportionment, 1-30-2012

2 SENATOR NOZZOLIO: --microphone close,  
3 Mayor? Thank you.

4 MAYOR DWYER: Am I too close?

5 ASSEMBLY MEMBER LEVINE: No, no.

6 SENATOR NOZZOLIO: No, no.

7 ASSEMBLY MEMBER LEVINE: Not close  
8 enough.

9 ASSEMBLY MEMBER MCENENY: Bring it  
10 closer.

11 SENATOR NOZZOLIO: There you go.

12 MAYOR DWYER: Usually my voice carries  
13 so I--

14 SENATOR NOZZOLIO: Okay.

15 MAYOR DWYER: --sort of back off.

16 SENATOR NOZZOLIO: Thank you.

17 MAYOR DWYER: I'd like to express my  
18 appreciation for the opportunity to briefly  
19 testify today about the, both change to the  
20 legislative districts. At one time, we were in  
21 a, the city was represented by former majority  
22 leader, Joe Bruno. He did an outstanding job for  
23 us, the City of Rensselaer, the county, and the  
24 entire region. His successor, Senator McDonald,

1 Demographic Research and Reapportionment, 1-30-2012

2 also has done a good job, along with other local  
3 state legislators to represent the capital  
4 district's best interests.

5 In this difficult economy, we are  
6 competing with every other region in the state  
7 for limited number of resources. With that in  
8 mind, I believe that no matter what, who it is  
9 that represents the City of Rensselaer, it is  
10 important that they be willing to stand up and  
11 fight for us. As I have been fortunate to have  
12 good relations with state legislators on both  
13 sides of the pile, my only concern with this  
14 process is that my constituents in the city of  
15 Rensselaer continue to have a strong voice in  
16 state government.

17 It is my understanding that the proposed  
18 plan Senator Neil Breslin would represent each of  
19 the cities that lie adjacent to the Hudson River  
20 and Rensselaer County. With lie, lifelong ties  
21 to the city, to the capital region, I feel  
22 comfortable that Senator Breslin will extend the  
23 same efforts to represent our city's interest, as  
24 he has done in the past with the city of Albany.



1 Demographic Research and Reapportionment, 1-30-2012

2 As the cities of Rensselaer, Troy and Albany have  
3 similar interests and similar constituencies, I  
4 can understand the rationale of why they are  
5 placed in the same district on your new map. I  
6 am hopeful, hopeful that these similarities,  
7 similarities will result in the union of  
8 representation in the common purpose.

9 One representative will be fighting to  
10 improve those little cities' unique urban  
11 interests, rather than having one foot in the  
12 city senate part of this current state district,  
13 senate district, and one fit, foot in the borough  
14 towns that make up the rest. I know there has  
15 been criticism of a proposed line plan, but on  
16 behalf of my constituents, I am comfortable with  
17 them and look forward to working with Senator  
18 Breslin in the future, and thank again for  
19 hearing my thoughts on this resolving. Thank you  
20 very much.

21 ASSEMBLY MEMBER MCENENY: Mayor, is it  
22 safe to say that you're content either way,  
23 whether you stayed in Rensselaer County's bay  
24 senate district or whether you were in the Albany

1 Demographic Research and Reapportionment, 1-30-2012

2 city side?

3 MAYOR DWYER: I'm very content.

4 ASSEMBLY MEMBER MCENENY: Do you have--

5 MAYOR DWYER: And I--

6 ASSEMBLY MEMBER MCENENY: Do have a--

7 MAYOR DWYER: I see no--

8 ASSEMBLY MEMBER MCENENY: --preference?

9 MAYOR DWYER: I see no problem. Like I  
10 say, what's in the best interest of the city of  
11 Rensselaer and the people, and to be honest, I  
12 work with both parties and that, to me, is the  
13 most important thing as the people.

14 ASSEMBLY MEMBER MCENENY: Very good.

15 Any members have a question here?

16 MAYOR DWYER: Thank you, Mr.--

17 ASSEMBLY MEMBER MCENENY: Thank you very  
18 much, Mayor. Michael Cuevas of Schenectady, and  
19 it's Cuevas, I am reminded.

20 MICHAEL CUEVAS, EXECUTIVE DIRECTOR,  
21 SCHENECTADY COUNTY REPUBLICAN COMMITTEE: Cuevas,  
22 Cuevas.

23 ASSEMBLY MEMBER MCENENY: And I  
24 apologize.

1 Demographic Research and Reapportionment, 1-30-2012

2 MR. CUEVAS: Thank you, gentleman, for  
3 the opportunity to address you this morning. My  
4 comments are particularly centered on the  
5 interests of the people of the city of  
6 Schenectady and Schenectady County, which both  
7 areas are impacted by both the changes to the  
8 senate and assembly district lines. In the  
9 interest of full disclosure, I, and so that  
10 Senator Dilan won't have to repeat his questions,  
11 that my background is that I have been a four-  
12 time candidate for political office in the city  
13 of Schenectady. I currently am the executive  
14 director and first vice chair of the Schenectady  
15 County Republican Committee, and prior to that, I  
16 served as counsel to the Assembly Minority  
17 Conference. I have also served in the past  
18 governor's administration as a chairman of the  
19 Public Employment Relations Board for nearly nine  
20 years, and also under former Governor Cuomo,  
21 first, I was a member of the Commission on the  
22 Capital Region, which I think particularly  
23 qualifies me to make comments here today, because  
24 that commission was tasked with studying the

1 Demographic Research and Reapportionment, 1-30-2012

2 entire greater capital region and how the region  
3 could interact, and as we traveled around the  
4 region, over the year and a half that we held  
5 hearings for that commission, we got a good sense  
6 of where the common interests among the various  
7 communities in the region lie. Now in my private  
8 practice, I represent municipalities. My firm  
9 represents over 30 municipalities across the  
10 state, basically in public sector labor  
11 relations, but in many areas in general municipal  
12 issues as well.

13 When you look at, on the senate side,  
14 the city of Schenectady is now going to be placed  
15 primarily in the district to the, to the north,  
16 which would now be in the proposed senate,  
17 District 49. That district splits Schenectady  
18 County but I would suggest that there appears to  
19 be a logical line of division that's drawn there,  
20 because Schenectady County communities of  
21 Glenville and Niskayuna, along with the city of  
22 Schenectady, go into 49. The people that are  
23 familiar with the interactions of those  
24 communities know that the city of Schenectady has

1 Demographic Research and Reapportionment, 1-30-2012

2 intermunicipal agreements for both water and  
3 sewer with both the towns of Glenville and the  
4 town of Niskayuna, and they also have a number of  
5 other intermunicipal agreements with respect to  
6 public safety, highway and issues such of that.  
7 There is a more, they also, within the county  
8 legislative districts, comprise county  
9 legislative districts one, two and three, whereas  
10 the rest of Schenectady County, which looks like  
11 a large geographical area, is the more sparsely  
12 populated part of Schenectady County, the more  
13 rural suburban districts, Rotterdam being more  
14 suburban, Princetown and Duanesburg being  
15 primarily rural, which don't have the same kinds  
16 of connections either by intermunicipal  
17 agreements, they don't have the water and sewer  
18 out in Duanesburg and Princetown. They're not  
19 connected, you know, physically to the city and,  
20 and the other towns that way; Rotterdam, to a  
21 small degree. And, and if you go through those  
22 communities, you'll see how much different they  
23 are than the other part of Schenectady County,  
24 whereas they do seem to have a more logical

1 Demographic Research and Reapportionment, 1-30-2012

2 connection to the more rural and suburban towns  
3 to the north and south, so that the proposed  
4 Senate District 46 than from the Schenectady  
5 County perspective, has much more in common with  
6 those towns in Montgomery County, Albany County,  
7 and I would suggest even going down to, to Greene  
8 and Ulster by reason of, of their more rural  
9 suburban character than those to the north and  
10 east, which are, you know, more densely  
11 populated, and in the case of Niskayuna and  
12 Glenville, more densely suburban, less, less  
13 rural, more similar to the, the towns of Clifton  
14 Park and, and those to the east. And, you know,  
15 those that, at first glance might, might look at,  
16 you know, this district as being perhaps longer  
17 than it is wide, I, I think that sometimes we  
18 overstate the compactness issue, but certainly  
19 the, the common interest that run through this  
20 district seem to serve, you know, several of the  
21 purposes of having, you know, a continuous flow  
22 through the areas of common interest and keeping  
23 largely, the city of Schenectady intact. There  
24 does seem to be a little sliver of the city of

1 Demographic Research and Reapportionment, 1-30-2012

2 Schenectady that falls into the proposed new 46,  
3 which I would suggest perhaps consider putting  
4 that sliver back with the rest of the city, into  
5 District 49. There doesn't seem to be any real  
6 purpose to have that within this senate district.  
7 And having known the, and worked with the  
8 candidates in the current assembly district,  
9 which would be the 105th assembly district, that  
10 this district has much of that 105th district,  
11 which, 105th assembly district, which seems to--  
12 and I have logically already formed a connection  
13 and a bond between the people in those parts of  
14 Schenectady and Montgomery County that are  
15 represented in that 105th assembly district.

16 So, I would suggest that if we are going  
17 to go to an additional senate district, that this  
18 certainly would make sense. I was here in the  
19 legislature, you know, a few years ago when we  
20 had the divide in the senate, so that things  
21 pretty much came to a standstill when the senate  
22 was split, and I don't think anyone in the public  
23 would have foreseen that situation at the time,  
24 but we know of it now, and I, I think it makes

1 Demographic Research and Reapportionment, 1-30-2012

2 sense for us to go to an odd number of senate  
3 districts to avoid that kind of eventuality. We  
4 do that with local government. You know,  
5 throughout local government, whether it be, you  
6 know, town or village government or, or city  
7 councils, we look to have an odd number of  
8 members on those legislative bodies. This is not  
9 the United States Senate where we apportion  
10 members of the state senate according to the  
11 number of counties. It's just coincidental now  
12 that we have 62 counties and, and 62 senators.  
13 They don't represent those geographical limits  
14 of counties. So, why not have an odd number and  
15 avoid the constitutional issues that arise when  
16 you have an equal number of senators from both  
17 parties.

18 I think that's, that pretty much would  
19 summarize what I have, and, and will submit in my  
20 written comments with respect to the senate  
21 district. If I could just briefly touch upon the  
22 assembly district that impact the, the city of  
23 Schenectady. Again, while on first glance,  
24 someone might say that there doesn't appear to be



1 Demographic Research and Reapportionment, 1-30-2012

2 logic to the division. Those of us from the city  
3 of Schenectady know that there is a very real  
4 divide within the city. The north and easterly  
5 part of the city basically is where there is a  
6 concentration of single-family, owner-occupied  
7 premises. There is a vast difference between the  
8 north and easterly side of the city and the  
9 southwesterly side of the city with respect to  
10 household incomes. This line basically draws a  
11 line between the two and that line puts the 100,  
12 new proposed 110th assembly district together  
13 with the town of Niskayuna and the town of, parts  
14 of the town of Colonie, which are more like those  
15 parts of the city. If you're driving down the  
16 street, my street in the city of Schenectady, I'm  
17 a block from the Niskayuna line. You can't tell  
18 the difference if you're driving through from  
19 Niskayuna into our part of the city. My mail is  
20 delivered from Niskayuna, not from the City of  
21 Schenectady Post Office. There's logic to his  
22 division and we would support that change as  
23 well. If anyone has any questions, I'd be happy  
24 to answer them.

1 Demographic Research and Reapportionment, 1-30-2012

2 ASSEMBLY MEMBER MCENENY: Senator?

3 SENATOR DILAN: Yes. I have a question  
4 with respect to your comment with the size of the  
5 senate, and you said that an odd number is  
6 better; why not 61?

7 MR. CUEVAS: Well, I, I don't suggest  
8 that 61 would, would be, you know, an incorrect  
9 number either. I'm just suggesting that if we  
10 force local governments to have odd numbers,  
11 logically the senate, you know, would be served  
12 well by having an odd number. I think one of the  
13 rules of redistricting is they try not to, you  
14 know, force incumbents out of office, so it's  
15 downsizing would perhaps do that. If you go up  
16 one, then you're less likely to do that.

17 SENATOR DILAN: The reason I indicate  
18 that is because the current constitution and the  
19 formula that's within the constitution and what I  
20 know of it, and what I've heard in many of the  
21 testimony, is that if we strictly follow the  
22 constitution, then that result will be 62 seats.  
23 Just wanted to make that comment. You don't have  
24 to respond to it.

1 Demographic Research and Reapportionment, 1-30-2012

2 MR. CUEVAS: Right, okay. Thank you.

3 SENATOR DILAN: Thank you.

4 SENATOR NOZZOLIO: If I may Mr. Co-  
5 Chair, I think my colleague brought up the issue  
6 and you raised the issue in your testimony.  
7 Thank you for your testimony. Very helpful.  
8 Just so we know, that the state constitution  
9 determines the size of the assembly and the size  
10 of the senate. Article 3 of the constitution  
11 fixes the size of the assembly at 150, but  
12 establishes an, an equation, a formula which is  
13 basically interpreted to be a series of ratio  
14 equations based on population, and that that  
15 formula then drives the size of the senate. In  
16 1982, the senate was changed from 60 to 61. in  
17 2002, the change was from 61 to 62. The counsel  
18 who is advising, as this committee has indicated  
19 that in his opinion, the ratio equations based on  
20 the population of the state of New York currently  
21 in the 2010 census, requires the addition of  
22 another senate seat. We, as members of this  
23 commission, as well as members of the  
24 legislature, do not have the authority to change

1 Demographic Research and Reapportionment, 1-30-2012

2 the number of senate seats, or we do not have the  
3 authority to change the number of assembly seats.  
4 What we have to do though is comply with the  
5 state constitution, and the formula that's in the  
6 state constitution, and, as, and I'm sure that  
7 will be a, a divided opinion. Senator Dilan has  
8 already voiced his objection so to be fair, it is  
9 an open question right now, but that, certainly  
10 that, we believe that's it's the constitution  
11 that drives this issue, not individual  
12 legislators and their position on one way or  
13 another. But thank you very much for your  
14 testimony. It was very helpful, and that I  
15 appreciate you putting on the record your  
16 concerns.

17 ASSEMBLY MEMBER MCENENY: Senator Dilan?

18 SENATOR DILAN: Yes. I just want to  
19 note, for the record, that as an individual  
20 legislator, I'm not advocating for one number or  
21 the other. I also support the constitution. You  
22 make reference to various decades. I can go back  
23 even another decade to 1972, '82, '92 and 2002,  
24 where the current senate majority used a

1 Demographic Research and Reapportionment, 1-30-2012

2 consistent formula to determine the size of the  
3 senate. However, this year, they're using two  
4 different methods to get to the number that they  
5 want. So, I want to clarify the record. It's  
6 not my individual thought that I'm thinking here.  
7 I, too, will live with whatever the constitution  
8 says, but we cannot change our methods when we've  
9 been doing it one way for 40 years, and now in  
10 the 50th year, you want to do it a different way  
11 because you want to get another number. Thank  
12 you.

13 SENATOR NOZZOLIO: And, and, and I  
14 apologize that you have to sit through this, but-  
15 -

16 [Crosstalk]

17 SENATOR NOZZOLIO: If Senator Dilan  
18 wants to clarify the record, I think I need to  
19 clarify the record also, that the formula has not  
20 changed, our application of that formula has not  
21 changed, in our opinion, that the formula is the  
22 same formula it's always been and this panel will  
23 not decide this issue. It will be decided  
24 elsewhere. But thank you again for your

1 Demographic Research and Reapportionment, 1-30-2012

2 testimony.

3 MR. CUEVAS: But if, if it's formula  
4 driven and constitution driven, and if it's just  
5 fortuitous that the application of the formula  
6 suggests that a 63rd seat is in order, I think  
7 the vast majority of New Yorkers would be best  
8 served by having that 63rd seat and having an odd  
9 number of seats in the senate.

10 SENATOR NOZZOLIO: Thank you very, very  
11 much.

12 ASSEMBLY MEMBER MCENENY: Thank you very  
13 much.

14 MR. CUEVAS: Thank you.

15 ASSEMBLY MEMBER MCENENY: James Sotille;  
16 he's the former Mayor of Kingston. Did I  
17 pronounce your name correctly?

18 JAMES SOTILLE, FORMER MAYOR OF KINGSTON:  
19 Yes. The key word there was former, former  
20 mayor. I'm here, good morning, ladies and  
21 gentlemen.

22 ASSEMBLY MEMBER MCENENY: Good morning.

23 MR. SOTILLE: I'm here this morning as a  
24 private citizen, an individual who served for the

1 Demographic Research and Reapportionment, 1-30-2012

2 last ten years on the front lines as a mayor of  
3 the city of Kingston, trying to provide the  
4 services necessary for a community the size of  
5 Kingston to survive. Whether your body decides  
6 whether to add another senatorial seat or not,  
7 that certainly will be played out within your  
8 house, but I am here to speak positively on the  
9 fact that if you do raise and add another  
10 senatorial seat, the way it's described in the  
11 46th is a good idea. I'm here, obviously speak  
12 in support of the proposed 46th senate, state  
13 senate district, which would include Montgomery  
14 County, Greene County, and portions of  
15 Schenectady, Albany, and Ulster Counties,  
16 including the city of Kingston.

17 During my tenure as mayor of Kingston,  
18 the city was ably represented in the state senate  
19 by Senator Bill Larkin, who lives in Orange  
20 County. I believe that the portions of Ulster  
21 County that are included in the proposed 47, 46th  
22 senate district, the towns of Woodstock,  
23 Saugerties, Ulster, Kingston, Esopus, Marbletown,  
24 Lloyd, and the city of Kingston have a tremendous

1 Demographic Research and Reapportionment, 1-30-2012

2 number of common interests and concerns with  
3 Greene County and the other Hudson and Mohawk  
4 River counties, communities contained within the  
5 proposed 46th district.

6 First, many of these areas were  
7 substantially impacted by flooding in 2011, and  
8 during the ongoing and future recovery efforts,  
9 they will share mutual concerns relating to state  
10 investment and impacted communities in the  
11 state's oversight of this process.

12 Second, the ongoing remediation of the  
13 Hudson River is an issue of mutual concern for  
14 communities in Northeastern Ulster County, Greene  
15 County and southern Albany counties. As this  
16 cleanup process continues, having a shared voice  
17 in the state senate will greatly enhance the  
18 ability of these communities to protect their  
19 mutual interests.

20 Third, many of the rural and  
21 agricultural communities in northern Ulster  
22 County have much more in common with similarly  
23 situated areas in Greene County, Montgomery  
24 County and the more rural portions of Albany and



1 Demographic Research and Reapportionment, 1-30-2012

2 Schenectady Counties, which are, are included in  
3 this proposed district.

4 Again, for the people who reside in  
5 these areas, having a single unified voice in the  
6 state senate will be of significant benefit. I  
7 thank the task force for all your hard work and  
8 for giving me, not as mayor, but as a private  
9 citizen, the opportunity to speak before you.  
10 Okay.

11 SENATOR NOZZOLIO: Thank you very much,  
12 Mayor.

13 ASSEMBLY MEMBER MCENENY: Thank you very  
14 much, Mayor.

15 MR. SOTILLE: Thanks so much.

16 SENATOR NOZZOLIO: Yeah.

17 ASSEMBLY MEMBER MCENENY: Thank you.  
18 Michael McMahon, Montgomery County Commissioner  
19 of Social Services. Is that your cheering  
20 section?

21 MICHAEL MCMAHON, MONTGOMERY COUNTY  
22 COMMISSIONER OF SOCIAL SERVICES: Good morning.  
23 Yes, it is. I appreciate the opportunity to  
24 speak with you today about the proposed 46th. My

1 Demographic Research and Reapportionment, 1-30-2012

2 name is Michael McMahon and I'm a resident of  
3 Montgomery County, but I'd like to say that  
4 before I became a resident of Montgomery County,  
5 as a child and a teenager, I grew up in the Mid-  
6 Hudson Valley. My father was an IBM executive  
7 who started his career in Fishkill, moved on to  
8 Poughkeepsie, and moved on to Kingston, and when  
9 he did that, he dragged us and moved the home  
10 each, each time. So, I had the opportunity to  
11 live in many of the Hudson Riverfront communities  
12 that I just spoke about, mainly Athens,  
13 Rhinebeck; these are where we had homes, in  
14 Ulster and Greene County.

15 As a new resident of Montgomery County,  
16 I go back and visit friends in Rhinebeck and Cold  
17 Spring, and there's a stark difference in those  
18 communities than what they were in the '60s and  
19 the '70s when I was a kid growing up. I would  
20 like to see that same economic development,  
21 recreational opportunity, and, and, cultural  
22 diversity and opportunities kind of come upstate  
23 to Montgomery County, and, and where I live now  
24 in the town of Canajoharie, fine, and we would

1 Demographic Research and Reapportionment, 1-30-2012

2 love to see that kind of development. I think  
3 under one senate voice, I think there's an  
4 opportunity to do that.

5 I'd like to read a short, a short  
6 statement. Much of it is the same sentiment as  
7 the, as the former mayor of Kingston just read.  
8 I am in support of the creation of the proposed  
9 greater capital district region, district,  
10 because I believe it will benefit the residents  
11 of Montgomery County. In many ways, the  
12 residents of my county have much in common with  
13 the suburban rural towns in western Schenectady  
14 and Albany counties. This proposed district  
15 would provide the shared interest with a single  
16 voice in state government. In each of these  
17 areas, local government must deal with both rural  
18 and suburban issues. Additionally, we have many  
19 local residents who commute to Albany on a daily  
20 basis. By combining together several of the  
21 communities west of the Hudson River, we will  
22 have an opportunity to address these issues in a  
23 cohesive way and present our issues to a single  
24 state senator representing us. This past year,

1 Demographic Research and Reapportionment, 1-30-2012

2 businesses and residents in Montgomery County  
3 have had to deal with the aftermath of serious  
4 floods that hit our region. The proposed 46th  
5 senate district includes communities of  
6 Montgomery, Schenectady, Albany, Greene and  
7 Ulster counties, who are all struggling with  
8 recover efforts. By joining these communities  
9 into one senate district, these affected varies  
10 will be able to more effectively advocate for the  
11 states what we need to achieve our recover.

12 I want to thank you for the opportunity  
13 to testify before you. If you have any questions  
14 for me, I will certainly take them.

15 SENATOR NOZZOLIO: You have a unique  
16 perspective. Thank you for your testimony. You  
17 have a unique perspective, having lived in one  
18 area of this proposed region and district, and  
19 now working in the other. Do you have  
20 interaction now with your former--do you see any  
21 community of interest with where you are now to  
22 as you move south in, into this--

23 MR. MCMAHON: I would like to see--I'm,  
24 I'm an avid kayaker and, and, and, and a water

1 Demographic Research and Reapportionment, 1-30-2012

2 sports person. I do a lot of canoeing. I like  
3 some of the things that are happening in the mid-  
4 Hudson Valley, as far as the recreational things.  
5 The Mohawk Valley doesn't really offer that yet  
6 and we'd certainly--I know the riverfront  
7 communities I've mentioned before--Amsterdam,  
8 Fawn and Canajoharie--I think we'd love to see  
9 that kind of development because it will bring in  
10 the tours and dollars we need and, and revitalize  
11 our, our riverfront communities. So, I, I go  
12 back and I shake my head when I go to Rhinebeck  
13 and I, I remember when it was, it was farmers  
14 and, and, and, you know, it was a very different  
15 community than it is today. Of course, it took,  
16 took a few decades certainly to do that.

17 SENATOR NOZZOLIO: Well, thank you very  
18 much for your testimony.

19 MR. MCMAHON: Thank you.

20 ASSEMBLY MEMBER MCENENY: Thank you very  
21 much, Commissioner. Brian Paul, Research and  
22 Policy Coordinator of Common Cause in New York.

23 SUSAN LERNER, EXECUTIVE DIRECTOR, COMMON  
24 CAUSE, NEW YORK: Can I have clarification? We

1 Demographic Research and Reapportionment, 1-30-2012

2 were told that what an individual--this is Susan  
3 Lerner from Common Cause--that an individual  
4 could testify only once in the series of  
5 hearings, and so we elected to have me testify in  
6 Albany, so Brian would not be testifying here.  
7 If that's inaccurate information, we can revise  
8 our, our plan.

9 SENATOR NOZZOLIO: Well, fine. Then  
10 call Susan Lerner.

11 ASSEMBLY MEMBER MCENENY: That's a, a  
12 police that's in, in formation, but Susan, we'll  
13 let you both come up here now.

14 MS. LERNER: Okay. Thank you.

15 ASSEMBLY MEMBER MCENENY: What we're  
16 trying to avoid is somebody repeating the exact  
17 same thing at nine public hearings while other  
18 people are waiting, especially when it's already  
19 been submitted. On the other hand, we certainly  
20 don't want to discourage somebody concentrating  
21 on western New York, and by the way, anyone can  
22 comment on the congressional situation, as well,  
23 at these hearings. And we're trying to avoid the  
24 repetition because what we're creating for the

1 Demographic Research and Reapportionment, 1-30-2012

2 people who actually watch this on the website is  
3 where we're trying to eliminate just plain  
4 duplication.

5 MS. LERNER: Right. And, and--

6 ASSEMBLY MEMBER MCENENY: But--

7 MS. LERNER: --we are, I think we've  
8 tried very hard at Common Cause--

9 ASSEMBLY MEMBER MCENENY: Yes.

10 MS. LERNER: --on the regional hearings  
11 to be very specific--

12 ASSEMBLY MEMBER MCENENY: Yeah.

13 MS. LERNER: --to the demographics and  
14 the questions pertinent to the map for that--

15 SENATOR NOZZOLIO: And that--

16 MS. LERNER: --region and not just to  
17 repeat over and over the same points.

18 SENATOR NOZZOLIO: And that's  
19 appreciated. I just, pardon me for interrupting,  
20 but I just wanted to also indicate that we took  
21 this model from Senator, from Governor Cuomo's  
22 Administrations DEC, which is currently out  
23 taking a hearing, conducting public hearings on,  
24 and taking testimony on initial hydrofracking,

1 Demographic Research and Reapportionment, 1-30-2012

2 and that their rule has been that one person, one  
3 meeting, and that that's something that,  
4 depending on the size of the, of the numbers, we  
5 may have to enforce.

6 MS. LERNER: Right.

7 SENATOR NOZZOLIO: But, so I was--

8 MS. LERNER: And, and, you know, we're,  
9 we're fine. We understand the impetus and it  
10 actually, you know, being a organization with  
11 many different members and activists, it's not a  
12 problem for us to have different people at  
13 different hearings, but again, very specific to  
14 the particular questions at hand for the  
15 particular regions.

16 So, I, I want to thank you for allowing  
17 me to testify. I'm Susan Lerner, the Executive  
18 Director of Common Cause, New York.

19 ASSEMBLY MEMBER MCENENY: Will, will,  
20 pardon me, Susan. Will Brian also be commenting?

21 MS. LERNER: No, Brian's with me so that  
22 if there are detailed questions that go beyond my  
23 level of expertise, I have the person who's most  
24 familiar with the demographics and the map-



1 Demographic Research and Reapportionment, 1-30-2012

2 drawing process who can help us--

3 ASSEMBLY MEMBER MCENENY: Thank you.

4 MS. LERNER: --answer accurately should  
5 there be detailed questions.

6 ASSEMBLY MEMBER MCENENY: Thank you.

7 MS. LERNER: So, first, I'd like to  
8 express our appreciation for the fact that when  
9 the maps were released, they were released both  
10 in image form and as shape files, which allowed  
11 us and other interested members of the public to  
12 immediately engage directly with the proposal and  
13 to be able to analyze it, and I know there was a  
14 lot of speculation beforehand as to the format in  
15 which the, the information would be provided to  
16 the public, and I commend you for providing it in  
17 a different, several different modalities that  
18 allow people with different capabilities to  
19 engage with the data and with the maps. And  
20 we're appreciate of that and we're appreciative  
21 of the fact that the image files had enough  
22 detail to identify streets so that the public  
23 could see where the proposed lines were and that  
24 they were accompanied by the kind of population

1 Demographic Research and Reapportionment, 1-30-2012

2 data that average citizens might not have  
3 immediately available to them, and so I want to,  
4 I want to thank you for that.

5 However, we thought that the suspense  
6 speculating and waiting for the release of the  
7 maps became a bit counterproductive, and I, and I  
8 have to tell you honestly that we are somewhat  
9 disappointed in the maps. We believe that they  
10 should undergo substantial revision and we're  
11 pleased to hear from both Senator Nozzolio and  
12 Assembly Member McEneny in their comments to the  
13 press that these are preliminary drafts which are  
14 expected to be revised.

15 First and more importantly, we are  
16 greatly concerned that the congressional district  
17 lines have not yet been released to the public.  
18 Your public comments indicate that the maps may  
19 not yet have been finalized or agreed on by  
20 LATFOR and with the recent court order that I  
21 think we are all aware of, the congressional  
22 primary is set for June and there is a tremendous  
23 time pressure and the need to finalize the  
24 congressional maps that take on an even greater

1 Demographic Research and Reapportionment, 1-30-2012

2 urgency. We're very concerned that the public  
3 may not have an opportunity to comment on the  
4 proposed congressional lines and that the  
5 timeframe would then require you to set a  
6 proposal forward to the legislature, which would  
7 be adopted without having the citizens of the  
8 state able to comment on it, and it, we are, we  
9 believe that it's very important for the public  
10 in the process of the hearings that are being  
11 conducted now on an accelerated timeframe to have  
12 an opportunity to comment on proposed  
13 congressional lines. So, we do point out that we  
14 have submitted to you three different sets of  
15 reformed proposals, including a set of  
16 congressional lines for the entire state, and we  
17 hope that you will find those helpful. You  
18 could, of course, take comment on those proposals  
19 if that would help speed the process, and we  
20 think it is essential for congressional lines to  
21 be made public and for the public to have an  
22 opportunity to comment on them.

23 As we've consistently stated--

24 ASSEMBLY MEMBER MCENENY: There are--

1 Demographic Research and Reapportionment, 1-30-2012

2 MS. LERNER: Yeah, I'm sorry.

3 ASSEMBLY MEMBER MCENENY: Susan, there  
4 are several maps out there by, there's a unity  
5 plan--

6 MS. LERNER: Right.

7 ASSEMBLY MEMBER MCENENY: --down in the  
8 Metropolitan area, there's yours. People may  
9 comment as they wish on any maps that are out  
10 there that have been widely distributed, as these  
11 have.

12 MS. LERNER: Okay. Thank you. As we've  
13 consistently stated, we believe the district line  
14 should be fairly drawn pursuant to a set of clear  
15 criteria and be non-political.. We've drawn  
16 lines according to the criteria that we have  
17 explained in our submission to show that there is  
18 no impediment to drawing a set of non-political  
19 lines.

20 I want to commend you, Assembly Member  
21 McEneny for your clarity in your comments to the  
22 press, that you philosophically do not agree with  
23 our position, and that you have, I think, very  
24 fairly stated what the conflict is in terms of a

1 Demographic Research and Reapportionment, 1-30-2012

2 decision for the public to determine whether  
3 politic, political lines are really what they  
4 want to see, or non-political lines, and--

5 ASSEMBLY MEMBER MCENENY: Susan--

6 MS. LERNER: --your comments fairly  
7 state what I think the disagreement is.

8 ASSEMBLY MEMBER MCENENY: Could you be  
9 more specific on that? Because there are things  
10 I agree with, things I don't, and I'm, I'm not  
11 sure what you're referring to.

12 MS. LERNER: Well, you know, in, in  
13 various comments that you made, I think  
14 particularly in some TV interviews, you said that  
15 you readily admit that the maps drawn by LATFOR  
16 are not non-partisan, and that they reflect the  
17 fact that they were drawn consciously by those  
18 most knowledgeable about politics using their  
19 knowledge of politics, and I think that's a very  
20 fair statement.

21 ASSEMBLY MEMBER MCENENY: It's, it's--

22 MS. LERNER: And I think that--

23 ASSEMBLY MEMBER MCENENY: It's a little,  
24 a little out of context though.

1 Demographic Research and Reapportionment, 1-30-2012

2 MS. LERNER: Okay.

3 ASSEMBLY MEMBER MCENENY: It's, it's  
4 political influence, influence from groups such  
5 as your own, sociodemographic information--don't  
6 forget, I'm the ex-county historian--commuting  
7 patterns, all kinds of, of influence, of which I  
8 believe my quote was it's naïve to think that  
9 people who are certainly embroiled in public life  
10 and politics don't know where people live. And I  
11 think the one phrase that's used often is the  
12 incumbent protection--

13 MS. LERNER: Right.

14 ASSEMBLY MEMBER MCENENY: --program,  
15 whereas I think what I've heard in criticism of  
16 Common Cause, is it's better known as the  
17 incumbent destruction program.

18 MS. LERNER: Well, as you know--

19 ASSEMBLY MEMBER MCENENY: And I, I think  
20 that's a, that's a value judgment that--

21 MS. LERNER: Right.

22 ASSEMBLY MEMBER MCENENY: --people will  
23 take different sides on.

24 MS. LERNER: Exactly. And I think that

1 Demographic Research and Reapportionment, 1-30-2012

2 it's helpful for the public to know that there  
3 are two differing views, and then the public is  
4 able to look at the contrasting maps and make  
5 some determination--

6 ASSEMBLY MEMBER MCENENY: Sure.

7 MS. LERNER: --of what their preference  
8 is. Polling shows that, at least before the maps  
9 came out, that the public felt that they wanted  
10 an independent process with a non-politicized,  
11 non-partisan result. Now the public has the  
12 product, the initial product of the two differing  
13 approaches, and it will be in the hands of the  
14 public and the legislature and the government  
15 ultimately--

16 ASSEMBLY MEMBER MCENENY: That's right,  
17 yeah.

18 MS. LERNER: --to make that value  
19 judgment. But I think it's an important  
20 discussion that we need to have, because after  
21 this process is over, hopefully we will be  
22 discussing what the constraints are in our  
23 current constitutional provisions regarding  
24 redistricting and we will have an opportunity,

1 Demographic Research and Reapportionment, 1-30-2012

2 hopefully, to talk about what would be meaningful  
3 reform and what needs to be done to improve this  
4 process so it's clearer and easier for you, as  
5 the map drawers, and has elements that will cause  
6 the public to feel positively about the process.  
7 So, I think, what I'm saying is I think that it  
8 is good that there is clarity, in terms of the  
9 difference of approach and allows the, as you  
10 said, it allows the public to make a  
11 determination.

12 ASSEMBLY MEMBER MCENENY: Thank you.

13 Please proceed. I didn't mean to, I, I didn't  
14 know what area you were talking about.

15 MS. LERNER: Right. No, I, and I think  
16 that clearly stating differences of opinion is  
17 helpful for the dialogue.

18 Measured against three criteria, we have  
19 real concerns about the official draft maps and  
20 believe that they should be changed. And in my  
21 testimony, I've provided some of the numerical  
22 breakdown of, of our analysis of the maps. In  
23 terms of the number of minority districts, we  
24 believe that there are additional opportunities



1 Demographic Research and Reapportionment, 1-30-2012

2 to draw majority-minority districts that these  
3 maps do not take advantage of, and we hope that  
4 you would take a look at that and perhaps in your  
5 revision, create an additional number of  
6 minority-majority districts.

7 ASSEMBLY MEMBER MCENENY: Could you say,  
8 could you say where? It's a big state.

9 MS. LERNER: Yes. We believe that  
10 certainly in the Bronx, that there is an  
11 opportunity--and we'll be testifying about this  
12 is greater specificity at the Bronx hearing--

13 ASSEMBLY MEMBER MCENENY: Okay.

14 MS. LERNER: --where we believe that  
15 there is an opportunity to create an additional  
16 Latino district, and in the Assembly, we believe  
17 that there are opportunities to--

18 BRIAN PAUL, RESEARCH AND POLICY  
19 COORDINATOR, COMMON CAUSE, NEW YORK: Nassau  
20 County.

21 MS. LERNER: --and in Nassau County and  
22 the state senate to create a minority-majority  
23 district and we believe that there are  
24 opportunities to create additional Asian

1 Demographic Research and Reapportionment, 1-30-2012

2 districts in the state assembly in Queens. Those  
3 are just sort of the highlights. We, at specific  
4 regions, the people who will be testifying on  
5 behalf of Common Cause will have specific  
6 instances that are regional in nature.

7 ASSEMBLY MEMBER MCENENY: Tell me, recap  
8 that you believe that a, an additional Asian  
9 district could be created in Queens?

10 MS. LERNER: For the Assembly, we  
11 believe that there are--

12 ASSEMBLY MEMBER MCENENY: For the  
13 Assembly.

14 MS. LERNER: We believe that there can  
15 be additional--

16 ASSEMBLY MEMBER MCENENY: In, in what--

17 MS. LERNER: --I think two, actually,  
18 could be created. That's what we've suggested in  
19 our maps.

20 ASSEMBLY MEMBER MCENENY: Two, two more  
21 in Queens or--

22 MS. LERNER: Yes, that's correct. Yes,  
23 we believe so.

24 ASSEMBLY MEMBER MCENENY: And the plan

1 Demographic Research and Reapportionment, 1-30-2012

2 now has two in Queens, so you're saying it should  
3 be four?

4 MS. LERNER: It should be one more. I'm  
5 sorry. There should, could be a total of three--

6 ASSEMBLY MEMBER MCENENY: Okay.

7 MS. LERNER: --Asian Assembly districts  
8 in Queens.

9 MR. PAUL: Two Queens, one Brooklyn.

10 MS. LERNER: Two Queens, one Brooklyn.  
11 That's why I have Brian here with me.

12 ASSEMBLY MEMBER MCENENY: So, you think--

13 -

14 MS. LERNER: Because he remembers--

15 ASSEMBLY MEMBER MCENENY: --there could  
16 be--

17 MS. LERNER: --better than I do.

18 ASSEMBLY MEMBER MCENENY: You think  
19 there could be two Asian districts in Brooklyn?  
20 Because--

21 MR. PAUL: No.

22 ASSEMBLY MEMBER MCENENY: --we created--

23 MS. LERNER: No, one Asian district, one  
24 Asian majority assembly district.

1 Demographic Research and Reapportionment, 1-30-2012

2 MR. PAUL: Which you have done.

3 MS. LERNER: Which you have done.

4 MR. PAUL: We--

5 ASSEMBLY MEMBER MCENENY: We have done.

6 MR. PAUL: --appreciate it.

7 MS. LERNER: You have done, and we  
8 appreciate that. We think that's a well-drawn  
9 district.

10 ASSEMBLY MEMBER MCENENY: Okay. So,  
11 that's done.

12 MS. LERNER: Yeah, but we--

13 ASSEMBLY MEMBER MCENENY: Now--

14 MS. LERNER: --do believe that there  
15 could be additional in Queens in the Assembly  
16 side.

17 ASSEMBLY MEMBER MCENENY: Okay. So, one  
18 additional Asian in--

19 MS. LERNER: Right.

20 ASSEMBLY MEMBER MCENENY: --Queens? And  
21 what was the comment, it was senate or assembly  
22 when we're talking about Long Island?

23 MS. LERNER: Long Island, the senate.

24 ASSEMBLY MEMBER MCENENY: Would, would

1 Demographic Research and Reapportionment, 1-30-2012

2 be what; one--

3 MS. LERNER: Would be a--

4 ASSEMBLY MEMBER MCENENY: --one more

5 Hispanic--

6 MS. LERNER: --a majority--

7 ASSEMBLY MEMBER MCENENY: --one

8 Hispanic?

9 MS. LERNER: One, well, it would be a, a  
10 mixed district, which would be black and Latino  
11 majority district.

12 ASSEMBLY MEMBER MCENENY: Combined?

13 MS. LERNER: Combined.

14 MR. PAUL: Combined, over--

15 MS. LERNER: That's correct.

16 MR. PAUL: --60%.

17 MS. LERNER: Over 60% as a coalition  
18 district.

19 ASSEMBLY MEMBER MCENENY: Anyplace else  
20 in the state of New York where you feel there's  
21 minority opportunities that haven't been realized  
22 in either house?

23 MR. PAUL: I'll talk if it's okay.

24 Well, moving on from the majority aspect of it,

1 Demographic Research and Reapportionment, 1-30-2012

2 the issue upstate, where cities like Rochester  
3 and Syracuse are divided into multiple pieces,--

4 ASSEMBLY MEMBER MCENENY: Yes.

5 MR. PAUL: --we found that if those  
6 cities are kept more whole, you could increase  
7 minority influence by 20 to 40%. It wouldn't  
8 reach a majority level, but those communities  
9 would be held together.

10 SENATOR NOZZOLIO: It would, I'm sorry.

11 MR. PAUL: It would not reach a majority  
12 level.

13 SENATOR NOZZOLIO: It would not reach a  
14 majority--

15 MR. PAUL: Correct.

16 SENATOR NOZZOLIO: --level.

17 MS. LERNER: That's correct. So, it's  
18 not--

19 SENATOR NOZZOLIO: Are you--

20 MS. LERNER: --required by the, by the  
21 Voting Rights Act, but it is something which the  
22 communities, themselves, often advocate for and  
23 the term of, you know, the term is an influenced  
24 district where they then have an opportunity to

1 Demographic Research and Reapportionment, 1-30-2012

2 meaningfully participate in the choice of elected  
3 representative. And in terms of the population  
4 deviation for LATFOR's maps, we note that the  
5 population deviation in the state senate ranges  
6 from a minus 4.97% to a 3.83%, which gives an  
7 absolute mean deviation of 3.67, as we have in  
8 our written testimony. Our Common Cause reform  
9 maps, the population deviation ranges from point,  
10 minus 2.9% to plus 2.59%. That gives a mean  
11 deviation of just under 1.5%. For the state  
12 senate, the biggest difference in district size  
13 is over 27,000 people. In our proposed reform  
14 alternative, the biggest difference in district  
15 size is just under 17,000 people.

16 The Assembly; we also see a fairly  
17 sizeable population deviation, not quite as large  
18 as in the state senate but still quite sizeable.  
19 The biggest difference in district size is just  
20 over 10,000 people. For our proposed reform  
21 alternative, the biggest difference size is just  
22 over 6,000 people. And one of the biggest  
23 problems that we have is the way in which the  
24 senate proposal follows, or does not follow, the

1 Demographic Research and Reapportionment, 1-30-2012

2 constitutional charge to keep counties together  
3 to the maximum extent possible. One of the  
4 areas, which I hope we'll all have an opportunity  
5 to discuss in the future, is whether this charge  
6 in the constitution to hold counties together to  
7 the maximum extent possible is a good provision  
8 or one that should be changed. But the truth of  
9 the matter is that it is currently in our  
10 constitution and the current proposal crosses,  
11 senate lines cross 18 small upstate counties.  
12 And as we, we've noted in other contexts, Ulster  
13 is count, is cut into four different districts,  
14 which seems, to us, to be really a significant  
15 number. And there are three small upstate  
16 counties--Saint Lawrence, Cayuga, and Thompson--  
17 which are cut between three senate districts, and  
18 as I said, Ulster is divided in four and that  
19 seems to be very difficult for a large, for these  
20 smaller counties.

21 SENATOR NOZZOLIO: I always--

22 MS. LERNER: And--

23 SENATOR NOZZOLIO: Excuse me. I always  
24 try to give you perspective--



1 Demographic Research and Reapportionment, 1-30-2012

2 MS. LERNER: Uh-huh.

3 SENATOR NOZZOLIO: --and I know you're,  
4 you have a New York City perspective, and I  
5 respect that. The three counties you mentioned--  
6 Cayuga, Ontario, two of the three--

7 MS. LERNER: Saint Lawrence, Cayuga and  
8 Thompson.

9 SENATOR NOZZOLIO: No, but the, the  
10 Ontario, the, the, you mentioned 18 on your list.  
11 Two of them I represent.

12 MS. LERNER: Mm-hm.

13 SENATOR NOZZOLIO: Those are large  
14 counties, not small counties.

15 MS. LERNER: I'm sorry.

16 MR. PAUL: Small in population.

17 MS. LERNER: Small in population.

18 SENATOR NOZZOLIO: Well, you might--

19 MS. LERNER: My apologies.

20 SENATOR NOZZOLIO: And, and that's my  
21 point.

22 MS. LERNER: Yeah, yeah.

23 SENATOR NOZZOLIO: You consider them  
24 small. They are the largest counties in my

1 Demographic Research and Reapportionment, 1-30-2012

2 district, as whole counties.

3 MS. LERNER: I, I dropped the right  
4 word. Small in population but large in  
5 territory.

6 SENATOR NOZZOLIO: No, no, no. I, I'm,  
7 I'm large in, they, they are large in population--  
8 -

9 MR. PAUL: By--

10 SENATOR NOZZOLIO: --in my district. I  
11 think--

12 MR. PAUL: By small in this context, we  
13 mean can fit within a single senate district.

14 SENATOR NOZZOLIO: Yes. But I think the  
15 point is you have the, the larger counties and  
16 those counties you referenced have been cut for  
17 30 years. I think in terms of sharing  
18 representatives, at least 30 years, probably 40  
19 years, and that I, it's an objective we, we, we  
20 share. I, I don't mean to de-minimize or  
21 minimize your, your objective. The more, the  
22 fewer counties that are cut, the better. The  
23 dynamics are harder and harder based on  
24 population, based on other changes in population

1 Demographic Research and Reapportionment, 1-30-2012

2 that occurred as a result of the prison counting  
3 and other things that were there, and also, those  
4 are--again, I just want to, from a perspective of  
5 upstate--

6 MS. LERNER: Right.

7 SENATOR NOZZOLIO: --those, and  
8 communities of interest, those are large  
9 counties.

10 MS. LERNER: Okay. I, I accept the  
11 correction and my apologies to our colleagues and  
12 friends upstate, of which there are many, and  
13 many Common Cause members up there as well. But  
14 I, I would like to point out that on the Common  
15 Cause reform maps, we cross only small, I'm  
16 sorry, we cross only nine upstate counties. So,  
17 we're providing an alternative suggestion for  
18 holding counties together. And again, this is  
19 not necessarily a validation of the  
20 constitutional provision, just a recognition that  
21 that is what the constitution requires. So, we  
22 believe that--is there--

23 MR. PAUL: Do you want to get the  
24 population to the Asians between upstate and

1 Demographic Research and Reapportionment, 1-30-2012

2 downstate?

3 MS. LERNER: And one of the concerns  
4 which we have is the way in which the population  
5 deviations play out on a regional basis. What we  
6 have seen, and block on border and town on border  
7 rules have something to do with this, but  
8 nonetheless, and I'm again, not commenting on  
9 whether we should keep town on border or block on  
10 border in the, any future innovation of the  
11 constitution, but the net result of the  
12 population deviations is to ensure that there are  
13 significant deviations between the different  
14 regions, and so in one house, we see the upstate  
15 districts which are underpopulated and downstate  
16 districts which are overpopulated on the  
17 deviation, and in the other house, we see it  
18 directly switched. And this is matter of concern  
19 to us and one of the reasons why we believe that  
20 we need to be talking about an absolute mean  
21 deviation in order to hold these regional  
22 variances in check. They do have the result of,  
23 we believe, favoring one party over another in a  
24 regional interpretation of the map as a matter of

1 Demographic Research and Reapportionment, 1-30-2012

2 concern, and it's something which has been  
3 commented on for enumerable redistricting cycles  
4 and yet it continues in the maps.

5 I'd like to talk very briefly about the  
6 capital region without going into a great deal of  
7 detail, where Brian is here to answer more  
8 detailed questions. But we believe that the  
9 proposal for the capital region should be  
10 modified in both houses. When we testified in  
11 August, we suggested that the task force look at  
12 ways to keep the cities of the capital region  
13 within districts and not split them up, yet the  
14 Assembly map continues to split the city of  
15 Albany, dividing it between AD's 109 and 108,  
16 while the city of Schenectady remains divided in  
17 the proposal split between AD's 110 and 111. And  
18 of course, the proposed senate map has been the  
19 subject of a great deal of press inquiry and  
20 discussion, and while we previously, in our  
21 August testimony, recommended keeping the cities  
22 of Troy and Schenectady whole and in the same  
23 senate district if it were possible. We noted  
24 that there was a significant constitutional

1 Demographic Research and Reapportionment, 1-30-2012

2       impediment to our suggestion and one of the  
3       reasons why we believe we need to be having a  
4       discussion about how best to change the  
5       constitutional requirements. Historically,  
6       Albany County has been one senate district  
7       because it is, in cycle after cycle, virtually  
8       the ideal size for a senate district, and while  
9       we see an argument for changing our  
10      constitutional standards to more emphasize  
11      communities of interest, we feel that we are  
12      constrained, particularly in the Albany County  
13      instance where it's such a perfect size, to  
14      follow the requirements of the state constitution  
15      and hold Albany County in one particular  
16      district. Also, as proposed, the new district,  
17      which would link Albany, Rensselaer and Troy,  
18      cuts Troy. So, we think that that's problematic,  
19      even on a communities of interest interpretation.  
20      So, we think that this helps the public  
21      understand what we need to be talking about when  
22      we talk about changing our constitution in the  
23      future for, as Governor Cuomo says, a better  
24      process in the next cycle.

1 Demographic Research and Reapportionment, 1-30-2012

2           So, we recommend revising the lines for  
3           the capital region and we look forward to working  
4           with you to rewrite the constitutional provisions  
5           governing redistricting so that it sets forth  
6           clear, workable criteria for setting political  
7           boundary lines.

8           ASSEMBLY MEMBER MCENENY: Let me, let me  
9           ask you, the, the constitution, I, I noticed that  
10          the good government groups started out wanting a  
11          1% variance and then decided maybe a 2% variance  
12          and drew maps with a 3% variance.

13          MS. LERNER: And we've testified about  
14          our process of evolution as we've engaged--

15          ASSEMBLY MEMBER MCENENY: I--

16          MS. LERNER: --with the data.

17          ASSEMBLY MEMBER MCENENY: I, I, I think  
18          when you do this work, you find that some things  
19          which in the abstract, seem like an idea, are in  
20          fact, often unconstitutional and impractical.  
21          There are many conflicting goals. The division  
22          of Albany, which occurred along racial lines in  
23          1960, reflecting an earlier interpretation of the  
24          Voting Rights Act of 1965 that we are all still

1 Demographic Research and Reapportionment, 1-30-2012

2 bound at, was maintained, and the reason that  
3 that was done, as the NAACP testified at our  
4 first hearing, was done to benefit the, primarily  
5 at that time, the African-American community.  
6 That was perpetuated again following the 2000  
7 census and in this proposal, is perpetuated once  
8 again. I would ask you to take a look at some of  
9 these where we are not bound by that law because  
10 we don't hit 50%. Look at where the future will  
11 be in ten years and where will be the, be the  
12 best minority opportunity eight or ten years from  
13 now, and those maps are available from the  
14 census, and I think you can see where the lines  
15 were drawn.

16 But there's an inconsistency here.  
17 Albany County, one district, good government,  
18 whatever the percent is, that's fine. On the  
19 other hand, Chautauqua County, which is in the  
20 assembly district, we try to stay between 3 and  
21 4%, but we do have one that's over 4% and it is  
22 Chautauqua County and it's like 4-1/2% or  
23 something of that nature. If we wish to keep the  
24 county together, then we have to knock a town or



1 Demographic Research and Reapportionment, 1-30-2012

2 two out. Which towns should be thrown out and  
3 will those people be better served being a,  
4 perhaps a stepchild of another area, less  
5 visited, less important, etcetera. There is no  
6 correct answer. If the, a percentage of 3% is  
7 something sacred to you, then of course. If  
8 keeping counties together is good government,  
9 then you may have another opinion. The constant  
10 conflict with the constitution with block on  
11 border that destroys urban neighborhoods, town on  
12 border which describe, destroys some of the rural  
13 configurations, these are things in that in the  
14 Voting Rights Act, that we are bound by, and  
15 there are many conflicting guidelines and it does  
16 take a human being to make a decision. Which one  
17 is right? Probably both wrong, to some extent;  
18 both right. But I, I just wanted to point, point  
19 that out. And the more specific, we appreciate  
20 your specific input. The more specific it is,  
21 it's better. By the way, Chautauqua is 4.09%. I  
22 would say close enough. Someone else might say  
23 no.

24 MS. LERNER: Right. And that is

1 Demographic Research and Reapportionment, 1-30-2012

2 certainly one of the challenges in, to map  
3 drawing in this process and what makes it so very  
4 interesting intellectually, but also frustrating  
5 for the voters, and that's why I think these  
6 kinds of discussions are exactly the kind of  
7 discussions we need to be having while we try,  
8 while we turn to the second part of what our  
9 goals are for the redistricting process at Common  
10 Cause, which is, as the governor said, first to  
11 improve the product for this cycle, but second,  
12 to improve the process for the next cycle, and  
13 it's exactly these kind of details which those of  
14 us who have engaged with the data and tried to  
15 draw maps have learned more about abstract versus  
16 tangible results, and we hope that we can have a  
17 meaningful public discussion where we try and  
18 figure out what is the right thing to do if we  
19 are ultimately going to amend our constitution.

20 ASSEMBLY MEMBER MCENENY: I, I found it  
21 particularly ironic after the senate district was  
22 vilified for having Lincoln's hat in it, that  
23 Common Cause drew Lincoln's hat, and I guess  
24 somebody discovered that's called the Herkimer

1 Demographic Research and Reapportionment, 1-30-2012

2 County line.

3 MS. LERNER: Exactly. This has been an  
4 interesting learning process for us, as a good  
5 government group engaging in the actual map-  
6 drawing process, and as I think we've admitted  
7 several times in our testimony, as we've engaged  
8 with the data and engaged with the requirements  
9 of the constitution, we said this is what we said  
10 previously and we've learned why we need to  
11 modify that position. We are not sticking with  
12 oh, well, we took that position in the past and  
13 therefore, we have got to stay with it. We,  
14 hopefully, are learning and evolving what we hope  
15 will be a set of workable principals, which we  
16 have tried to enunciate and to make tangible in  
17 the reform maps we submitted.

18 ASSEMBLY MEMBER MCENENY: Thank you.

19 SENATOR NOZZOLIO: Senator Dilan?

20 SENATOR DILAN: Yes. Thank you very  
21 much. First, just two points, and then I have  
22 several questions. My first point is that today  
23 is the first time that I heard about any policy  
24 change with respect to repeated presentations. I

1 Demographic Research and Reapportionment, 1-30-2012

2 know that in the past, Common Cause has dealt  
3 with the regional issues and I hope that we can  
4 continue that, but I'm going to wait for our  
5 business meeting to deal with that issue and  
6 whenever that comes before us.

7 In terms of partisan politics, partisan  
8 relationship in terms of these lines, I agree  
9 that this is a partisan plan, that is, the  
10 assembly drawing their lines and the senate  
11 drawing their lines, both majorities.

12 With that said, I'd like to go to the  
13 questions, and I have several since this may be  
14 my only opportunity to ask you questions with  
15 respect to this process.

16 MS. LERNER: Not the only opportunity to  
17 ask representatives of Common Cause questions; it  
18 just may not be me.

19 SENATOR DILAN: That's correct. First,  
20 can you tell us more about how you were able to  
21 develop a senate plan with low deviation and the  
22 ability to split as few counties as possible?

23 MR. PAUL: Well, if we actually drew a  
24 63 district plan in order to have an apples-to-

1 Demographic Research and Reapportionment, 1-30-2012

2 apples comparison with the LATFOR drafts, so--

3 SENATOR NOZZOLIO: Can you bring the mic  
4 closer?

5 MR. PAUL: When doing that, we found  
6 that, according to the actual population  
7 distribution throughout the state, if you were to  
8 add a 63rd district, aiming for low deviations,  
9 it would be placed in New York City, and this is  
10 due to the current district lines which are now  
11 portions to such an effect. It's about plus 3%  
12 overall in the city currently, minus 3% upstate,  
13 and that over the course of all those districts  
14 actually has the effect of moving a district from  
15 the city upstate right now. So, we currently  
16 have a malapportionment and with 62 districts,  
17 you actually couldn't add another district  
18 upstate; those districts would be over 5%. But  
19 going to 63 allows you to do it and stay within  
20 5% and--

21 MS. LERNER: 5% being--

22 MR. PAUL: --that's what I'm seeing--

23 MS. LERNER: --the general guidance that  
24 is given by the federal courts on the one-person,

1 Demographic Research and Reapportionment, 1-30-2012

2 one-vote.

3 MR. PAUL: If that--

4 MS. LERNER: It's not absolute, it's not  
5 a bright line, but it's the general guidance from  
6 the courts.

7 MR. PAUL: If that 63rd seat were added  
8 to New York City, you would have almost exactly  
9 even populations upstate and downstate in the  
10 districts overall.

11 SENATOR DILAN: I will have more  
12 questions with respect to that, but first, how  
13 were you able to use the governor's program bill  
14 criteria in the senate plan?

15 MS. LERNER: Well, you know, what we did  
16 was we tried to use the senate, the program bill.  
17 We made one adjustment, as was pointed out, as we  
18 engaged with the data. We found that if we  
19 respected the constitutional requirements of not  
20 unnecessarily splitting towns or counties, that  
21 we needed more leeway than 1% to come up with  
22 districts which we felt adequately represented  
23 the patterns in which New Yorkers actually live  
24 and associate in our state. But no, it's, it's

1 Demographic Research and Reapportionment, 1-30-2012

2 not a automatic process; it does require, as  
3 you've pointed out, some value judgments. And  
4 what we tried to do in drawing our maps and in  
5 submitting them to LATFOR and making them public,  
6 was to accompany them with an explanation of the  
7 demographic factors which we thought were  
8 important.

9 MR. PAUL: I'd also like to point out in  
10 the population deviations that this is not just a  
11 senate issue. If the LATFOR draft drew 63  
12 district, assembly districts upstate at a mean  
13 deviation of plus 2.4 and 65 New York City  
14 districts with a mean deviation of minus 2.3.  
15 Now, if you were to balance that out and make it  
16 64 and 64, here again, it'd be much closer to  
17 even.

18 ASSEMBLY MEMBER MCENENY: One of the--

19 SENATOR DILAN: I think I have the  
20 floor.

21 SENATOR NOZZOLIO: He has the floor.

22 MS. LERNER: Yeah, sorry.

23 SENATOR DILAN: I have the floor. I'm--

24 ASSEMBLY MEMBER MCENENY: Oh, I--

1 Demographic Research and Reapportionment, 1-30-2012

2 SENATOR DILAN: --not through.

3 ASSEMBLY MEMBER MCENENY: --I'm sorry.

4 I'm sorry, Senator.

5 SENATOR DILAN: The majority claims that  
6 there is enough population growth in the Hudson  
7 Valley to warrant a new senate seat, yet the real  
8 population growth was downstate. Should  
9 districts be drawn where they are simply  
10 convenient or should they be drawn where people  
11 are moving?

12 MS. LERNER: Well, it, if, without  
13 taking a position, I mean, I guess we have taken  
14 a position on 63 and we think that the  
15 constitutional formula, as we apply it, leads us  
16 to 62 but clearly we're not going to have an  
17 agreement. It may ultimately be decided by a  
18 court; who knows. As we look at it, in trying to  
19 balance the, to hold the variance between  
20 districts as low as possible, it led us to the  
21 conclusion that the district should be drawn in  
22 New York City, as Brian said.

23 MR. PAUL: Yeah. The issue of where the  
24 population grew is irrelevant in this case.



1 Demographic Research and Reapportionment, 1-30-2012

2 Looking at the total population of the state 2010  
3 census, you could draw 26 upstate districts, as  
4 the LATFOR draft did, with a mean deviation of  
5 minus 4.5 and 28 New York City southern  
6 Westchester districts plus 3.3. Do you see that  
7 imbalance? Or you can draw one less upstate with  
8 a mean deviation of minus 0.49 and one more in  
9 the city with a mean deviation of minus 0.43;  
10 almost equal. So, that seems the clear way to do  
11 it if you're looking at a 63rd seat, regardless  
12 of growth or shrinkage or anywhere.

13 SENATOR DILAN: Okay. My final question  
14 is to Ms. Lerner, and what is your legal opinion  
15 as to purposefully underpopulating rural upstate  
16 areas and overpopulating downstate urban areas?

17 MS. LERNER: Well, I don't think I'm in  
18 a position to give legal opinion. I have never  
19 wanted to be--

20 SENATOR DILAN: Well, in your--

21 MS. LERNER: --on the bench--

22 SENATOR DILAN: --opinion then.

23 MS. LERNER: --because I--

24 SENATOR DILAN: In your opinion.

1 Demographic Research and Reapportionment, 1-30-2012

2 MS. LERNER: --like to advocate.

3 SENATOR DILAN: I'll drop the word legal  
4 and say in your opinion.

5 MS. LERNER: Well, I mean, our concern  
6 is that it, that in both houses, this  
7 malapportionment has political consequences that  
8 really drive the election result strongly towards  
9 a particular party's advantage at the  
10 disadvantage of the voters, and we think it's a,  
11 a misappropriation that we see in both houses.  
12 So, it's not one party versus another part in the  
13 philosophical sense, but that this is one of the  
14 things which happen with a politically-driven  
15 redistricting process. It's, it's endemic to the  
16 process as it's currently set up and it's one of  
17 the reasons why we advocate for an independent  
18 process in the future.

19 SENATOR DILAN: Thank you.

20 ASSEMBLY MEMBER MCENENY: Dr. Hedges?

21 MR. HEDGES: A couple of questions  
22 about your big picture, overall plan.

23 MS. LERNER: Yes.

24 MR. HEDGES: How many instances do have

1 Demographic Research and Reapportionment, 1-30-2012

2 incumbents in districts together?

3 MS. LERNER: Do we have that? We, we  
4 have it worked out. I, I don't happen to have  
5 that. It's a, it's a substantial--

6 MR. PAUL: I remember it's something,  
7 it's--

8 MS. LERNER: In the range of--

9 MR. PAUL: --in state senate, it's  
10 something like nine or ten. In assembly, I think  
11 it's low 20s.

12 MR. HEDGES: I, I think we've got way,  
13 way more than that, at least if we did the  
14 counting correctly. So, I would much appreciate  
15 your--

16 MS. LERNER: We have that worked out.  
17 I, I just don't happen to have that calculation  
18 with me. It's a, it's a solid number.

19 MR. HEDGES: And related to that, one of  
20 the areas where there seem to be a number of  
21 instances of incumbents being paired are  
22 incumbents who happen to be members of minority  
23 groups that are protected under the Voting Rights  
24 Act. The groups are protected; the incumbents

1 Demographic Research and Reapportionment, 1-30-2012

2 are not.

3 MS. LERNER: Correct.

4 MR. HEDGES: No question about that.

5 But there really is a question in my mind about  
6 the role of leadership in the minority  
7 communities, and particularly, the role of those  
8 elected officials who are, almost by definition,  
9 community leaders in the minds of the community  
10 that elected them. And I wonder if you have a  
11 few on the appropriateness, the desirability of  
12 pitting minority incumbents representative of  
13 minority communities with one another in a  
14 fundamentally arbitrary way in your redistricting  
15 plan.

16 MS. LERNER: You know, I think it is  
17 definitely the result of our sticking to what we  
18 said we were setting out to do, and that is an  
19 incumbent-blind process. One of the things that  
20 we have heard repeatedly from our activist and  
21 from people in, in the state and across the  
22 country is that they are less concerned with how  
23 a district line will or will not treat an  
24 incumbent and more concerned with how their

1 Demographic Research and Reapportionment, 1-30-2012

2 community will be represented. There are  
3 definitely some anomalies, which as you say, a  
4 absolute process we'll create, but we have been  
5 hard pressed to find some middle ground that  
6 would not be equally arbitrary or favor one  
7 incumbent versus another, which is a value  
8 judgment that we, as a good government group,  
9 feel we cannot make.

10 MR. HEDGES: And so, leadership in the  
11 minority community is not a concern for you?

12 MS. LERNER: Well, I think that the  
13 minority community, if well served by a map, will  
14 have the ability to choose the representatives  
15 that they feel are their best representatives.  
16 We have flexibility in this state, where the fact  
17 that you happen to reside on the other side of a  
18 district line for a changed line does not mean  
19 that you cannot then run in a, a district where  
20 you feel you would be a better representative.  
21 So, I think there is flexibility and I think that  
22 the Voting Rights Act is designed to allow the  
23 communities to evolve their leaders.

24 MR. HEDGES: Did you also do your

1 Demographic Research and Reapportionment, 1-30-2012

2 tabulations using total population where you  
3 counted the number of minority opportunities  
4 and/or majority-minority districts?

5 MS. LERNER: We use voting age  
6 population.

7 MR. HEDGES: And do you have the  
8 tabulations done for total population?

9 MS. LERNER: Brian?

10 MR. HEDGES: Or could you share them?  
11 You don't have to have them right now.

12 MS. LERNER: Yeah.

13 MR. HEDGES: Partly just to make sure  
14 that we're looking at exactly--

15 MS. LERNER: Yes.

16 MR. HEDGES: --the right numbers.

17 MS. LERNER: Yes.

18 MR. PAUL: Yeah, we use, we--

19 MR. HEDGES: Because we noticed a few  
20 anomalies, depending on which way you count.

21 MS. LERNER: And, and--

22 MR. HEDGES: And, and we'd like to make  
23 sure we understood.

24 MS. LERNER: Absolutely, and we, we'd be

1 Demographic Research and Reapportionment, 1-30-2012

2 happy to have a discussion with you and to  
3 provide any background and, and, and a dialogue  
4 regarding our thinking, and as we have said, we  
5 don't believe that our maps are the ultimate end-  
6 all, be-all; we think that the, they, one of the  
7 reasons we put them out to the public and we put  
8 them out in an interactive website, was to get  
9 feedback from the public and to have the public  
10 tell us if we had made some miscalculations or  
11 didn't understand the specifics of how people  
12 were actually living and associating in areas  
13 where we weren't as familiar. So, we welcome  
14 questions.

15 MR. PAUL: I'm actually not sure that  
16 you received the updated file after we adjusted  
17 for the prisoner, the full prisoner file--

18 MR. HEDGES: I don't think--

19 MR. PAUL: --population adjustments.

20 MR. HEDGES: --we have that.

21 MS. LERNER: Okay. Well--

22 MR. PAUL: So, we'll get--

23 MS. LERNER: --we'll be sure--

24 MR. PAUL: --that right to you.

1 Demographic Research and Reapportionment, 1-30-2012

2 MS. LERNER: --that you have it. My  
3 apologies if that hasn't gotten to you. We'll--

4 MR. HEDGES: That, that would be great.

5 MS. LERNER: Yeah. We did--

6 MR. HEDGES: And--

7 MS. LERNER: --adjust our assembly  
8 numbers.

9 MR. HEDGES: And, and senate too, I  
10 assume.

11 MS. LERNER: Yes, we did, and our 63 map  
12 is drawn to the adjusted prison population.

13 MR. HEDGES: And, and in regards, what  
14 you just made a point of, of, of saying, that's  
15 the reason we appreciated the input in the first  
16 place. Your, your maps gave us some great ideas,  
17 even if we didn't agree with you in detail. The,  
18 the fact is the concept and ideas in those maps  
19 are extraordinary and useful and gave us great  
20 insight into some of the questions that we were  
21 trying to solve as well.

22 MS. LERNER: Thank you.

23 MR. HEDGES: One, one more observation,  
24 and, and it really is in part related to the



1 Demographic Research and Reapportionment, 1-30-2012

2 questions of minority opportunities. As we  
3 constructed the plan for the assembly in the, the  
4 voting rights arenas, one of the issues that we  
5 confronted that we felt we had no alternative but  
6 to respond to, was the constitutional requirement  
7 of block on border. Particularly in the city of  
8 New York, that's a, that's a powerful equal  
9 population hammer within the jurisdictions for  
10 which it applies. And one of the big differences  
11 between us is exactly that. You didn't seemingly  
12 pay any attention to block on border and I  
13 wondered why.

14 MS. LERNER: Well, I think, I think we  
15 are very conscious of the block on border  
16 requirement, and I think Brian's in a better  
17 position to answer that than I.

18 MR. PAUL: To say we didn't pay any  
19 attention is wrong. The plan is roughly  
20 equalized within 2 or 300 people. We did not do  
21 the full block on border adjustment; that is  
22 correct. That needs to happen.

23 MR. HEDGES: So, so, let, let me give  
24 you some counters to that.

1 Demographic Research and Reapportionment, 1-30-2012

2 MS. LERNER: Mm-hm.

3 MR. HEDGES: In the county of New York,  
4 that's Manhattan, our population deviation  
5 between districts within New York County, which  
6 we used as a border--

7 MR. PAUL: Mm-hm.

8 MR. HEDGES: --which the constitution  
9 encouraged us to do, the population deviation  
10 maximum is 263. Your Manhattan population  
11 deviation is 2,011.

12 MR. PAUL: That's before the prisoner-  
13 revised plan that will get to you.

14 MR. HEDGES: And fair enough, and, and--

15 MS. LERNER: Yeah.

16 MR. HEDGES: --when, when we see that,  
17 that will help, but in general, you have  
18 population deviations within the region in that  
19 first draft of a couple thousand--

20 MR. PAUL: Yeah, that's true.

21 MR. HEDGES: --as opposed to a couple  
22 hundred--

23 MS. LERNER: And, and because--

24 MR. HEDGES: --or tens.

1 Demographic Research and Reapportionment, 1-30-2012

2 MS. LERNER: And in all honesty, because  
3 we knew that, we felt that it was likely that we  
4 would be getting the prison populations, we did  
5 not, in all honesty,--

6 MR. HEDGES: Fair enough.

7 MS. LERNER: --spend the resources and  
8 the time to do that final adjustment, and we did,  
9 we have gone back, and I apologize that we  
10 neglected to use, get them to you. We completed  
11 them relatively recently, in terms of adjusting--

12 MR. PAUL: Just last week.

13 MS. LERNER: --just last week, on the  
14 assembly. So, we will get those to you. We are  
15 much closer. But we have not gone through the  
16 final block on border because we are waiting  
17 until we are confident that our maps are in their  
18 final form. It's a resource allocation, quite  
19 frankly, for us to spend the time doing block on  
20 border when we expect to revise the maps to a  
21 final point. We just did not have the, the  
22 resources to do that. So, we're going to do it  
23 once at the end of the process.

24 MR. HEDGES: Getting that revised map

1 Demographic Research and Reapportionment, 1-30-2012

2 will be much appreciated and, and will certainly  
3 help us as we try to figure out how to figure out  
4 our own history.

5 MS. LERNER: And, and I apologize that  
6 it isn't already in your hands. It will be in  
7 your hands shortly.

8 MR. HEDGES: Thank you very much.

9 ASSEMBLY MEMBER MCENENY: Okay. Anyone  
10 else on the, oh, yes, Senator Dilan.

11 SENATOR DILAN: Yeah. Just very  
12 quickly. So, I just want to make sure that I  
13 understand. You, will you be submitting a new 62  
14 plan with the adjusted data, if you will be?

15 MS. LERNER: Yes.

16 SENATOR DILAN: All right. Thank you.

17 ASSEMBLY MEMBER MCENENY: One, one final  
18 question, or at least an observation; city of New  
19 York, County of New York, they're actual, they're  
20 actually above the average.

21 MR. PAUL: Mm-hm.

22 ASSEMBLY MEMBER MCENENY: And the other  
23 areas are below the average and the reason is  
24 that we felt that the Voting Rights Act and the

1 Demographic Research and Reapportionment, 1-30-2012

2 constitution were better served by staying within  
3 county or, if you will, borough boundaries.

4 MS. LERNER: Mm-hm.

5 ASSEMBLY MEMBER MCENENY: Do you  
6 recommend crossing, say from Queens to Brooklyn,  
7 crossing from, from--

8 MS. LERNER: There, there is one--

9 MR. PAUL: Well--

10 MS. LERNER: Go ahead.

11 MR. PAUL: Yeah. There's a couple of  
12 specific areas; Ridgewood Bushwick and Brooklyn  
13 and Queens and the North Bronx/Mount Vernon  
14 crossing which is made in congress and the senate  
15 level that isn't made in the assembly level.

16 ASSEMBLY MEMBER MCENENY: Yeah. Well,  
17 once you cross, then the map has to be absolutely  
18 exact--

19 MR. PAUL: Right.

20 ASSEMBLY MEMBER MCENENY: --throughout  
21 all of those districts. I mean, to block on  
22 border exact.

23 MS. LERNER: Right. We--

24 MR. PAUL: The, yeah, the southern

1 Demographic Research and Reapportionment, 1-30-2012

2 Westchester--

3 ASSEMBLY MEMBER MCENENY: Okay.

4 MR. PAUL: --ones get dragged into the  
5 block on border.

6 ASSEMBLY MEMBER MCENENY: Okay.

7 MR. PAUL: That's true.

8 ASSEMBLY MEMBER MCENENY: Thank you very  
9 much. We, we appreciate your continued interest  
10 and some very good information that's been very  
11 helpful to the process.

12 MS. LERNER: Thank you and we look  
13 forward to continuing the dialogue and providing  
14 any additional insight or information or data  
15 that we can.

16 ASSEMBLY MEMBER MCENENY: Thank you.  
17 Now we have--

18 SENATOR NOZZOLIO: Thank you very much.

19 ASSEMBLY MEMBER MCENENY: We have some  
20 members who have session today that have asked to  
21 speak, and we're going to ask Senator Gustavo  
22 Rivera to come up first and will be followed by  
23 Assemblywoman Claudia Tenney. If there are any  
24 other members here now, who have indicated that

1 Demographic Research and Reapportionment, 1-30-2012

2 they would like to speak, we'd like to know it  
3 and we want to recognize Assembly Members  
4 Blankenbush, Dupree and Sayward who have  
5 attended, and I think there are probably some  
6 others that have been in and out. Assembly,  
7 Assemblyman Friend, for example, who is here now  
8 as well.

9 GUSTAVO RIVERA, STATE SENATOR, 33RD SD:

10 Thank you,--

11 ASSEMBLY MEMBER MCENENY: Senator?

12 SENATOR RIVERA: --Assembly Member.

13 ASSEMBLY MEMBER MCENENY: Okay.

14 SENATOR RIVERA: Senator Nozzolio, it's  
15 good to see you again, and all of my colleagues  
16 and members of the, of LATFOR. I am State  
17 Senator Gustavo Rivera and I represent the 33rd  
18 Senate District contained in the northwest Bronx.  
19 The district currently includes the neighborhoods  
20 of Fordham, Kingsbridge, University Heights,  
21 Riverdale, Van Cortlandt Park, Bedford Park, and  
22 East Tremont. Unfortunately, I will not be able  
23 to attend the Bronx redistricting hearing  
24 tomorrow, Tuesday, January 31st at the Bronx

1 Demographic Research and Reapportionment, 1-30-2012

2 Museum of the Arts, and so I thank you for giving  
3 me the opportunity to be here with you today.

4 Now, I'm here to testify about the  
5 continued need for an independent redistricting  
6 process. I am disappointed that there was not an  
7 independent redistricting commission established  
8 last year, especially given that so many of my  
9 colleagues are on the record as supporting  
10 independent redistricting. I continue to believe  
11 that voters should pick their representatives and  
12 not the other way around, in order, in order to  
13 have fair district lines without partisan  
14 gerrymandering. We need to take legislators out  
15 of the process.

16 Over the last week, we have seen that a  
17 bad process results in a bad product, and today's  
18 hearing is supposed to garner reaction to a  
19 proposal that shows a willingness to  
20 disenfranchise voters, especially black and  
21 Latino voters throughout New York, to protect  
22 interests of certain individuals or one  
23 conference over another. There are two issues  
24 that stuck out to me as unconstitutional and



1 Demographic Research and Reapportionment, 1-30-2012

2 unfair after having looked at the republican  
3 redistricting proposal for the state senate.

4 The first is the proposed increase from  
5 62 to 63 state senate districts, which not only  
6 defies the New York State Constitution, but also  
7 defies all logic as it comes at a time when New  
8 York's population has decreased and we are losing  
9 two congressional seats.

10 The second is the issue of quote,  
11 packing, unquote, or seeing to it that minority  
12 communities are packed into a few districts,  
13 through gerrymandering instead of being able to  
14 figure significantly in the election of  
15 representatives in a much larger number of  
16 districts. I believe this proposal does just  
17 that and moreover, could lead to a potential  
18 violation of the Voting Rights Act.

19 While it may be too late for an  
20 independent commission to draw districts, I do  
21 not believe it is too late to demand an  
22 independent process this year. That is why I  
23 stand with our governor in calling for an  
24 independent process, and I'm ready to uphold a

1 Demographic Research and Reapportionment, 1-30-2012

2 veto from the governor, and I will continue to  
3 push to make independent redistricting a reality  
4 in New York.

5 I thank you for giving me an opportunity  
6 to be with you here today and if you have any  
7 questions, I can answer them.

8 SENATOR NOZZOLIO: Just a comment that,  
9 Senator, your assertion that the population of  
10 the state of New York has declined, if I heard  
11 you correctly,--

12 SENATOR RIVERA: I did, I did say that,  
13 sir, yes.

14 SENATOR NOZZOLIO: That's not accurate.  
15 The population of the state of New York actually  
16 grew by almost half a million people from the  
17 years 2000 to 2010; that the reason why we're,  
18 New York is confronted with losing two  
19 congressional districts is not based upon our  
20 growing population, it's based on the fact that  
21 our population is not growing at a fast enough  
22 rate compared to other states. Congressional  
23 representation, as we all know, is apportioned to  
24 each state based on the population of the United

1 Demographic Research and Reapportionment, 1-30-2012

2 States, and that our population in New York, even  
3 though adding half a million people to the state  
4 and its population, has not grown at the same  
5 rates as states like Texas and Florida and other  
6 states that have gained at accelerated rate of  
7 population. So, let me just state from the  
8 outset, that the population is growing, not  
9 diminishing in the state.

10 You made a, an assertion that there, and  
11 I, I think I heard you correctly. If you'd be so  
12 kind as to repeat, you indicated that some  
13 districts in, in minority representation were in  
14 fact, and you used the term packed. Which  
15 districts are you referring to?

16 SENATOR RIVERA: Well, there's various  
17 districts around the state but I certainly, just  
18 looking at my own, the population, the Latino  
19 population of my district actually went up  
20 significantly, and while right, currently I  
21 believe that my, that the current population of,  
22 that the current Caucasian population, if you  
23 will, was about 11%; it now goes down to under  
24 3%, where, where my district is made even more

1 Demographic Research and Reapportionment, 1-30-2012

2 Latino when it was already maybe 60% or above  
3 Latino in the, in the, in the current lines. So,  
4 that is just one example of the ones that I can  
5 think about.

6 SENATOR NOZZOLIO: Which number is your-

7 -

8 SENATOR RIVERA: That's the 33rd  
9 district of--

10 SENATOR NOZZOLIO: --proposed district--

11 SENATOR RIVERA: --Northwest Bronx.

12 SENATOR NOZZOLIO: --center? That,  
13 certainly want to recognize the fact that the  
14 Hispanic population has increased and that the  
15 efforts were to enhance Hispanic representation  
16 in your district. To consider, to claim that it  
17 is packed, I think that the, most of the Hispanic  
18 districts in the Bronx actually were enhanced in  
19 terms of percentage of majority Hispanic in those  
20 districts.

21 SENATOR RIVERA: Mm-hm.

22 SENATOR NOZZOLIO: There was certainly  
23 no intent to sever the power of minorities. In  
24 fact, the Hispanic majority in each of those

1 Demographic Research and Reapportionment, 1-30-2012

2 districts--those represented by you, represented  
3 by Senator Serrano, represented by Senator Diaz--  
4 all those were actually enhanced with stronger  
5 Hispanic population. That certainly was the  
6 intention. I will look to those regions again  
7 and ensure that that intention is being factually  
8 represented. So, but certainly the intention was  
9 only to strengthen Hispanic representation and  
10 majority representation of Hispanics within those  
11 regions that you referenced.

12 SENATOR RIVERA: Well, in those  
13 districts, for example, you have districts that  
14 are currently over 60% Latino; certainly mine is.  
15 It would seem that if you're taking districts  
16 like that and then adding five or ten percentage  
17 points of, of Latino population, it means that  
18 they're being taken away from other parts of  
19 other districts that might be in the, in the  
20 outskirts of those, that, those Latino  
21 populations.

22 The, the argument that I'm making more,  
23 more than anything else is a broader argument  
24 about the fact that the process, I do not

1 Demographic Research and Reapportionment, 1-30-2012

2 believe, has given us what I believe are fair  
3 districts. Ultimately, we will, we will, the  
4 process will play itself out. I just wanted to  
5 be on the record today as saying that I believe  
6 that the plan, the draft plan that has been put  
7 forward by LATFOR, I believe, does not, does not  
8 represent a fair product and I do not believe,  
9 in, in the case of, of Latino or African-American  
10 populations across the state, actually represents  
11 an opportunity for them in different parts of the  
12 state to be able to elect a person of their own  
13 choosing.

14 SENATOR NOZZOLIO: Well, Senator, I know  
15 from Senator Dilan's district, he represents to  
16 other districts the intention where it was to  
17 strengthen the minority population and the  
18 minority voting age population, in particular, as  
19 well. We would welcome, this task force has, can  
20 continue this process and would welcome any  
21 suggestions that you have in terms of making  
22 districts altered based on the common objectives  
23 we share.

24 SENATOR RIVERA: Yes, sir.

1 Demographic Research and Reapportionment, 1-30-2012

2 SENATOR NOZZOLIO: Thank you.

3 SENATOR RIVERA: You will have them.

4 SENATOR NOZZOLIO: Senator Dilan?

5 SENATOR DILAN: I just want, I just  
6 wanted to make a comment since you referred to my  
7 district, but I believe ten years ago my district  
8 was at 56.7% and this time it's at 53 point  
9 something percent, so it actually went down.  
10 Thank you.

11 SENATOR RIVERA: Thank you for giving me  
12 the opportunity.

13 ASSEMBLY MEMBER MCENENY: Senator, on  
14 your--

15 SENATOR RIVERA: Okay.

16 ASSEMBLY MEMBER MCENENY: Just, I'm just  
17 looking. I have no agenda in asking the question  
18 but it's--

19 SENATOR RIVERA: Mm-hm.

20 ASSEMBLY MEMBER MCENENY: --65.83%  
21 Hispanic. How many of those are voting citizens,  
22 would you say, in that percent?

23 SENATOR RIVERA: of--

24 ASSEMBLY MEMBER MCENENY: 90%, 80%

1 Demographic Research and Reapportionment, 1-30-2012

2 eligible--

3 SENATOR RIVERA: Actually--

4 ASSEMBLY MEMBER MCENENY: --to vote?

5 SENATOR RIVERA: I, I'm, I wouldn't be  
6 prepared to say what--

7 ASSEMBLY MEMBER MCENENY: Just eligible-

8 -

9 SENATOR RIVERA: I think it is--

10 ASSEMBLY MEMBER MCENENY: --to vote.

11 SENATOR RIVERA: --a high percentage. I  
12 have--

13 ASSEMBLY MEMBER MCENENY: A high  
14 percentage, okay.

15 SENATOR RIVERA: There is a lot of,  
16 there is a lot of Puerto Ricans in that number  
17 and a lot of second and third-generation  
18 Dominicans.

19 ASSEMBLY MEMBER MCENENY: Yes.

20 SENATOR RIVERA: A smaller population  
21 of, of Honduran and Central American, which are  
22 also second and third-generation. So, although I  
23 do have a, I do have a core of more recent  
24 immigrants that are not, that are not citizens or



1 Demographic Research and Reapportionment, 1-30-2012

2 of voting age, I believe that the majority of  
3 those would be voting age--

4 ASSEMBLY MEMBER MCENENY: Do you--

5 SENATOR RIVERA: --of citizens.

6 ASSEMBLY MEMBER MCENENY: Do you have,  
7 in your mind, an ideal percentage of Hispanic  
8 citizens within a district that would be safe to  
9 make it a minority or majority district and yet  
10 not be setting up a situation of artificially  
11 packing people into one district? Is there a  
12 number in your mind; 55, 60%, or--

13 SENATOR RIVERA: I don't necessarily  
14 have a number in, in my mind. I, and I certainly  
15 admit that this is obviously a very complicated  
16 process that you folks have gone through, and  
17 that we will go through over the next couple of  
18 weeks or months to figure out what the final  
19 lines will be like. The main point that I'm  
20 making is that the process, ultimately, should  
21 not be determined by legislators, and that many  
22 times there are both political, you know, ends  
23 that, that are, that, that the process is driven  
24 by and that sometimes you're not looking, I, I

1 Demographic Research and Reapportionment, 1-30-2012

2 believe that we don't, that, that this process  
3 does not produce a fair product at the end of it.  
4 As far as a particular percentage, I don't have a  
5 number in my mind, but I would say that just  
6 looking at a couple of the districts in the, in  
7 the city--and I certainly am not as familiar with  
8 upstate as either you or Senator Nozzolio--but it  
9 looked to me like there were some districts that  
10 were unfairly chopped up and, and in some cases,  
11 potentially even packed.

12 ASSEMBLY MEMBER MCENENY: Well, if you  
13 have some specific examples, we have eight more  
14 hearings after this. We'd like your advice.

15 SENATOR RIVERA: And, and I would, and,  
16 and I would say that I would probably provide  
17 that to be on the record, but not me, personally  
18 since--

19 ASSEMBLY MEMBER MCENENY: Sure.

20 SENATOR RIVERA: --I will not be able to  
21 attend the rest of the--

22 ASSEMBLY MEMBER MCENENY: Sure.

23 SENATOR RIVERA: --hearings, which is  
24 the reason why I'm here today.

1 Demographic Research and Reapportionment, 1-30-2012

2 ASSEMBLY MEMBER MCENENY: Yeah. We also  
3 take a testimony submitted only in writing.

4 SENATOR RIVERA: Yes. No, and that,  
5 that's what I mean.

6 ASSEMBLY MEMBER MCENENY: Yeah.

7 SENATOR RIVERA: That you will get some,  
8 some of that--

9 ASSEMBLY MEMBER MCENENY: Thank you.

10 SENATOR RIVERA: --writing on the  
11 record.

12 ASSEMBLY MEMBER MCENENY: Thank you very  
13 much.

14 SENATOR NOZZOLIO: Thank you.

15 SENATOR RIVERA: Thank you so much for  
16 giving me the opportunity.

17 ASSEMBLY MEMBER MCENENY: Assemblywoman  
18 Tenney?

19 CLAUDIA TENNEY, ASSEMBLY MEMBER, 115TH  
20 AD.: Good afternoon. Thank you for giving me  
21 the opportunity to speak. I, I greatly  
22 appreciate it. I, I'm here on behalf of not just  
23 Oneida County but my hometown of New Hartford  
24 where I've resided on the same street since 1963,

1 Demographic Research and Reapportionment, 1-30-2012

2 and I currently represent the 115th Assembly  
3 District, which is 18 towns in Oneida County and  
4 nine in Oswego County. I guess the 115th has  
5 been eliminated and the town of New Hartford,  
6 where I reside, has now been placed in the 102nd  
7 District. 102nd District now looks like seven  
8 counties, 43 towns, one small city, and goes  
9 almost to the Connecticut border. We're talking  
10 about communities of interest and effective  
11 representation. It's about 200 miles from New  
12 Hartford to Coxsackie, which is where the rest of  
13 the district goes.

14 I have to say I, one of the key things  
15 about New Hartford; it practically encircles the  
16 city of Utica and is very connected to the  
17 economic development, the economic engine of  
18 Oneida County. It's fact, in fact, the largest,  
19 most populous town in the county. It has  
20 typically always been--I don't know back too far,  
21 but for many, many years, it's always been part,  
22 it's a key part of Oneida county and I feel like  
23 some of the, the residents of Oneida County have  
24 reached out to me and said why are we putting

1 Demographic Research and Reapportionment, 1-30-2012

2 Oneida, why are we putting the town of New  
3 Hartford with its unique situation, in with seven  
4 other counties. This, completely, I look, look  
5 like a very difficult district to represent. I,  
6 I'm not sure what the, what the purpose of it is,  
7 and this new 102nd District is now, actually  
8 encompasses Central New York, the Leatherstocking  
9 region, the capital region, and the Catskills.  
10 There's four communities. It now creates,  
11 instead of three assembly members in the County  
12 of Oneida, we now have five.

13 The, I, my question to you, and, and  
14 then hopefully the, you know, we're creating a  
15 district where we've taken a person, you know,  
16 the new 117th, I believe it is, comes down into  
17 15 of the towns that I currently represent, and  
18 now we're going to have a person that, who is a  
19 wonderful guy, but he represents Jefferson County  
20 and he's part of the North Country community.  
21 Now we have Pete Lopez over in this already  
22 enormous district and now maybe make it even  
23 larger, coming in to represent New Hartford in  
24 this community. And I just want to, why are the

1 Demographic Research and Reapportionment, 1-30-2012

2 citizens of New Hartford going to be better  
3 served in this way? And secondly, why is the  
4 rest of Oneida County going to be better served  
5 by someone who isn't elected by, originally by  
6 the people there and originally, I, I just don't  
7 see, I'd like to, a question is why is this  
8 better for Oneida County and for the, the, the  
9 residents of the town of New Hartford? And it's  
10 not about me; it's about down the road. If, I  
11 mean, I may not even be in the assembly, but how  
12 is this good for this community, to break it  
13 apart? And that seems to be a, you know, an  
14 important theme here. I mean, we've created this  
15 sort of involuntary carpet-baggery. I mean, it's  
16 like--

17 ASSEMBLY MEMBER MCENENY: Assemblywoman,  
18 the problem is with the shifting of population  
19 around the state, the loss in western New York,  
20 losses up in the Adirondacks, it's like putting a  
21 puzzle together and the bumping effect of  
22 something that may happen many miles from you,  
23 further to the north or the west for example,  
24 tends to move every district there a little

1 Demographic Research and Reapportionment, 1-30-2012

2 further, a little closer to you. And it's one of  
3 the things, somewhere along the line, ironically  
4 we have an empty district with no incumbent, for  
5 example, due south of you, but that's many miles  
6 away as well. There's another one elsewhere in  
7 the map. It's, it's the problem with the map  
8 moving around. It may be one of the things that  
9 we will address in a final map, but there's not  
10 an awful lot of people in some, in some areas.  
11 And what--

12 ASSEMBLYWOMAN TENNEY: Right.

13 ASSEMBLY MEMBER MCENENY: --happened,  
14 see, when we took the prisoners out--

15 ASSEMBLYWOMAN TENNEY: Well, I--

16 ASSEMBLY MEMBER MCENENY: --for example-

17 -

18 ASSEMBLYWOMAN TENNEY: Let me, can I  
19 comment on that?

20 ASSEMBLY MEMBER MCENENY: --and then  
21 that--

22 ASSEMBLYWOMAN TENNEY: With all--

23 ASSEMBLY MEMBER MCENENY: --brings in--

24 ASSEMBLYWOMAN TENNEY: With all due

1 Demographic Research and Reapportionment, 1-30-2012

2 respect--

3 ASSEMBLY MEMBER MCENENY: --some

4 bounding. Yeah?

5 ASSEMBLYWOMAN TENNEY: --the 116th, the  
6 current 116th District, which is now represented  
7 by Anthony Brindisi, has virtually unchanged,  
8 except adding one town to accommodate the, the  
9 change in the prisoners.

10 ASSEMBLY MEMBER MCENENY: That's exactly  
11 why.

12 ASSEMBLYWOMAN TENNEY: The--

13 ASSEMBLY MEMBER MCENENY: Yes.

14 ASSEMBLYWOMAN TENNEY: Yeah. The  
15 district--I'm not sure what it's called now where  
16 Addie Russell currently sits--has virtually  
17 unchanged, except for one town. Bill McGee,  
18 who's to my south has not changed at all.

19 ASSEMBLY MEMBER MCENENY: Mm-hm.

20 ASSEMBLYWOMAN TENNEY: And it just seems  
21 that if we just were to do a clockwise, it, look,  
22 it took a lot of thought to put this district  
23 together. It's not something, it, either a lot  
24 of thought or no thought, because it just doesn't



1 Demographic Research and Reapportionment, 1-30-2012

2 make sense to put New Hartford in such a bizarre  
3 string along district. I mean, I don't see how  
4 even the, the new 102nd could even, could, anyone  
5 could effectively represent that district. It's,  
6 it's even, it's as large or larger than most of  
7 the senate districts. But I look at the map and  
8 I think well, if you just did a, a clockwise  
9 move, you could move people back into their  
10 communities where they are represent and they're  
11 lifelong residents, or where somebody in that  
12 community could represent, you know, whether they  
13 were the current representatives or a future  
14 representative would be representing the  
15 community they live in. I mean, honestly, some  
16 of the, the, the current, the new 117th District  
17 would pit a person who has spent their life in  
18 Jefferson County to come down and represent 12  
19 towns in Oneida County and three additional towns  
20 in Oswego. So, and all of a sudden, now we've  
21 got, you know, the, Mark Butler's district to  
22 the, to the east moving all the way up into Saint  
23 Lawrence County. So, it seems that almost, like  
24 a shift could be something that would be putting

1 Demographic Research and Reapportionment, 1-30-2012

2 people back into their communities of interest,  
3 and really, not the people; putting the, the  
4 communities and the towns--

5 ASSEMBLY MEMBER MCENENY: Mm-hm.

6 ASSEMBLYWOMAN TENNEY: --back where they  
7 belong, you know, back with the, the counties  
8 they're in as to, or to keep up with the mission  
9 of keeping either counties whole or communities  
10 whole. New Hartford certainly has nothing in  
11 common with Coxsackie or Schoharie County at this  
12 point so--

13 ASSEMBLY MEMBER MCENENY: It's  
14 Coxsackie.

15 ASSEMBLYWOMAN TENNEY: Or however you  
16 say it. I'm, see, I don't even know. I see it  
17 on the thruway sign; that's about it.

18 ASSEMBLY MEMBER MCENENY: Well be having  
19 a public hearing in Syracuse, which is certainly  
20 close to you, and that's in the third week of  
21 these hearings, and then followed by Rochester  
22 and Buffalo, and perhaps you could find a  
23 solution.

24 ASSEMBLYWOMAN TENNEY: Well, I have, I

1 Demographic Research and Reapportionment, 1-30-2012

2 have lots of solutions for you--

3 ASSEMBLY MEMBER MCENENY: Yeah.

4 ASSEMBLYWOMAN TENNEY: --if you'll hear  
5 me out later in the--

6 ASSEMBLY MEMBER MCENENY: Sure.

7 ASSEMBLYWOMAN TENNEY: --next groups. I  
8 just think it's just, it's notable, my district,  
9 the new district--

10 ASSEMBLY MEMBER MCENENY: Mm-hm.

11 ASSEMBLYWOMAN TENNEY: --that I  
12 represent 27 towns and now I represent two, and I  
13 don't think there's been any other dramatic  
14 change and that's probably 100, at least 100,  
15 105,000 population difference.

16 ASSEMBLY MEMBER MCENENY: Yeah.

17 Actually--

18 ASSEMBLYWOMAN TENNEY: I mean, that's a  
19 dramatic change.

20 ASSEMBLY MEMBER MCENENY: It's not, it  
21 doesn't take the prize. We have some others that  
22 have had greater change but for voting rights  
23 purposes down in the city.

24 ASSEMBLYWOMAN TENNEY: Okay. Well,

1 Demographic Research and Reapportionment, 1-30-2012

2 thank you very much. I appreciate--

3 ASSEMBLY MEMBER MCENENY: Thank you very  
4 much--

5 ASSEMBLYWOMAN TENNEY: --the time.

6 ASSEMBLY MEMBER MCENENY: --for coming  
7 in.

8 SENATOR NOZZOLIO: Thank you. Thank you  
9 for coming in.

10 ASSEMBLY MEMBER MCENENY: Are there any  
11 other members that wish to speak? And we will  
12 move on with Bill Mahoney from NYPIRG.

13 SENATOR NOZZOLIO: Oh, you missed  
14 Barbara Bartoletti. You missed Barbara  
15 Bartoletti.

16 ASSEMBLY MEMBER MCENENY: Oh. Does  
17 Barbara go first?

18 SENATOR NOZZOLIO: On the list, well,  
19 we--

20 ASSEMBLY MEMBER MCENENY: Oh, I'm sorry.  
21 Barbara, you're next in line if you--

22 BARBARA BARTOLETTI, LEGISLATIVE  
23 DIRECTOR, LEAGUE OF WOMEN VOTERS: That's fine.  
24 Let Bill go.

1 Demographic Research and Reapportionment, 1-30-2012

2 ASSEMBLY MEMBER MCENENY: Okay. Go  
3 ahead, Bill. We'll get you next. Thank you.  
4 Sorry about that.

5 BILL MAHONEY, RESEARCH COORDINATOR,  
6 NYPIRG: Good afternoon. Thank you for having me  
7 here today. In the few days since the lines have  
8 come out, I've heard them defended from several  
9 different quarters. These defenses have  
10 typically said things like they were driven  
11 completely by the requirements of the  
12 constitution, a desire to better represent  
13 minority communities, or just generally following  
14 of the numbers found in the census.

15 ASSEMBLY MEMBER MCENENY: I would  
16 question the use of the word completely.

17 MR. MAHONEY: Okay, sorry. Well, but,  
18 I, I, I would just like to, I would like to  
19 challenge some of these claims, that these were  
20 the only sets of lines in some cases that could  
21 have possibly been drawn, and I'm going to start  
22 off by talking about the creation of a 63rd  
23 Senate District.

24 The antiquated formula in the

1 Demographic Research and Reapportionment, 1-30-2012

2 constitution for calculating the size of the  
3 senate; it very well could be found to allow this  
4 creation. However, it's definitely not the only  
5 way that this formula could be calculated. In  
6 previous decades, it has been, they've used a  
7 completely different formula and that has been  
8 upheld by the courts. And Senator Nozzolio, I  
9 know that you defended this, but, and this is  
10 what you said the outside consultant had told  
11 everybody, but if the, if he really said that  
12 this is the only formula that could possibly be  
13 used, I'd say, I'd recommend that you give the  
14 taxpayers back their \$3 million because--

15 SENATOR NOZZOLIO: And since you called  
16 on me, I'll, I'll respond.

17 MR. MAHONEY: Fair.

18 SENATOR NOZZOLIO: It, consultant said  
19 that there are two formulas, both accepted by the  
20 court, and under both formulas, that this 63rd  
21 seat in the so-called antiquated provision of the  
22 constitution that you refer to. You know, there  
23 are a lot of antiquated provisions in the  
24 constitutions. You could say that the Bill of

1 Demographic Research and Reapportionment, 1-30-2012

2 Rights and we have an old document in the  
3 constitution, to discredit, or try to discredit  
4 with that kind of language, I think is, is  
5 inappropriate on your part. But the, the fact of  
6 the matter is that the counsel indicated that  
7 either formula would, that both accepted by the  
8 courts, and calculations made under the current  
9 population figure is adjusted by the census  
10 numbers and the prison population census numbers,  
11 that his recommendation is that the 63rd seat is  
12 in fact, required by the state constitution.

13 MR. MAHONEY: And there are no partisan  
14 considerations involved in reaching this  
15 conclusion? When I looked at it, I found that  
16 the, that the formula used in the past, the two  
17 different ones, could lead to either 62 or 64  
18 seats as well, and if this truly was the case, I  
19 would encourage you to prove me wrong by making  
20 public all the communications with this  
21 consultant and every discussion about this issue.  
22 I would love to read those emails. I would  
23 absolutely love to have my cynicism shattered.

24 SENATOR NOZZOLIO: It places, the, the

1 Demographic Research and Reapportionment, 1-30-2012

2 information provided from counsel is on the  
3 website of LATFOR.

4 MR. MAHONEY: There's about a page. I'm  
5 sure, there, I'm sure there are more  
6 communications. But anyways, I would like to  
7 get, just getting back to my testimony, one of  
8 the other issues which we are concerned about  
9 looking at these maps is population, and other  
10 people have brought up how the populations in  
11 districts vary wildly. And we've actually found  
12 in the senate, that this is the worse it's ever  
13 been in all the decades since the Voting Rights  
14 Act. In--

15 SENATOR NOZZOLIO: Would you--

16 MR. MAHONEY: --the assembly, it's not  
17 quite as bad as 2002, but it's clearly the second  
18 worst. In the past, these have been defended by  
19 saying that--

20 ASSEMBLY MEMBER MCENENY: Common Cause  
21 would be the third worst?

22 MR. MAHONEY: I haven't looked too  
23 closely at theirs but, but these have been  
24 defended by, by saying that they are completely



1 Demographic Research and Reapportionment, 1-30-2012

2 mandated by trying to keep towns and counties and  
3 other municipalities together, and in some cases,  
4 to protect minorities. But what we found while  
5 looking at the older maps from '92 and '84, these  
6 population variations were much lower, yet they  
7 were still able to adequately present, protect  
8 minorities and keep towns and municipalities  
9 together. In fact, this, the set of maps  
10 shatters counties and towns more so than any  
11 other set of maps which I've seen. The senate,  
12 as Susan pointed out earlier, splits 18 upstate  
13 counties into pieces, and that's clear disregard  
14 for the state constitution, which it may be  
15 antiquated but I still value it, and I think that  
16 that's not--

17 SENATOR NOZZOLIO: That, that part,  
18 parts are antiquated and parts aren't; is that  
19 your, in your view?

20 MR. MAHONEY: It's all antiquated but  
21 what I was referring to before is--

22 SENATOR NOZZOLIO: It's all antiquated.

23 MR. MAHONEY: --the fact that the  
24 formula, it's difficult to read because reading

1 Demographic Research and Reapportionment, 1-30-2012

2 it requires several assumptions which don't make  
3 sense in modern New York where Nassau County and  
4 Queens County are no longer one political unit.  
5 So, it does leave room for interpretation, which  
6 I believe you have interpreted it as you best saw  
7 fit with your part as an interest and not best to  
8 represent the people of New York.

9 And going back to Queens really quick,  
10 these have been defended by saying that these  
11 were, that these lines appear the way they are  
12 solely to represent a minority community. We, it  
13 does provide Asian-American representation, which  
14 is great, but it doesn't need to look the way it  
15 currently does to represent these communities of  
16 interest. Even the Asian-American Legal Defense  
17 Fund found that the proposed Senate District 16  
18 unnecessarily splits the neighborhoods of  
19 Flushing and Bayside, dividing a community of  
20 interest. And the fact that another district,  
21 further upstate, in Buffalo, completely does away  
22 with the African-American majority which has  
23 existed there for several decades, tells me that  
24 this is not the top concern of the map drawers.

1 Demographic Research and Reapportionment, 1-30-2012

2           In conclusion, these clearly are not the  
3 best set of lines we could possibly see. You  
4 know the, you know my solution for this. I've  
5 said this several times over the summer, and  
6 that's an independent commission. For the time  
7 being, for these lines, whatever changes happen  
8 to them, these are not changes that could simply  
9 be made where we fix a couple funny-looking  
10 districts and make them a little bit more  
11 compact. There needs to be a complete redesign  
12 of this process, where upstate is fairly  
13 represented in the assembly and downstate is  
14 fairly represented in the senate. As it is now,  
15 both of these communities are short-changed and  
16 the motivation for this is completely partisan.  
17 Thank you.

18           ASSEMBLY MEMBER MCENENY: Senator Dilan?

19           SENATOR DILAN: Good afternoon.

20           MR. MAHONEY: Good afternoon.

21           SENATOR DILAN: I know that you did not  
22 submit lines to the task force, but I believe  
23 that you've been involved in analyzing the data  
24 or the proposed plans, and I just wanted to know

1 Demographic Research and Reapportionment, 1-30-2012

2 do you have the ability to draw a map, using the  
3 governor's criteria, and maintain as few split  
4 county, count splits in the senate plan and keep  
5 a low statewide population deviation?

6 MR. MAHONEY: That's not something that  
7 I could personally do in the short time we have  
8 left before these maps are to be finished. I  
9 haven't started doing this. I had assumed  
10 incorrectly that there would be more time between  
11 the start of the public hearings and the  
12 finalization of the plan. But at this stage in  
13 the game, it's not something that I could  
14 personally look at. I haven't been pouring, been  
15 trying to create maps myself for the past six or  
16 seven months.

17 SENATOR DILAN: Do you think that New  
18 York should be allowed to draw more districts in  
19 rural area versus fewer districts in urban areas?

20 MR. MAHONEY: I think that goes against  
21 everything that this general philosophy of  
22 democracy stands for. When you start trying to  
23 overrepresent people just because they're from  
24 one part of the state when you're dealing with

1 Demographic Research and Reapportionment, 1-30-2012

2 one house of the legislature and then  
3 underrepresent them in the other, that means that  
4 we're violating the basic times of one person,  
5 one vote, and that does lead to this unequal  
6 representation which we see in both houses.

7 SENATOR DILAN: That's all I have.

8 Thank you.

9 SENATOR NOZZOLIO: It, you cast a lot of  
10 aspersions and I, I, I just want to maybe fact-  
11 check some of the inconsistencies. The, the  
12 questions you raised in western New York about  
13 the minority populations being severed, well, the  
14 fact of the matter is the County of Niagara was  
15 made whole by the representation or the decision  
16 to propose the senate lines that unite Niagara  
17 County. In the city of Buffalo, the minority  
18 community is totally contained within the city of  
19 Buffalo and that, at, there was no severance of  
20 that representation. So, in, in terms, there are  
21 dual objectives there. The, your comments of  
22 Queens are not shared in terms of the creation of  
23 the Asian district, the first majority senate  
24 Asian district in the history of the state; that

1 Demographic Research and Reapportionment, 1-30-2012

2 that Asian district was created uniting as many  
3 communities of interest as possible, some wanted  
4 more united. In fact, I certainly would have  
5 like to have seen that but you'd see more  
6 displacements, so, of other regions within  
7 Queens. So, creating a majority Asian district  
8 was established and today in the New York Daily  
9 News, there were comments about members of the  
10 community praising that creation. So, for every  
11 detractor, I'm sure there's also someone who is  
12 supportive of it. The minority population, or  
13 the black population of the city of New York  
14 declined by over 100,000; that the creation of  
15 those districts in the boroughs that are covered  
16 counties we aggressively supported, and I think  
17 that your comments about everything is not for  
18 sure partisanship is absolutely false and should  
19 be challenged. That's why I'm making this  
20 statement. The new district analysts have  
21 showed, the Press reported that the, the new  
22 senatorial district that was created, the 63rd  
23 seat, if you will, was, has a dominance of  
24 democrat-enrolled voters versus republican-

1 Demographic Research and Reapportionment, 1-30-2012

2 enrolled voters. So, I, I think that just to  
3 throw those things out and see what sticks, I, I,  
4 I, I, I could go unchallenged, I, I couldn't let  
5 go unchallenged, and that I hope that your  
6 comments are tempered based on facts, not  
7 assertions and not on truths.

8 MR. MAHONEY: Well, looking back at the  
9 2002 process when we saw some of these internal  
10 documents be made public due to the court  
11 challenges, they clearly proved that partisan  
12 factors were what determined and what drove the  
13 process, and if that's changed this year, then  
14 please, please prove me wrong; release all your  
15 emails, your internal communications, stuff that  
16 would be subject to foil if you were part of the  
17 executive branch, and I'm sure the public would  
18 love to look at these records and see that every  
19 single decision that was made was based on  
20 representing New Yorkers and partisan interests  
21 were not taken into account.

22 SENATOR NOZZOLIO: This whole  
23 communication I have from our counsel is the  
24 counsel's memo to me.

1 Demographic Research and Reapportionment, 1-30-2012

2 MR. MAHONEY: But I'm sure there are  
3 others.

4 SENATOR NOZZOLIO: To the, to the, to  
5 the senate and to the, me and the chairman on  
6 LATFOR and the members on LATFOR.

7 MR. MAHONEY: Well, I'm sure--

8 SENATOR NOZZOLIO: It's placed on the,  
9 on the website. We made it very open and clear  
10 and direct. I, I have not communicated with the  
11 counsel about this and he's not communicated with  
12 me until that memo.

13 MR. MAHONEY: Well, I imagine somebody  
14 did. You didn't just decide to start collecting  
15 \$3 million of taxpayer money and sending you  
16 memos about the size of the senate. There were  
17 probably prior discussions about--

18 SENATOR NOZZOLIO: Discussions,  
19 considerable discussions about comply, and, and  
20 you raise a very valid point I'd like to address,  
21 and excuse me for interrupting. The valid point  
22 is what is counsel paid for. He's paid for to  
23 help us all, particularly the map drawers and  
24 myself and others, to comply with a very complex



1 Demographic Research and Reapportionment, 1-30-2012

2 series of laws we have governing this process,  
3 particularly the Voting Rights Act, and how that  
4 Voting Rights Act needs to be applied to the  
5 populations as they shift in change and grow and  
6 diminish within the state.

7 MR. MAHONEY: All right. Well, once  
8 again, I would love to read the materials. If  
9 you would like to prove me wrong, then please do  
10 so.

11 SENATOR NOZZOLIO: Well--

12 MR. MAHONEY: I, I can't speak more  
13 about this because I haven't seen your internal  
14 documents or heard your discussions, but from  
15 what I've seen from past cycles, this is what  
16 drove the process and I have not been given any  
17 reason to suspect that this has changed this  
18 decade.

19 SENATOR NOZZOLIO: Well, we've made this  
20 the most open, transparent process, since you're  
21 the historian in the room today, that this, let  
22 me indicate this has been the most open process  
23 that we have had, including those who have  
24 testified--you, yourself have testified half a

1 Demographic Research and Reapportionment, 1-30-2012

2 dozen times--that we welcome that input and  
3 again, I, I welcome your input today. I just  
4 think that it's tainted in a partisan egg-  
5 throwing fashion here, and that we, I want to  
6 clarify for the record that that has not been the  
7 case and that these decisions have been made on  
8 the basis of openness, fairness and the  
9 legalities of complying with a very complex  
10 number of laws and requirements that are put in  
11 the, in, in this path, and that I respect them.  
12 I might not agree with every one of them, but I  
13 certainly respect them all, and we're trying to  
14 comply with them all.

15 MR. MAHONEY: Once again, I'm sure the  
16 public would love to see the debates over these  
17 very complex issues that have not been discussed  
18 publicly for four or five months.

19 SENATOR NOZZOLIO: Any other questions?

20 ASSEMBLY MEMBER MCENENY: Thank you.

21 SENATOR NOZZOLIO: Comments? Thank you  
22 very much.

23 ASSEMBLY MEMBER MCENENY: Should NYPIRG  
24 choose to come again, Bill, specific suggestions

1 Demographic Research and Reapportionment, 1-30-2012

2 are always welcome of how to correct--

3 MR. MAHONEY: Yeah, I mentioned that I  
4 thought--

5 ASSEMBLY MEMBER MCENENY: --a perceived  
6 problem.

7 MR. MAHONEY: --the population deviation  
8 should be adjusted in each houses, but I will  
9 try, if we do this again, I will try to be more  
10 specific.

11 ASSEMBLY MEMBER MCENENY: Yeah, there's,  
12 there's time.

13 MR. MAHONEY: Okay. Thank you.

14 ASSEMBLY MEMBER MCENENY: Thank you.  
15 Barbara Bartoletti, League of Women Voters.

16 MS. BARTOLETTI: Well, I hope I'm going  
17 to be a little bit refreshing for all of you  
18 sitting up there because we have not, as you  
19 probably all know--Barbara Bartoletti, League of  
20 Women Voters--we have testified before the, when  
21 you were traveling around the state, all over the  
22 state. With these hearings, we're going to take  
23 you at your word. You know what I'm going to  
24 say. You know what my members would say around

1 Demographic Research and Reapportionment, 1-30-2012

2 the state. So, we're only going to say this once  
3 today so that you don't have to go around the  
4 state for the next eight or nine and hear  
5 primarily the same from all of my members around  
6 the state, and you know what it is I'm going to  
7 say. But I do want to issue one small compliment  
8 before I turn this upside down, and just say that  
9 I've been doing this and, and actually, we were  
10 going to do something a little amusing today. We  
11 were going to blow up photos of me in 1982, 1992,  
12 2002 and then today, and we were going to say  
13 look how much I've changed and look how little  
14 this process has changed. But actually, this is  
15 not amusing, because I have been doing this since  
16 1982 and we have been saying the same thing over  
17 and over and over again every ten years. I do  
18 want to say to Mr. Nozzolio, who I think publicly  
19 I heard you say that, when we talked about a  
20 constitutional amendment, that it was far too  
21 late and nobody came and talked about a  
22 constitutional amendment. My memory long-term, I  
23 sometimes can't remember what happened yesterday,  
24 but long-term, my memory is pretty good. In 1995

1 Demographic Research and Reapportionment, 1-30-2012

2 we went before your former majority leader, Joe  
3 Bruno, and his counsel, and we specifically said  
4 now is the time to debate, to come out with  
5 legislation dealing with a constitutional  
6 amendment to clean up some of what some, many  
7 folks have been saying are archaic constitutional  
8 language, the town on town border, etcetera,  
9 etcetera, and by the way, just for the record,  
10 1894 was exactly 50 years before women had the  
11 right to vote. So, this, this part of that, of  
12 the constitution is long before we even had the  
13 chance to even weigh in on, on this issue, but at  
14 the time, we said now is the time to talk about a  
15 constitutional amendment, get a, a attorney  
16 general's opinion and go forward. And we were  
17 told in 1995, oh, we have lots of other more  
18 important things to deal with; come back in a  
19 couple of years and talk to us, or four years or  
20 five years. Again we tried in 2005 and I believe  
21 Mr. Avello was then your counsel; still Mr. Bruno  
22 was the majority leader. We were told the exact  
23 same thing. We asked the same questions and we  
24 were told too many other important things to do;

1 Demographic Research and Reapportionment, 1-30-2012

2 we can't really address that now. So, we have  
3 tried over and over and again to get a new  
4 constitutional amendment, creating an  
5 independent, non-partisan process by which we  
6 would develop these lines. I will say--here  
7 comes the compliment--that those of you sitting  
8 here appear, this go-around, to be very much  
9 better informed about the exact ability to draw  
10 these lines given the Voting Rights Act, given  
11 all of the different constraints, the prisoner  
12 reinstatement, wherever, where they live. So, I,  
13 I will compliment you because I sat with a member  
14 in the 1991, a former person who sat where you  
15 are, who told me specifically we had no input;  
16 this was all done out of the speaker's office and  
17 out of the majority leader's office. So, perhaps  
18 that has changed a little bit with, with those of  
19 you who are sitting up there, and if that's the  
20 case, that's somewhat a compliment to those of  
21 you who are sitting there, who have perhaps  
22 demanded that from your leadership.

23 That said, the process we went through  
24 this year was no different. It is still a very

1 Demographic Research and Reapportionment, 1-30-2012

2 bad, a very incumbency protection plan and I am  
3 not at all surprised, nor do I think the  
4 editorial boards or the legislators themselves,  
5 in some cases, as we're hearing today, were at  
6 all surprised that you came out with not a  
7 terribly good product. I do think some of these  
8 lines, if the governor is to be taken at his  
9 word, the governor will veto and we will come  
10 back, perhaps with the input from all of these  
11 different hearings, we will come back with better  
12 lines. And I can only impassionedly lobby your  
13 leadership, the governor, whomever it is that  
14 will listen, that going forward, and I'm not  
15 going to be doing this in 2022; I can assure you  
16 of that, but in 2022, we do need a constitutional  
17 amendment that not only cleans up some of the  
18 dead wood in the constitution and does provide  
19 for an independent non-partisan committee of  
20 technologists. I know we're not Iowa. I've been  
21 on record for years saying we're not Iowa, but  
22 Iowa appears to have a good model of tech,  
23 technologically sound people who do not even  
24 consider where a legislator lives or what the

1 Demographic Research and Reapportionment, 1-30-2012

2 political party is he or she is attached to. We  
3 must go into that direction. The lines might not  
4 look a lot different, but perception is reality,  
5 and the political perception out there in the  
6 public is that the draw, lines are drawn to  
7 protect incumbents and therefore, there is much  
8 less responsive government, less competitive  
9 elections, which then makes for the unresponsive  
10 legislators. Perception, in our minds, is played  
11 out by the fact that New York State, in this last  
12 election--and it's been getting worse in every  
13 election--New York State had one of the lowest  
14 voter turnouts in the nation. Voters are not  
15 dumb. They may not know the ins and outs of  
16 redistricting. They may not know what block on  
17 block and so forth, the boundaries, are in the  
18 constitution. What they do know is that things  
19 in Albany do not seem to change enough. You had  
20 a good session last year, and let's hope it  
21 continues, but voters know, and if you ask the  
22 man or woman on the street, they are very likely  
23 to say my vote doesn't, doesn't count. These  
24 guys are all politicians; they're all going to do



1 Demographic Research and Reapportionment, 1-30-2012

2 what they do. That is really, as all of you, I  
3 think, in a moment, away from the cameras, would  
4 admit that is not what any of us came into public  
5 service, whether on my side or on your side to  
6 achieve. What we want is a dynamic responsive  
7 democracy and we don't have that, and so you must  
8 concern yourselves with the fact that even though  
9 the public doesn't know the ins and outs, they  
10 know it isn't working. And I, it, frankly, and  
11 to the, to my very being, believe that if you had  
12 a group of people sitting where you are, who were  
13 not attached to a party and were not a sitting  
14 legislator, they may have a little, they may find  
15 some of the problems that you've found with  
16 making sure the population, we do think this  
17 population deviation could be less. You can do  
18 it for congressional lines, bigger lines, no  
19 doubt, bigger population, but I, it, it, it, to  
20 my very being, I believe that if you had non-  
21 partisan people doing this, even with the advice  
22 of legislators, you would come out with a better  
23 product and you could say we did this with the  
24 voters and the citizens of the state in mind. We

1 Demographic Research and Reapportionment, 1-30-2012

2 didn't do it with our partisan concerns in mind.  
3 So, with that, this is probably, in this go-  
4 around, the last time you will have to hear what  
5 I have to say. I, I certainly do hope that as we  
6 go down the, the road with a possible governor,  
7 gubernatorial veto and the possibility of perhaps  
8 formulating real structural reform for 2022, when  
9 maybe none of you sitting up there--and I look at  
10 my friend, Roman. One of these days, you and I  
11 are both going to retire completely from this,  
12 Roman. Roman and I have been doing this together  
13 for a very long time. We will be able to secure  
14 a very good structural reform and have the type  
15 of process we can all be very proud of. Thank  
16 you very much.

17 ASSEMBLY MEMBER MCENENY: Thank you.

18 Senator?

19 SENATOR NOZZOLIO: A couple of things,  
20 Barbara. I know you and I know Roman and Roman  
21 looks old enough to be your father anyway.

22 MS. BARTOLETTI: Roman, actually a  
23 little anecdote; I had Roman's son on my Little  
24 League team, and our children are both, I

1 Demographic Research and Reapportionment, 1-30-2012

2 believe, now married, yes.

3 SENATOR NOZZOLIO: All futile attempts  
4 to humor aside, I have a question, and you raise  
5 an excellent point, and you as a representative  
6 of a national organization, it would be helpful  
7 to know, and be very interesting to know, those  
8 states that have established independent  
9 redistricting, and as you know, the senate has  
10 voted for--

11 MS. BARTOLETTI: Yes.

12 SENATOR NOZZOLIO: --constitutional  
13 amendment--

14 MS. BARTOLETTI: Yes.

15 SENATOR NOZZOLIO: --to achieve that  
16 objective, and more must be done on this issue.  
17 But you raise a great point, among many, but one,  
18 one I'd like to probe on is the issue of voter  
19 participation. Have we seen voter participation  
20 increase in those areas before and after the  
21 establishment of an independent redistricting  
22 commission?

23 MS. BARTOLETTI: I think that's  
24 something our national organization has looked

1 Demographic Research and Reapportionment, 1-30-2012

2 at, and probably has some statistics on that. I  
3 think we're looking specifically at states like  
4 Iowa. There are different states than New York;  
5 states like Vermont and Arizona. California,  
6 this is their first go-around. We know that  
7 didn't work as well as we had hoped it would, but  
8 this is their first go-around. I think the  
9 commission, in the next ten years, will probably  
10 figure out some of what happened this time and  
11 guard against that. It, it's an educating  
12 process. I'd like to see us do it differently  
13 than even California did, and go with a non-  
14 partisan commission with strict criteria for how  
15 you draw the lines, and then with, perhaps, even  
16 an advisory board. We, the courts have told us,  
17 and I'm not that naïve, the courts have told us  
18 that this is and can be a political process. In,  
19 in other words, the, the, they can't, you can't  
20 take politics out of this entirely, but we think  
21 there is a better way to do this with, perhaps,  
22 the advice of some sitting legislators, like  
23 these communities of interest just don't go  
24 together or this wouldn't represent the people I

1 Demographic Research and Reapportionment, 1-30-2012

2 know need to be represented. I think we could  
3 look at things like that, and I think as we go  
4 down to formulating hopefully in the future, we  
5 do have a unique opportunity. Right now we have  
6 a governor who has said that he wants to see a  
7 structural reform in the future. I think you've  
8 already passed a constitutional amendment. So, I  
9 think perhaps this is our best opportunity to get  
10 one. That doesn't negate the fact that the  
11 process we've had in the past, at least since  
12 I've been around four, four decades, has been  
13 bad.

14 SENATOR NOZZOLIO: Thank you.

15 MS. BARTOLETTI: You're very welcome.

16 ASSEMBLY MEMBER MCENENY: Senator?

17 MS. BARTOLETTI: Yes.

18 SENATOR DILAN: Good afternoon. I know  
19 that your organization, the Women League of  
20 Voters and Citizens Union have been prime movers  
21 in attempting to reform the redistricting  
22 process.

23 MS. BARTOLETTI: That's right.

24 SENATOR DILAN: However, I've been

1 Demographic Research and Reapportionment, 1-30-2012

2 hearing accounts that it may be too late in the  
3 process for such an independent redistricting  
4 commission now. Do you believe that if this  
5 panel was able to implement the governor's  
6 criteria that are in his program bill could  
7 possibly avoid a gubernatorial veto?

8 MS. BARTOLETTI: That's a process that I  
9 think the legislature is going to have to figure  
10 out. There's a time constraint, as you know.  
11 We, and, and one of the previous speakers did  
12 talk about the congressional lines, to my  
13 knowledge. Maybe, maybe you've drawn them over  
14 the weekend, given the, Judge Sharp's admonition  
15 to you, but they do need to be done very soon.  
16 And I think once that's, I think that's probably  
17 your, I would think, your focus, but to avoid a  
18 president, a gubernatorial veto, I'm hopeful that  
19 when the hearings are over, that saner heads will  
20 prevail and that we will get some realignment of  
21 some of the more egregious lines and, and I will  
22 tell you, that's why we have a good government  
23 coalition. The League does not involve itself in  
24 the actual drawing of the lines. We do not have

1 Demographic Research and Reapportionment, 1-30-2012

2 those resources and our position is strictly on  
3 the process. But the governor has said he would  
4 veto it. I would certainly counsel you to go  
5 back after these hearings because it is, should  
6 be open and transparent, go back and look again  
7 at these lines because some of them can easily be  
8 altered, I think, to, to get better results,  
9 given the constitutional constraints, because if  
10 you don't there will be a gubernatorial veto and  
11 even, perhaps, you should maybe look at some  
12 outside counsel. I know you have outside  
13 counsel, but non-partisan outside counsel, to  
14 come in and perhaps whether it's Common Cause or  
15 whether it's the Fordham, Fordham University.  
16 And I don't know if you've looked at the lines  
17 out of Fordham University. I, they were, they  
18 were drawn and I think a young law student did  
19 win quite a bit of money in drawing them. So, I  
20 would, I would ask that you, perhaps, look at  
21 some of those lines and perhaps you can come out  
22 with something that will not get you a  
23 gubernatorial veto.

24 However, all of that said, we have to

1 Demographic Research and Reapportionment, 1-30-2012

2 move forward and we have to move forward quickly.

3 The idea that the, and, and if someone can

4 enlighten me about what happened this morning.

5 Has, Mr. Nozzolio, has the senate agreed to go

6 with the legislative primary at, June 26th?

7 SENATOR NOZZOLIO: I have not discussed  
8 that with my colleagues.

9 MS. BARTOLETTI: Okay. I, that was out  
10 there in the blogosphere, I think. I would  
11 encourage you to do, to do so. The mere fact,  
12 counties, as, as all of you know, the counties  
13 cannot put on three primaries. The financial  
14 constraints for counties would be devastating,  
15 and so, I would, our position since 1957 has been  
16 a June primary. We did have June primaries  
17 before 1974. We can do it again. So, I would  
18 encourage you to move along quickly because  
19 candidates do have to run in primaries, they do  
20 have to petition, and I, I come to this--you  
21 don't want to get me, Jack knows, you don't want  
22 to get me started on why primaries that adhere to  
23 the move act are so critical. My son and his  
24 unit of a 10th Mountain Division did not get to



1 Demographic Research and Reapportionment, 1-30-2012

2 vote in the 2000, or was it 2004 election,  
3 presidential election, because they were in a  
4 forward operating base and none of them, on a  
5 forward operating base in Iraq, were able to  
6 actually exercise their right to vote. So, I  
7 believe fervently in this move act and I think it  
8 would be to all of our advantages to, to decide  
9 on that primary and move along and get the  
10 congressional lines out, taking some advice and  
11 let's then move quickly to restructure this  
12 process so that going forward into 2022, this  
13 will be a smooth process that none of have to sit  
14 here and criticize, and with that--

15 SENATOR DILAN: I--

16 MS. BARTOLETTI: Yes?

17 SENATOR DILAN: I don't know. I--

18 MS. BARTOLETTI: Yes, Mr. Dilan?

19 SENATOR DILAN: I just, that was a long  
20 answer to my question, so maybe can you sort of  
21 summarize so I can clearly understand.

22 MS. BARTOLETTI: Okay.

23 SENATOR DILAN: Because there were other  
24 issues that you brought in. Basically, if this

1 Demographic Research and Reapportionment, 1-30-2012

2 panel uses the governor's criteria that, under  
3 his program bill, would that avoid a veto or  
4 would the mere tweaking of some districts or  
5 unpairing incumbents be sufficient? I just--

6 MS. BARTOLETTI: Well, you--

7 SENATOR DILAN: In--

8 MS. BARTOLETTI: You'd have to ask the  
9 governor that. It's his prerogative to veto, but  
10 certainly, we would--

11 SENATOR DILAN: All right.

12 MS. BARTOLETTI: --recommend that these  
13 lines have some work done to them.

14 SENATOR DILAN: All right. Thank you.

15 MS. BARTOLETTI: Thank you.

16 ASSEMBLY MEMBER MCENENY: Barbara?

17 MS. BARTOLETTI: Yes?

18 ASSEMBLY MEMBER MCENENY: These lines  
19 need some work doesn't help me at all,  
20 particularly in the--

21 MS. BARTOLETTI: I know.

22 ASSEMBLY MEMBER MCENENY: --assembly. I  
23 would appreciate some specific criticism of lines  
24 that seem--

1 Demographic Research and Reapportionment, 1-30-2012

2 MS. BARTOLETTI: Okay.

3 ASSEMBLY MEMBER MCENENY: --to not do  
4 their job, particularly in the assembly, because  
5 I'm not hearing it, other than Claudia Tenney  
6 coming in, who was put up against a fellow  
7 member. I think blaming redistricting is one of  
8 many, many things that makes the public cynical.  
9 I tend to think money and campaign financing  
10 outweighs it by a lot.

11 MS. BARTOLETTI: We would agree with you  
12 there.

13 ASSEMBLY MEMBER MCENENY: And I think  
14 the general dumbing down of America, where they  
15 know more about Kim Kardashian than who Joe Biden  
16 is, is another problem with our society today,  
17 which leaks over into many civic activities.

18 MS. BARTOLETTI: You are absolutely  
19 right and we're hoping to get funding in the near  
20 future. If anybody knows of a foundation that is  
21 concerned about civic literacy, as we are,  
22 because unless you have a well-informed  
23 citizenry, keeping legislators and political  
24 parties and governors and congress people and

1 Demographic Research and Reapportionment, 1-30-2012

2 presidents accountable just doesn't work, and we  
3 know that there is a great deal of civic  
4 illiteracy. And if you ask the, the man on the  
5 street, woman on the street, you're more likely  
6 to know they know more about this person--

7 ASSEMBLY MEMBER MCENENY: Yeah.

8 MS. BARTOLETTI: --that you just noted,-

9 -

10 ASSEMBLY MEMBER MCENENY: Yeah.

11 MS. BARTOLETTI: --whom I don't know  
12 anything about, than they do whether, who the  
13 vice president is and what foreign policy means.  
14 So, we are trying to look at that because if you  
15 don't have an informed constituency, then being a  
16 responsive government doesn't work, and then you  
17 lose, not only do people stop voting, you end up,  
18 in this country, which I don't think anybody  
19 wants, and that's an oligarchy, which is  
20 government by the very few.

21 ASSEMBLY MEMBER MCENENY: Well, I, I  
22 think there's also pervasive cynicism that says  
23 that if one of the political, politically-  
24 controlled houses and their participation puts

1 Demographic Research and Reapportionment, 1-30-2012

2 six incumbents against each other, that's  
3 politics. But when a reform group puts 12  
4 against each, that's good government.

5 MS. BARTOLETTI: Well,--

6 ASSEMBLY MEMBER MCENENY: I, I think  
7 there's a--

8 MS. BARTOLETTI: --you'd have to speak--

9 ASSEMBLY MEMBER MCENENY: There's a--

10 MS. BARTOLETTI: --to Susan about that.

11 ASSEMBLY MEMBER MCENENY: There's,  
12 there's a--

13 MS. BARTOLETTI: We did not do--

14 ASSEMBLY MEMBER MCENENY: --little bit  
15 of cynicism that goes on there--

16 MS. BARTOLETTI: True.

17 ASSEMBLY MEMBER MCENENY: --that--

18 MS. BARTOLETTI: But if--

19 ASSEMBLY MEMBER MCENENY: --is not--

20 MS. BARTOLETTI: --that's what a--

21 ASSEMBLY MEMBER MCENENY: --often even--

22 MS. BARTOLETTI: If that's what a--

23 ASSEMBLY MEMBER MCENENY: Okay.

24 MS. BARTOLETTI: --non-partisan panel

1 Demographic Research and Reapportionment, 1-30-2012

2 found, then perhaps the editorial boards and the,  
3 the, the perception makers who are, you know,  
4 those of us who comment and the people who print  
5 it, perhaps then perception would change.

6 ASSEMBLY MEMBER MCENENY: Roman  
7 mentioned something in regards to minority  
8 representation, which is hurt by the, what's  
9 called the reform plan. Legislatures are, by  
10 nature, seniority driven. So, the longer your  
11 member is there, the better shot they're going to  
12 have at a more important committee, or any  
13 committee at all. In the, in the democratic-  
14 controlled assembly, you're going to be here  
15 eight years or, or ten before you can get a shot  
16 at a committee.

17 MS. BARTOLETTI: That's, that's true.

18 ASSEMBLY MEMBER MCENENY: And so you  
19 build up not only your own personal knowledge and  
20 contacts, but you build up a disproportionate  
21 amount of influence for your constituency by  
22 being here long enough to gain seniority. What  
23 happens--and it's particularly important with  
24 vulnerable populations--is that if they build up

1 Demographic Research and Reapportionment, 1-30-2012

2 that seniority, it is then thrown to the wind as  
3 if it means nothing. Anyone can be thrown out,  
4 if not in a general, then in a primary. If  
5 they're doing a bad job, they should go. But to  
6 take a minority community and not even give them  
7 the opportunity to cash in on that seniority that  
8 can make such a difference in their community, I  
9 think that's something we have to think about and  
10 say well, the computer did it; we didn't even  
11 know where somebody lived. And to say they can  
12 always run, no matter where they are in New York  
13 state, yet two years later they can sell their  
14 house and move out of their neighborhood as well.  
15 And that's, that's a pretty heavy burden,  
16 particularly for anyone with a family.

17 MS. BARTOLETTI: And you bring up a lot  
18 of very good comments, Mr. McEneny, and we should  
19 have a much longer discussion about what might  
20 come to be with a non-partisan process and  
21 product, and, but I think, you know, you can  
22 have, as I said before, you can have lines drawn  
23 by people who look at these lines without  
24 protecting their incumbents with an advisory

1 Demographic Research and Reapportionment, 1-30-2012

2 committee that would have some real advice to  
3 give them. I mean, I, I don't see how that's so  
4 difficult to do if we had the political will to  
5 do it. But I think those parties, whoever is in  
6 the majority, in, in either house, and it doesn't  
7 matter which, which party it is, but when you get  
8 an entrenched party looking to maintain its  
9 incumbency, then I think you do run the risk of  
10 getting unresponsive legislators, and then if we  
11 don't have competitive elections--and you can  
12 talk about campaign finance as well as having the  
13 lines where a challenger might have the  
14 opportunity--you don't get that dynamic exchange  
15 of ideas and then it just becomes I'm entitled to  
16 this seat, and that's the very worst thing in a  
17 democracy, in a representative democracy. You  
18 can't, you can't have that kind of, of scenario  
19 and, and not consider that the public is going to  
20 perceive that their vote doesn't count.

21 ASSEMBLY MEMBER MCENENY: Let, let me  
22 ask you your opinion of a word that seems to me  
23 misunderstood. The word is independent. To me,  
24 independent means independent of the legislature;



1 Demographic Research and Reapportionment, 1-30-2012

2 that that goal would be somebody who might be  
3 very knowledgeable but is not a sitting  
4 legislator and perhaps hasn't been for a number  
5 of years. Some people tend to think it's  
6 somebody that has no political opinion or  
7 enrollment, etcetera.

8 MS. BARTOLETTI: True.

9 ASSEMBLY MEMBER MCENENY: I remember  
10 saying cynically at some earlier ones, I guess we  
11 should subcontract it to Canadians, and maybe it  
12 should be French-Canadians so they're not bias by  
13 the English-speaking press, and people laughed  
14 because it's silly.

15 MS. BARTOLETTI: Yeah, yeah.

16 ASSEMBLY MEMBER MCENENY: But I think  
17 there are people who think independent means  
18 totally and completely independent, neither  
19 knowledgeable nor with strong opinions on  
20 political issues. My guess is that what people  
21 really mean is independent of the legislature,  
22 not legislators themselves and bipartisan.  
23 There's one thing we know about bipartisan; if  
24 you're a democratic, you're a democrat; if you're

1 Demographic Research and Reapportionment, 1-30-2012

2 republican, you're republican. If you're none of  
3 the above, the above, we know nothing, and what  
4 might be there might be very opinionated.

5 MS. BARTOLETTI: Correct. I, I,  
6 everything you said, Jack, is absolutely correct,  
7 but there are some states who have figured this  
8 out, and I, I, as I said before, I don't think  
9 California might be one of those that we want to  
10 emulate, at least what happened in this last go-  
11 around, and maybe they'll get the bugs out, but  
12 Iowa--and Iowa is not New York; I want to have--

13 ASSEMBLY MEMBER MCENENY: No.

14 MS. BARTOLETTI: --say that for the  
15 record. It is not New York, but Iowa has figured  
16 out--and this happened in 1969 when the League of  
17 Women Voters of Iowa sued and won that lawsuit,  
18 and in Iowa, it was instituted in 1972 and they  
19 have no controversy. They, it is, it is similar  
20 to, the legislature gets two go-arounds--and I  
21 think Roman has certainly looked at that, at that  
22 plan--and, but it, it doesn't go devoid of the  
23 drawing of the lines are done by what we would  
24 term technocrats, and then with the advice of the

1 Demographic Research and Reapportionment, 1-30-2012

2 legislature. So, it's a good mix and then it  
3 goes back, certainly, to the legislature and then  
4 you do have a chance to make a couple of  
5 different amendments, times to make amendments,  
6 but when it comes out, and I, I understand CNN  
7 carried a special that was fairly, really very  
8 good, that Iowa has, a different state, has one  
9 district this year that will have two incumbents  
10 in it. But they take the population, they  
11 disregard the parties or the, or the legislators  
12 themselves. They draw these lines and then they  
13 go to the advisory committee and they say is  
14 there something really egregious here that would  
15 not fit the community, and I'm not even sure. I  
16 shouldn't say that. We consider communities of  
17 interest to be one of those strong criteria in  
18 New York State. Iowa, a community of interest  
19 may not be necessary. However, they have figured  
20 out at least the, the model that we would have to  
21 certainly tweak that would fit New York, but  
22 there is no controversy among even legislators  
23 anymore. They, it's just done that way. They  
24 get their input into it and it seems to work for

1 Demographic Research and Reapportionment, 1-30-2012

2 that state. I think Arizona, they are a little  
3 different because they have Indian lands that  
4 they have to curve around, but that seems to work  
5 fairly well there also.

6 ASSEMBLY MEMBER MCENENY: Okay.

7 MR. HEDGES: In Arizona this time  
8 around, they impeached the chair on the  
9 committee.

10 MS. BARTOLETTI: Yes, they did;  
11 politically impeached him. That's right. They  
12 did.

13 MR. HEDGES: They had all sorts of  
14 controversy.

15 MS. BARTOLETTI: Yes, all sorts of  
16 controversy.

17 MR. HEDGES: Is, is Iowa good and  
18 Arizona bad?

19 MS. BARTOLETTI: No. I think, and I  
20 would have to really read something more about  
21 Arizona. I know they, they impeached. That was  
22 a political move and I think that says more about  
23 the governor of Arizona than it does about the  
24 model that they set up for redistricting. I

1 Demographic Research and Reapportionment, 1-30-2012

2 think that, there was something, there was a, a  
3 conflict apparently between that governor and  
4 that, and that chair, which was very unfortunate  
5 because I think it was a good model. I don't  
6 know how they're going to solve that problem.

7 ASSEMBLY MEMBER MCENENY: Thank you very  
8 much. It's--

9 MS. BARTOLETTI: Thank you.

10 ASSEMBLY MEMBER MCENENY: --always good  
11 to see you.

12 MS. BARTOLETTI: Good to see you too,  
13 but you won't see us again in this go-around,  
14 because--

15 ASSEMBLY MEMBER MCENENY: Thank you.

16 MS. BARTOLETTI: --we took, we, we heard  
17 you.

18 ASSEMBLY MEMBER MCENENY: We would like  
19 specifics if you have them too.

20 MS. BARTOLETTI: Okay.

21 ASSEMBLY MEMBER MCENENY: There's time.  
22 Dick Dadey, Executive Director of the Citizens  
23 Union, or his representative.

24 RACHEL FAUSS, CITIZENS UNION: Yes,

1 Demographic Research and Reapportionment, 1-30-2012

2 thank you. We had told the sign-in desk, and I  
3 guess it didn't--

4 ASSEMBLY MEMBER LEVINE: We have your  
5 names.

6 ASSEMBLY MEMBER MCENENY: Yeah. We, we  
7 have it. But give it, for the record, for those  
8 who--

9 MS. FAUSS: Yeah.

10 ASSEMBLY MEMBER MCENENY: --watch this  
11 on the broadcast.

12 ALEX CAMARDA, CITIZENS UNION: Good  
13 morning, members of LATFOR. My name is Alex  
14 Camarda and I'm the director of public policy and  
15 advocacy for Citizens Union of the City of New  
16 York, a good government group that advances  
17 political reform in our city and state. I am  
18 joined by CU's policy and research manager,  
19 Rachel Fauss.

20 As you know, Citizens Union, along with  
21 the members of Reshape New York Coalition,  
22 testified several times before LATFOR in 2011,  
23 urging the creation of an independent  
24 redistricting process and calling on maps to be

1 Demographic Research and Reapportionment, 1-30-2012

2 drawn according to objective criteria. Despite  
3 the pledges of 184 legislators in favor of this  
4 proposal, an independent process, however, was  
5 not created, yet LATFOR requested repeatedly that  
6 it be judged on its product and not the process.  
7 Today, the verdict is in. These gerrymandered  
8 lines are proof positive that process counts,  
9 process matters. A deeply-flawed process in  
10 which self-interested legislators draw their own  
11 lines unsurprisingly yields an unacceptable and  
12 defective product. These LATFOR lines are  
13 Exhibit A, the smoking gun undisputedly making  
14 the case that legislators drawing their own lines  
15 will always draw maps to maximize majority power.  
16 Communities of interest, political subdivisions,  
17 compactness, diversifying the legislature,  
18 equally-sized districts; these are mere obstacles  
19 to circumvent in the majority party's quest to  
20 retain their strangle-hold on power.

21 Given the limited time and lack of data  
22 in a user-friendly format made available by  
23 LATFOR, Citizens Union is only presenting today  
24 our findings on how these proposed maps to

1 Demographic Research and Reapportionment, 1-30-2012

2 achieve partisan ends make a mockery of the  
3 constitutional principles of compactness and  
4 respecting the integrity of political  
5 subdivisions. These proposed districts divide  
6 cities and counties more than existing maps and  
7 create countless far-flung scattered districts.  
8 Whether it's dubiously breaking new ground and  
9 splicing and dicing Albany County, fragmenting  
10 Saint Lawrence and Ulster Counties, or conjuring  
11 up shapes better suited for an abstract exhibit  
12 at the Metropolitan Museum of Art, and that  
13 effect is to make existing district lines even  
14 worse, effectively laying gerrymandering on top  
15 of gerrymandering. These partisan practices  
16 undermine the ability of a community of interest  
17 or locality to coherently and effectively add,  
18 advocate for their interests, in part because  
19 they have no one representative that primarily  
20 serves their distinct constituency and  
21 prioritizes their concerns. That makes  
22 government less responsive and accountable to the  
23 very people it purports to serve.

24 My colleague, Rachel Fauss, will now



1 Demographic Research and Reapportionment, 1-30-2012

2 detail how political subdivisions are  
3 unnecessarily divided by the proposed maps.

4 MS. FAUSS: As you know, and as been  
5 discussed earlier in this hearing, respecting  
6 boundaries of political subdivisions,  
7 particularly counties, is a recognized  
8 redistricting criteria being present in spirit,  
9 if not the law of the New York State Constitution  
10 and a major component of reform legislation that  
11 was supported by the legislature. That includes  
12 the Cuomo legislation, Silver, Valesky, Bonacich  
13 and Gene Erris [phonetic] Jeffries Bills.  
14 Unfortunately the districts we have seen in the  
15 proposed maps do not live up to this important  
16 goal. And first I'd like to note some cities,  
17 and I will try to make this brief as you've got  
18 the written part of the testimony.

19 Union, Citizens Union, Union noted in a  
20 report it released last November that cities have  
21 often been divided for partisan means, and we  
22 have seen the same dividing that we've seen in  
23 previous maps and, you know, this is done, it can  
24 be done for both parties to maintain power. It

1 Demographic Research and Reapportionment, 1-30-2012

2 can be done for democratic voters. It can be, it  
3 can be done to create democratic districts and to  
4 create republican districts, and I think that's  
5 what we've seen with the city of Rochester.

6 There are currently three democratic assembly  
7 members and three senate republicans representing  
8 the city, and it has a population of about  
9 210,000. So, it could be within one senate  
10 district and two state assembly districts.

11 Instead, we have three assembly districts and  
12 three senate districts, with Senate District 61,  
13 I'll just note, connects all the way to Erie  
14 County. With the city of Syracuse, it has a  
15 population of about 145,000. It could be  
16 contained within one senate district but is split  
17 in two. In terms of assembly districts, it,  
18 while two, it might be necessary because of the  
19 population, it certainly doesn't have to be done  
20 the way it's done, with districts spiraling,  
21 spiraling around each other. And some other  
22 cities that have been divided include Yonkers,  
23 Albany, New Rochelle and White Plains.

24 And in terms of the division of

1 Demographic Research and Reapportionment, 1-30-2012

2 counties, I, I couldn't help notice the map with  
3 the counties of the state of New York up there as  
4 I was listening to the rest of the testimony  
5 today and noting the very, very much the  
6 difference between the maps we see, we've seen  
7 and the, the lines on those, the map above with  
8 the counties. You know, Citizens Union looked at  
9 all of the state's counties and how many times  
10 they were split, looking at the population of the  
11 counties and what you would expect in terms of  
12 the number of districts and the number of  
13 proposed districts in LATFOR's maps, and in 38 of  
14 the 62 counties, there are more districts than  
15 one would expect, based on the population, and 12  
16 have three or more districts than would be  
17 expected.

18 And just a couple of note, you know, I  
19 think as noted with my testimony earlier about  
20 the city of Syracuse, or I'm sorry, the city of  
21 Rochester, it's not surprising therefore, that  
22 Monroe County is also divided. You would expect  
23 to have three, you would expect to have three  
24 senate districts; instead, there are six. Saint

1 Demographic Research and Reapportionment, 1-30-2012

2 Lawrence County is a county with a population of  
3 less than one assembly district; instead, we have  
4 three senate districts and we have a number of  
5 assembly members as well. So, oh, I'm sorry. We  
6 have three senate districts and four assembly  
7 districts, when you would only expect one of  
8 each. Ulster County has also been divided. You  
9 would expect to have one senate district and two  
10 assembly districts; instead, there's three  
11 assembly districts and four senate districts,  
12 with Senate District 42 connecting the town of  
13 New Paltz all the way to the western end of  
14 Delaware County. And then also with Oneida  
15 County, you would expect two assembly districts  
16 and one senate district; instead, there are five  
17 assembly districts and proposed Senate District  
18 102, which I know Assembly Member Claudia Tenney  
19 spoke to earlier, it enters Oneida County only  
20 for the towns of New Hartford and Paris.

21 And I think the sort of opposite, not  
22 opposite, but a, a consequence of splitting  
23 counties in so many pieces is that, is that the  
24 districts cross so many. In the testimony,

1 Demographic Research and Reapportionment, 1-30-2012

2 you've got a list of, of counties, or I'm sorry,  
3 a list of the number of counties that the  
4 assembly and senate districts contain. We see as  
5 many as six counties within one assembly district  
6 and as many as nine in the senate. And just  
7 noting a couple in particular; as I mentioned,  
8 Assembly District 102 cuts across six counties,  
9 pairing the republican incumbent legislators,  
10 leading to, Citizens Union to question if it was  
11 altered to free up another democratic seat to  
12 win. This pairing I think we're going to  
13 describe in greater detail, but I just note that  
14 I grew up in the town of Kirkland and have family  
15 in the city of Utica and I can certainly attest  
16 that the town of New Hartford, towns of New  
17 Hartford and Paris have a lot more in common with  
18 Oneida County than they do with Greene County.

19 And then in Senate District 51 is the,  
20 the county, I'm sorry, the district that sprawls  
21 the most counties in the senate. I couldn't help  
22 but notice that it was so large in size that if  
23 you were to drive from the three corners of the  
24 district and back, it would take nearly three

1 Demographic Research and Reapportionment, 1-30-2012

2 hours, or I'm sorry, nearly six hours, about  
3 three hours on, or about two hours on each end.  
4 So, I think as a legislator representing that  
5 district, I can imagine that it would be a  
6 difficult district to represent, giving, given  
7 the large amount of area that it covers.

8 Now my colleague, Alex, will talk about  
9 compactness of the lines.

10 MR. CAMARDA: Much like the maps seem to  
11 disregard the adherence to political subdivisions  
12 that is in the spirit, if not the letter of the  
13 constitution, the same can be made for  
14 compactness. The state constitution states that  
15 compactness is a goal when drawing districts.  
16 Section 5 of the Constitution reads, quote,  
17 divide such counties into assembly districts as  
18 nearly equal in number of inhabitants as may be  
19 of convenient and contiguous territory and as  
20 compact form as practicable. And in Section 4,  
21 each senate district shall contain nearly as  
22 much, as maybe an equal number of inhabitants as  
23 be, be in as compact form as practicable.

24 The inconvenient truth of compactness in

1 Demographic Research and Reapportionment, 1-30-2012

2 the state constitution is given about as much  
3 credence by LATFOR in these proposed maps as the  
4 184 legislators gave to their pledges to reform  
5 this flawed redistricting process. The number of  
6 districts violating the spirit, if not the letter  
7 of the constitutional principle of compactness  
8 are too numerous to detail during this short  
9 testimony. Some of the worst offenders  
10 representing sprawling districts not already  
11 mentioned as running rough shot over the  
12 integrity of political subdivisions are Senate  
13 District 22; this district is a blatant  
14 gerrymander to protect republican incumbent,  
15 Marty Golden. It joins together parts of Bay  
16 Ridge with a collection of disjointed blocks in  
17 Bensonhurst, Brighton Beach, Bath Beach,  
18 Sheepshead Bay and Manhattan Beach, with the  
19 latter only contiguous with the rest of the  
20 district by water.

21 Senate District 20; this district  
22 currently represented by Eric Adams is  
23 reconfigured and includes a 26-block long single-  
24 block corridor that severs a piece of Sunset Park

1 Demographic Research and Reapportionment, 1-30-2012

2 and strangely joins it with the distant  
3 neighborhoods of Prospect Heights and Crown  
4 Heights. It raises the question of what  
5 community of interest is served by a 26-block  
6 long single-block corridor.

7 In Queens, Senate District 11, Senator  
8 Avello's district splits Whitestone, then skips  
9 over two major highways--the Long Island  
10 Expressway and the Grand Central Parkway--and  
11 reels in scraps of Jamaica Estates. It also  
12 remains only contiguous during low tide.

13 Senate District 16; this district, while  
14 well intended in its goal to elect an Asian  
15 American, does so through non-sensible means.  
16 Beginning in the northeastern corner of Bay  
17 Terrace, the district tiptoes through Whitestone  
18 alone the Cross Island Parkway, makes a sharp 90-  
19 degree turn south along the Whitestone  
20 Expressway, takes in a chunk of Flushing and then  
21 shoots out to elongated tentacles, stretching  
22 into eastern and western Queens, linking scraps  
23 of Oakland Gardens and bits of Woodside and  
24 Jackson Heights.



1 Demographic Research and Reapportionment, 1-30-2012

2           In Manhattan, Senate District 29 posits  
3 the false notion that the, that Central Park  
4 Roosevelt Island and the South Bronx are a  
5 community of interest. It includes Roosevelt  
6 Island and the East River, yet not a single block  
7 on the upper east side, south of 92nd Street.

8           Senate District 31; the narrowly-drawn  
9 district stretches virtually the entire length of  
10 Manhattan, 200 blocks from Inwood to Chelsea,  
11 cracking virtually every neighborhood in its  
12 path.

13           The assembly, unfortunately, does know  
14 better in terms of creating compact districts.  
15 Among the assembly districts not already  
16 described as cracking cities and counties, there  
17 are several egregious examples of districts that  
18 are not, that are anything but compact, for no  
19 apparent interest other than to maximize the  
20 majority's grip on power, particularly on Long  
21 Island. These include Assembly Districts 9 and  
22 12. These thread-like districts run the entire  
23 width of Long Island, slashing through towns  
24 along the way, with Assembly District 9 cutting

1 Demographic Research and Reapportionment, 1-30-2012

2 through Huntington, lopping off a sliver of  
3 Babylon and penetrating the Nassau County border.

4 Assembly District 12 includes a sliver  
5 of eastern Huntington, crosses the Long Island  
6 Expressway, veers east into Islip, then journeys  
7 southward, crossing into Babylon.

8 Assembly District 13; this donut-shaped  
9 district is only contiguous with access to a  
10 boat. It punches a hole through the entire  
11 northern portion of Oyster Bay in Nassau County.

12 Assembly District 15; the hole in the  
13 donut hole of Assembly District 13 in Oyster Bay,  
14 it crosses two towns only to return to the town  
15 of its origin. From Oyster Bay, it momentarily  
16 jots into the town of North Hempstead, heads  
17 south into the town of Hempstead to collect an,  
18 to collect a portion of East Meadow, then crosses  
19 back into the original town of its origin, Oyster  
20 Bay.

21 Assembly District 18; resembling a  
22 skateboarder, this incoherent district has its  
23 head adjacent to Garden City, its left arm in  
24 Lakeview, its upper torso in Uniondale, and its

1 Demographic Research and Reapportionment, 1-30-2012

2 feet in Merrick.

3 Assembly District 19; shaped like a dog,  
4 this district is cut width-ways from mouth to  
5 rear between Hempstead and North Hempstead, and  
6 its elongated oversized tail extends all the way  
7 to Glen Head in a different town of Oyster Bay.

8 Moving on to the pairing of incumbents  
9 and party nominees in the same district, a litmus  
10 test, at least one of them, in determining how  
11 partisan district maps are as comparing the  
12 frequency with which incumbent legislators and  
13 the majority parties are paired in the same  
14 district as compared with the minority parties.  
15 In the proposed maps released by LATFOR, nine  
16 incumbents and one party nominee for a special  
17 election were drawn in districts with other  
18 sitting legislators. Every one of those  
19 incumbents, and we favor the democratic party  
20 nominee in Senate District 27, the current  
21 district, are in the minority parties of the  
22 legislature. Citizens Union does not believe  
23 district maps should be drawn to favor or  
24 disfavor incumbents. If a district is drawn

1 Demographic Research and Reapportionment, 1-30-2012

2 according to objective criteria and pits  
3 incumbents against each other in the next  
4 election, so be it. But when nine incumbents and  
5 one party nominee, all in the minority parties,  
6 find themselves drawn into district facing  
7 sitting legislators and not a single incumbent in  
8 the majority parties is, it's a red flag that  
9 partisan gerrymandering is the real motivation  
10 behind the drawing of the maps.

11 Citizens Union was dismayed and  
12 disappointed by the failure of 184 legislators to  
13 honor their commitments and reform the  
14 redistricting process when they had the  
15 opportunity to in 2010 and 2011. These proposed  
16 maps issued by LATFOR are atrocious and reveal  
17 the consequences of legislative inaction on  
18 reform and maintaining control of the map-making  
19 process. Partisan-drawn maps to advance the  
20 political interests of the majority parties, no  
21 matter the cost to New Yorkers, whose districts  
22 don't respect the integrity of their communities  
23 or the political subdivisions in which they live.  
24 If these maps are enacted into law, they will

1 Demographic Research and Reapportionment, 1-30-2012

2 only serve to make government less accountable  
3 and responsive to the people of this state.

4 In conclusion, the state government has  
5 redeemed itself this past year, tackling tough  
6 issues and getting things done for New York.  
7 Unfortunately, Albany is a version to reform and  
8 fair play has reared its ugly head again with  
9 these politicized maps. With unfortunately no  
10 time left for an independent commission because  
11 of your delay, it is your responsibility to  
12 create maps reflecting New York's communities.  
13 LATFOR needs to revamp these maps dramatically or  
14 Citizens Union will have no other choice than to  
15 urge the governor to veto these lines.

16 Thank you for the opportunity to testify  
17 today. We welcome any questions you may have.

18 ASSEMBLY MEMBER MCENENY: Do you have a  
19 Citizens Union map we could look at?

20 MR. CAMARDA: We did not draw maps. We  
21 critiqued the current maps. We did not--

22 ASSEMBLY MEMBER MCENENY: You stopped--

23 MR. CAMARDA: --draw our own.

24 ASSEMBLY MEMBER MCENENY: --talking

1 Demographic Research and Reapportionment, 1-30-2012

2 about the assembly in Long Island. Are there  
3 districts that you want to comment on upstate New  
4 York? Are there other districts you want to talk  
5 about with the assembly?

6 MS. FAUSS: As I mentioned, I think some  
7 of the ones that I spoke to about dividing the  
8 city of Syracuse and--

9 ASSEMBLY MEMBER MCENENY: Yes.

10 MS. FAUSS: --Rochester, I--

11 ASSEMBLY MEMBER MCENENY: Did, did you  
12 examine to see what the Voting Rights Act guiding  
13 us on in doing cities, particularly with large  
14 minority populations?

15 MS. FAUSS: Well, I think we haven't had  
16 all the time to analyze these maps given that--

17 ASSEMBLY MEMBER MCENENY: No, I--

18 MS. FAUSS: --they came out last week  
19 and we--

20 ASSEMBLY MEMBER MCENENY: I see--

21 MS. FAUSS: --plan to--

22 ASSEMBLY MEMBER MCENENY: I suggest--

23 MS. FAUSS: --do so.

24 ASSEMBLY MEMBER MCENENY: --you look at

1 Demographic Research and Reapportionment, 1-30-2012

2 that before you pass judgment. Now, as far as  
3 splitting a community, particularly a, a troubled  
4 urban community, if you were the mayor of a city,  
5 would you want to have one person in the  
6 legislature, say in an assembly district,  
7 speaking up for your people, or do you think  
8 there might be an advantage to having two?

9 MS. FAUSS: I, I actually think that one  
10 legislator would be preferable for, for several  
11 reasons. I think when you have more than one  
12 legislator and you split a community, that, those  
13 two legislators don't just represent the city;  
14 they represent other areas.

15 ASSEMBLY MEMBER MCENENY: Mm-hm.

16 MS. FAUSS: And when you fragment a city  
17 into as many pieces that the portion of the city  
18 that the legislate, that, you know, those  
19 individual legislators represent are not even,  
20 you know, maybe 25% of their district, they're  
21 not going to listen to the concerns of that 25%.  
22 They're going to listen to those concerns of the  
23 75% of their district that's not in that city.

24 ASSEMBLY MEMBER MCENENY: Are you--

1 Demographic Research and Reapportionment, 1-30-2012

2 MR. CAMARDA: And, and with, with all  
3 due respect, Assemblymen, we don't believe that  
4 Saint Lawrence County went from four to seven  
5 legislators out of an interest to increase its  
6 ability to voice its concerns. We think that was  
7 done for partisan reasons, as was the division of  
8 most of these, if not all of the cities--

9 ASSEMBLY MEMBER MCENENY: Are, are--

10 MR. CAMARDA: --and counties,--

11 ASSEMBLY MEMBER MCENENY: Are you--

12 MR. CAMARDA: --to advance the majority  
13 party's interests.

14 ASSEMBLY MEMBER MCENENY: Are you  
15 recommending the division of Chautauqua County,  
16 which is at 4.09%?

17 MR. CAMARDA: What we're recommending is  
18 that--

19 ASSEMBLY MEMBER MCENENY: That's a yes  
20 or no.

21 MR. CAMARDA: What we're recommending is  
22 that these maps be revisited, there be a greater  
23 adherence to political subdivisions, that  
24 districts be made more compact, and that be done



1 Demographic Research and Reapportionment, 1-30-2012

2 in the aggregate. I'm sure you can find  
3 exceptions where that should not be the case, and  
4 we're not saying that they aren't valid. But  
5 when you see the pattern that we've seen, where  
6 almost 40 counties are divided more than their  
7 population would suggest they need to be, that  
8 suggests that there's gerrymandering in this  
9 plan, and we believe there is and we don't  
10 believe that increased representation because  
11 there are more legislators serving that area is  
12 the motivation.

13 ASSEMBLY MEMBER MCENENY: Generic, no  
14 one knows anybody's motivation. I try not to  
15 prejudge people. I, I talk about what the  
16 results are that they're talking about, and what  
17 I would like to see from Citizens Union is some  
18 specific examples of things that they are  
19 uncomfortable with and how they recommend a  
20 remedy, a specific remedy. In many cases, there  
21 are reasons. In some cases, you have every right  
22 to criticize and to be, to be skeptical. But  
23 again, it's easy to speak generically. It can be  
24 very difficult when you get down to do we split

1 Demographic Research and Reapportionment, 1-30-2012

2 Chautauqua County because of some sacredness to a  
3 percent, or do we keep a county together. Those  
4 are the hard decisions and we would appreciate  
5 Citizens Union making those decisions in the form  
6 of a recommendation.

7 MS. FAUSS: And I, I would just like to  
8 add that, you know, as much as, you know, we  
9 appreciate that you, you would like us to draw  
10 maps, I think there are many individuals in this  
11 state who don't have that opportunity. So, when  
12 they see their city split, they don't know the  
13 reasons behind that and unfortunately, the maps  
14 that we've seen, they have some population data  
15 but there's no listing of all the various  
16 criteria that you used, what you thought was  
17 predominant, why town on border, why the  
18 respecting, you know, the Voting Rights Act, for  
19 example; was the criteria used. Without that,  
20 there is simply no way for that individual who  
21 doesn't know all the law behind it necessarily,  
22 can look at their small district and, and it, and  
23 have you expect them to know the aggregate and  
24 all the reasons why their one community was split

1 Demographic Research and Reapportionment, 1-30-2012

2 when there's no data behind it, and I think  
3 that's something that should be revisited by  
4 LATFOR.

5 SENATOR NOZZOLIO: Well, and--

6 MR. CAMARDA: And we also--

7 SENATOR NOZZOLIO: Can, if I--

8 MR. CAMARDA: You know, we--

9 SENATOR NOZZOLIO: If I may? Excuse me.

10 Just to--

11 ASSEMBLY MEMBER MCENENY: Sure.

12 SENATOR NOZZOLIO: Excuse me. You  
13 brought out points that absolutely need to be  
14 considered, extremely valid points. But you take  
15 them, and seem, they, those points seem to be  
16 siloed, siloed into saying compactness is one  
17 argument, we can't split cities or jurisdictions  
18 is another. You mentioned, if I recall--and I  
19 didn't hear it all, but maybe you can tell me  
20 now--one county was cut in eight, eight or nine  
21 senate districts; did you say that?

22 MS. FAUSS: No, there was one senate  
23 district that crossed nine separate counties.  
24 That's what I was referring to.

1 Demographic Research and Reapportionment, 1-30-2012

2 SENATOR NOZZOLIO: That, what, in your  
3 documentation, you listed the fact that the  
4 district I represent actually has one town in  
5 Monroe County--it's been that way for 20 years--  
6 and that one town is 42,000 people. It's, it's,  
7 I think as you are a New York City organization--  
8 I understand that--New York City based, the,  
9 your, your drawing inconsistent recommendations  
10 when you talk about the inability to split more  
11 urban or suburban areas within the context of  
12 town on border versus the compactness of  
13 districts around that area. And I, I understand  
14 the objectives and there, you, you're right, they  
15 have to be compact. The constitution says they  
16 are to be consistent. We're, we have to stay  
17 away from, whenever possible, cutting  
18 jurisdictions, but population often drives this  
19 too and towns, cities can be cut in new York  
20 state to equalize that population. That is  
21 something that's, but you don't want to if you  
22 can keep them together to maintain that community  
23 of interest. But I just saw driving--

24 MR. CAMARDA: Can, can I just speak to

1 Demographic Research and Reapportionment, 1-30-2012

2 that for a moment?

3 SENATOR NOZZOLIO: Sure.

4 MR. CAMARDA: Because, you know, we  
5 certainly appreciate the difficulty of computing  
6 criteria and drawing the lines, but I would add  
7 that, you know, every reform bill that was backed  
8 in the pledges by the 184 legislators laid out  
9 prioritized criteria that would make very clear  
10 which is first, second, third, in order  
11 obviously, of how the lines should be drawn. And  
12 so, if that was applied by this task force, then  
13 you wouldn't have this issue of conflicting  
14 criteria.

15 SENATOR NOZZOLIO: And we appreciate--

16 MR. CAMARDA: And so, you know, if that  
17 bill had been passed, this process would be much  
18 easier and I would call on this task force to  
19 make clear at least, which criteria are you  
20 considering, either as a whole or for particular  
21 districts, first, second, third, fourth, in  
22 drawing these maps.

23 MS. FAUSS: And, and I would just add to  
24 that as well. I mean we focused a lot on

1 Demographic Research and Reapportionment, 1-30-2012

2 counties and, you know, we had limited time to do  
3 this. But I, just looking at sharp contrast,  
4 that the Common Cause map does not split as many  
5 counties as the LATFOR map does. We noted this  
6 trend and I think a lot of the, the groups--

7 ASSEMBLY MEMBER MCENENY: Except--

8 MS. FAUSS: --who are--

9 ASSEMBLY MEMBER MCENENY: --all the, all  
10 the counties in the city of New York.

11 MS. FAUSS: Well, they must be split  
12 because they, well, understood, but, you know,  
13 they--

14 ASSEMBLY MEMBER MCENENY: No, they--

15 MS. FAUSS: They did not split counties  
16 to the extent that LATFOR did, and we saw this  
17 pattern, they're seeing this pattern. I think  
18 there's a validation of a very large concern that  
19 counties are being split unnecessarily.

20 SENATOR NOZZOLIO: And the city of New  
21 York, the county of Queens was not split. The  
22 county of Brooklyn does have overlap. But I  
23 think the, the important situation that you're  
24 referencing is, you're right, I would love our

1 Demographic Research and Reapportionment, 1-30-2012

2 job to be easier, and the recommendations you're  
3 saying, you, you've, you've made, in all  
4 likelihood, would have made that job a lot  
5 easier, but the four legislators who are on this  
6 panel are not the 100, excuse me, 212 legislators  
7 that are in the legislature today. We only are  
8 four of us. So, in terms of the criteria, we  
9 have to deal with what's there, in current law.  
10 And we don't make, individual ourselves, the law;  
11 it's done by the legislature. So, I mean, I, I  
12 guess what your suggestions are within that  
13 context, I hope, although certainly we are trying  
14 to comply with, with every one of the criteria  
15 that you've mentioned. The, and, and, and you  
16 specific criticism of the Asian district, for  
17 instance, in Queens is something that we can  
18 certainly look at and I, I guess I echo  
19 Assemblyman McEneny's comments; we welcome your  
20 additional suggestions.

21 MR. CAMARDA: Well, we'd like to make  
22 suggestions regarding, you know, the Voting  
23 Rights Act and the population deviation at the,  
24 at the next hearing, but, you know, I, I really

1 Demographic Research and Reapportionment, 1-30-2012

2 think that the task force ought to disclose what  
3 the criteria were for drawing the maps in  
4 totality or for individual districts, if only to,  
5 to have a better understanding of what the logic  
6 was. I mean, perception does matter here, as  
7 much as, you know, we don't want to judge what  
8 might have been the motivations. We have to make  
9 a judgment based on our, what we perceive here  
10 and if the, if the criteria isn't made known and  
11 you look at the districts and how they are not  
12 compact, and you look at the fact that you have  
13 incumbents paired together but only for the  
14 minority parties, it, it's not a far leap to  
15 presume this was done to advantage of the  
16 majority parties in both houses.

17 SENATOR NOZZOLIO: Mr. Camarda, are any  
18 of those districts that you say were joined, are,  
19 have you done a, a political analysis of them?  
20 Are any of them turned from republican to  
21 democrat nominated, for instance?

22 MR. CAMARDA: I think the fact that you  
23 have every instance in which incumbents are  
24 paired together and that only occurs for the, for



1 Demographic Research and Reapportionment, 1-30-2012

2 legislators and the minority.

3 ASSEMBLY MEMBER MCENENY: You're  
4 talking--

5 MR. CAMARDA: That--

6 ASSEMBLY MEMBER MCENENY: --about the  
7 senate?

8 MR. CAMARDA: That leads you to--

9 ASSEMBLY MEMBER MCENENY: You're talking  
10 about the--

11 MR. CAMARDA: --a conclusion--

12 ASSEMBLY MEMBER MCENENY: --senate or--

13 MR. CAMARDA: --that the--

14 ASSEMBLY MEMBER MCENENY: --the  
15 assembly?

16 MR. CAMARDA: --maps are drawn for  
17 partisan purposes.

18 SENATOR NOZZOLIO: And that--

19 MR. CAMARDA: It occurs six times in the  
20 senate, twice in the assembly.

21 ASSEMBLY MEMBER MCENENY: There's a  
22 democrat and a republican in one.

23 SENATOR NOZZOLIO: In your conclusion,  
24 and I certainly understand people making

1 Demographic Research and Reapportionment, 1-30-2012

2 conclusions; it's what everyone does, but we had,  
3 you want us to list the criteria. I'll give you  
4 all the criteria for every district and you try  
5 to secure, for instance, you have obvious Voting  
6 Rights Act requirements in the city of New York,  
7 in the boroughs of New York. Those are  
8 paramount. Those same criteria might not exist  
9 in other areas of the state to the degree. In  
10 the districts in Brooklyn, we had black districts  
11 across the city that were with a black population  
12 generally in the city that lost about 100,000  
13 people from one census to the other. Those are  
14 criteria that we certainly put forward, and  
15 making sure that there was no retrogression  
16 within the black representation, the majority  
17 black representation, each of those districts  
18 that you discussed. So, I, I certainly think  
19 your point's well taken. As you're, you're  
20 discussing it, I'm thinking well, we could label  
21 each district, and I'd say virtually all the  
22 districts, you put all, all the criteria you were  
23 trying to achieve. There are extremely difficult  
24 challenges when you have small towns, when you

1 Demographic Research and Reapportionment, 1-30-2012

2 have, that cannot be split, or large towns for  
3 that matter, around cities. Large towns tend to  
4 surround cities in the state, whether it be  
5 particularly upstate, and even in the, in the  
6 metropolitan areas. So, it's, it's more and more  
7 challenging to achieve those, the, ideological  
8 identities that you're looking to achieve, but  
9 point's well taken and I think that it's very  
10 helpful to have you present them to the  
11 committee. We look forward to your continued  
12 input.

13 MR. CAMARDA: Thank, thank you for the  
14 opportunity.

15 SENATOR NOZZOLIO: Thank you. Any other  
16 questions?

17 ASSEMBLY MEMBER MCENENY: Thank you.  
18 Beth Murphy. Is there anyone else after Beth  
19 Murphy who would like to test, oh, I'm sorry.  
20 Beth, I called you one too early. It's, it's  
21 Sheila Comar, chair of the Washington County  
22 Democrats, who is also Washington County Board of  
23 Elections, and Beth Murphy is next. Is there  
24 anyone else who would like to testify today? You

1 Demographic Research and Reapportionment, 1-30-2012

2 can still get on the list.

3 ASSEMBLY MEMBER LEVINE: Is Sheila here?

4 SENATOR NOZZOLIO: It looks like--

5 ASSEMBLY MEMBER MCENENY: Where is our--

6 SENATOR NOZZOLIO: --Sheila's not here.

7 ASSEMBLY MEMBER MCENENY: Beth, you're  
8 back, you're back on deck.

9 BETH MURPHY, ULSTER COUNTY RESIDENT:

10 I'm back on deck?

11 ASSEMBLY MEMBER MCENENY: Yup.

12 SENATOR NOZZOLIO: Apologize for that.

13 ASSEMBLY MEMBER MCENENY: And if Beth  
14 shows up, we will, of course, let her testify, or  
15 anyone else who needs to testify. And if you're  
16 representing a group, please say so, just for the  
17 record.

18 MS. MURPHY: My name is Beth Murphy. I  
19 am not representing a group. I'm representing  
20 myself, a citizen who lives in Saugerties in  
21 Ulster County, New York. Thank you for the  
22 opportunity to speak today.

23 I'd like to share with you my experience  
24 as a citizen watching the redistricting process

1 Demographic Research and Reapportionment, 1-30-2012

2 in Ulster County in 2011. When Ulster County  
3 adopted a charter form of government a few years  
4 ago, the charter included a provision for  
5 redistricting to be done by a citizens panel with  
6 the mission to reapportion as necessary to meet  
7 established standards in state and federal law,  
8 for equal and fair representation of all people  
9 in Ulster County, keeping districts compact and  
10 contiguous, while taking also into account  
11 existing town, city, village and election  
12 district boundaries and defining geographic  
13 features, but giving no consideration to  
14 providing advantage to one or another political  
15 party. The Ulster County legislator had to vote  
16 to approve the citizens panel's findings and the  
17 county executive had the right to veto what the  
18 county legislature, how the county legislator, the  
19 county legislator's decision.

20 Achieving a non-partisan redistricting  
21 was not easy and the end result was not without  
22 errors. The citizens appointed to the commission  
23 on reapportionment had political affiliations  
24 that often got in the way of achieving the goal.

1 Demographic Research and Reapportionment, 1-30-2012

2 One political party wanted all the meetings to be  
3 private, to not allow the public into the  
4 meetings. However, under open government laws,  
5 we were able to attend the meetings and  
6 ultimately film them, and filming the, the  
7 reapportionment meetings was broadcast on our  
8 local access TV stations. And what was  
9 interesting is as soon as people were on film,  
10 the political pandering stopped. Okay. The end  
11 result was a, was a redistricting that pleased  
12 neither party. The commission felt that its work  
13 had been done and it was successful because no  
14 one was happy. Okay.

15 Ulster County's experience with  
16 redistricting shows that an independent, non-  
17 partisan process can happen and the meetings can  
18 be open to the public with success and citizen  
19 buy-in. I tell you this because four of you, or  
20 three of the four of you in the legislature  
21 signed pledges for a non-partisan open  
22 redistricting process for this year.

23 ASSEMBLY MEMBER MCENENY: No. If you  
24 mean the Koch pledge.

1 Demographic Research and Reapportionment, 1-30-2012

2 MS. MURPHY: Yeah.

3 SENATOR NOZZOLIO: She said three.

4 MS. MURPHY: Three of the four.

5 ASSEMBLY MEMBER MCENENY: Three of the  
6 four for the pledge. Oh, no?

7 MS. MURPHY: Yeah.

8 MR. HEDGES: Two out of four.

9 ASSEMBLY MEMBER MCENENY: Nobody--

10 MS. MURPHY: Well, online, it said,  
11 showed three out of four of you.

12 ASSEMBLY MEMBER MCENENY: That shows  
13 you--

14 MS. MURPHY: Okay.

15 SENATOR DILAN: Just--

16 ASSEMBLY MEMBER MCENENY: --you can't  
17 trust--

18 SENATOR DILAN: Can I--

19 ASSEMBLY MEMBER MCENENY: --the  
20 internet.

21 SENATOR DILAN: Can I make a comment?

22 ASSEMBLY MEMBER MCENENY: Yeah.

23 SENATOR DILAN: Can I make--

24 ASSEMBLY MEMBER MCENENY: Yeah.

1 Demographic Research and Reapportionment, 1-30-2012

2 SENATOR DILAN: --a comment before she--

3 ASSEMBLY MEMBER MCENENY: Yes.

4 MS. MURPHY: Sure.

5 SENATOR DILAN: --continues?

6 ASSEMBLY MEMBER MCENENY: Yeah.

7 SENATOR DILAN: In anticipation of what  
8 you're going to say, I just want to indicate that  
9 I did sign the pledge but I signed the pledge  
10 late on.

11 MS. MURPHY: Okay. So, maybe that's why  
12 it's three out of the four shows up.

13 ASSEMBLY MEMBER MCENENY: And, no, it's,  
14 at best, two out of four.

15 MS. MURPHY: Okay.

16 ASSEMBLY MEMBER MCENENY: Both in the--

17 MS. MURPHY: Well--

18 ASSEMBLY MEMBER MCENENY: --senate.

19 MS. MURPHY: --the bottom line is that--

20 ASSEMBLY MEMBER MCENENY: Okay.

21 MS. MURPHY: --some of you signed the  
22 pledge and I'd like to know what happened. Okay.  
23 Because the end result, to me, shows that  
24 gerrymandering is still alive and well in New



1 Demographic Research and Reapportionment, 1-30-2012

2 York. I live in Saugerties, and I know you're  
3 going to ask how did I get involved with this.

4 SENATOR DILAN: I'm not going to do that  
5 today.

6 MS. MURPHY: No? Well, I'm retired but  
7 I also live in Saugerties in what's called the,  
8 the ninth election district, which in the Ulster  
9 County legislature, before we reapportioned the  
10 district, belonged to Woodstock, not part of  
11 Saugerties. We were a, primarily a democratic  
12 election district that was gerrymandered out of  
13 Saugerties and put in with Woodstock, and we  
14 wanted to be back part of the town that we live  
15 in. So, that's why I got involved in that  
16 process, and we're also part of Pete Lopez's  
17 assembly district, which we're the only town in  
18 all of Ulster County that doesn't belong to  
19 Ulster County. We belong to Pete Lopez, and he's  
20 a great guy but we would like to be more in with  
21 our own town.

22 If you look at the current, just to go  
23 look at where we are now, right, as far as where  
24 Saugerties is, the proposed assembly district

1 Demographic Research and Reapportionment, 1-30-2012

2 covers, let's see, from east of the Hudson River  
3 over to the Pennsylvania border, okay, with  
4 Saugerties being the one town in Ulster County in  
5 the north, okay, joined with some county, or  
6 towns out on the western part of the, the county.  
7 And it's, it's, I guess part of what I would like  
8 to know is, or what, what I would like to see  
9 happen is for this to be an open process so that  
10 we, citizens, understand the decisions that were  
11 made that went into creating districts like this,  
12 or creating senate districts that cover--what was  
13 it--six counties, four counties. Because when I  
14 look at this, I think a-ha, Kevin Cahill wanted  
15 to pick up towns on the other side of the Hudson  
16 River because there's more registered democrats  
17 and more money and he was willing to trade off  
18 Saugerties in order to have that happen.

19 ASSEMBLY MEMBER MCENENY: He didn't, he  
20 didn't--

21 MS. MURPHY: Now, whether or not--

22 ASSEMBLY MEMBER MCENENY: He didn't  
23 have--

24 MS. MURPHY: --that's the--

1 Demographic Research and Reapportionment, 1-30-2012

2 ASSEMBLY MEMBER MCENENY: --Saug--

3 MS. MURPHY: --case, I don't know.

4 ASSEMBLY MEMBER MCENENY: He never had  
5 Saugerties, did he?

6 MS. MURPHY: He had it over ten years  
7 ago. We were cut out ten years ago--

8 ASSEMBLY MEMBER MCENENY: Okay.

9 MS. MURPHY: --by Kevin, okay?

10 ASSEMBLY MEMBER MCENENY: Yeah.

11 MS. MURPHY: And, but when you don't  
12 understand anything about the process that you  
13 all went through to create these districts, it's,  
14 we're left to our own imaginations as to the  
15 decisions that were made, and the fact that 95%  
16 of the legislature gets reelected every year, I  
17 think your chances are greater to die in office  
18 or to be indicted than to be defeated once you've  
19 been elected.

20 ASSEMBLY MEMBER MCENENY: That's,  
21 that's--

22 MS. MURPHY: That there's--

23 ASSEMBLY MEMBER MCENENY: That's a wrong  
24 percentage.

1 Demographic Research and Reapportionment, 1-30-2012

2 MS. MURPHY: What--

3 ASSEMBLY MEMBER MCENENY: Excuse me.

4 MS. MURPHY: What is it then; do you  
5 know?

6 ASSEMBLY MEMBER MCENENY: It's 95% of  
7 those who choose to run. So, if you know you're  
8 going to lose, you don't run. So, be fair about  
9 it.

10 MS. MURPHY: Well--

11 ASSEMBLY MEMBER MCENENY: You, you can  
12 say an overwhelming majority of people are--

13 MS. MURPHY: Look at this--

14 ASSEMBLY MEMBER MCENENY: --are--

15 MS. MURPHY: --district. Who is going  
16 to run? Okay? I mean, you've--

17 ASSEMBLY MEMBER MCENENY: Yeah.

18 MS. MURPHY: --created districts that  
19 keep you in office and encourage your opponents  
20 not to run, and as a citizen when you want to  
21 have the best possible people--

22 ASSEMBLY MEMBER MCENENY: Yeah.

23 MS. MURPHY: --running for office, this  
24 discourage, this, this disincentivizes anybody from

1 Demographic Research and Reapportionment, 1-30-2012

2 running from office, especially when you're  
3 running against an incumbent.

4 So, in my testimony on the back side  
5 because I was trying to save paper, I urge you to  
6 consider the following options: redo your current  
7 draft, leaving out incumbents' addresses or  
8 political affiliations of the voters and follow  
9 the Ulster County guidelines for redistricting,  
10 or adopt the redistricting maps created by places  
11 like Common Cause or Fordham or any other non-  
12 partisan group which allow, which followed  
13 federal and state guidelines on redistricting,  
14 and keep your meetings open. Make them open to  
15 the public; have them be filmed and shown on  
16 public access television so that we understand  
17 what your process is. Not this meeting; the one  
18 that, where you go behind closed doors and you've  
19 got someone who's working the map and you're  
20 working down on the census block and you  
21 understand okay, we need this amount of  
22 population on here in order to get the percentage  
23 down. Show, have the public involved in the  
24 actual process so that number one, they

1 Demographic Research and Reapportionment, 1-30-2012

2 understand the logic behind some of these lines,  
3 that they also then when you want them to comment  
4 on what was done, they can look at it, look at a  
5 video of it or see it online to say, okay, this  
6 is why this street, this block, this town, needs  
7 to be moved over here, and in doing it, then you  
8 can move this one up in order to compensate for  
9 it. As a citizen, I don't have access to the  
10 tools that you have or the money to hire  
11 consultants that you did to actually do this  
12 process. So, in, in lieu of that, have the  
13 process be open so that we understand the  
14 decision process that went behind creating these  
15 boundaries or these districts. That's all I ask  
16 of you.

17 ASSEMBLY MEMBER MCENENY: That district  
18 has no incumbent.

19 MS. MURPHY: I know it doesn't. But if,  
20 and I, and I don't have the data, but if I were  
21 to run the data on the registered voters in that,  
22 in those districts, I would bet you dollars to  
23 donuts it's primarily republican. I would bet  
24 you dollars to donuts, okay? But I, I, I've been

1 Demographic Research and Reapportionment, 1-30-2012

2 told that gerrymandering is not illegal. To me,  
3 it's immoral. I don't think politicians have the  
4 right to lifetime employment, and by stacking  
5 districts or packing districts--whatever the word  
6 is--as it is, I don't think a common interest  
7 groups should be a, your affiliation with the  
8 political party. But by doing this, you make  
9 sure that the same people always get reelected,  
10 and you have the opportunity right now to do  
11 what's right in revisiting this and I hope that  
12 you do, and the public will be watching. Thank  
13 you.

14 ASSEMBLY MEMBER MCENENY: Thank you very  
15 much.

16 SENATOR NOZZOLIO: Thank you.

17 ASSEMBLY MEMBER MCENENY: Is there  
18 anyone else who would like to testify today?  
19 Sir, would you come forward? State your name for  
20 the record and if you represent a group, please  
21 says so. Otherwise, you're more than welcome as  
22 a citizen.

23 JEFF STERLING, NEW BALTIMORE RESIDENT:

24 My name is Jeff Sterling. I don't represent

1 Demographic Research and Reapportionment, 1-30-2012

2 anyone. I live in New Baltimore, New York.

3 ASSEMBLY MEMBER MCENENY: Jeff, could we  
4 have your address in case we want to contact you  
5 after?

6 MR. STERLING: My address is 61 Gill  
7 Road, New Baltimore, New York.

8 ASSEMBLY MEMBER MCENENY: Thank you.

9 MR. STERLING: I am here as a citizen.  
10 I, I have lived along the, in New Baltimore for  
11 pretty much my whole life. I've lived in Oswego  
12 for like two years when I was in school there.  
13 For the majority, my county has been a byproduct  
14 of redistricting, never seeming to be in the  
15 right spot at the right time. We're being put  
16 now into this new senate district, which is the  
17 more rural areas of Albany County and numerous  
18 other counties. The catch is Albany County alone  
19 is the perfect, almost the perfect number of  
20 population for its own senate district. Albany  
21 County alone has a lot of connections to the city  
22 of Albany. A lot of people in southern Albany  
23 County are state workers, either work in  
24 government itself or in numerous state



1 Demographic Research and Reapportionment, 1-30-2012

2 departments. I can honestly say this because as  
3 a resident of New Baltimore, my town is split  
4 between four school districts. I happen to be  
5 the one that went to Ravine Aqueous, which is in  
6 Albany County. My life, along with a good  
7 portion of my town, are people who live and work  
8 in Albany County. We, our current senate  
9 district stretches out, out past Herkimer County  
10 out to a tiny town, Caroline, I think it's  
11 called, which is about three hours away. Now  
12 we're being put into another random district that  
13 hinders another county which better can be  
14 represented elsewhere, and I think that Albany  
15 County should be redrawn to where it is, the way  
16 it is now and let the county be drawn that, and  
17 let my county, as much as its been for at least  
18 this time around, in another district, probably  
19 one that there does count more in the Hudson  
20 Valley region than it is now.

21 ASSEMBLY MEMBER MCENENY: Thank you very  
22 much.

23 MR. STERLING: Thank you.

24 ASSEMBLY MEMBER MCENENY: Is there

1 Demographic Research and Reapportionment, 1-30-2012

2 anyone else who would like to testify today?

3 There being no one else, we encourage people to  
4 testify at the remaining eight public hearings  
5 that are being held starting tomorrow at 3:00 in  
6 the afternoon down in the Bronx. The schedule is  
7 on the LATFOR website. We continue to encourage  
8 people to submit written testimony, suggestions,  
9 maps throughout the next three-week period.

10 During the week of President's week, we  
11 will be making adjustments to these maps. They  
12 will be changed--some greatly, some minor--and  
13 it's the input that has a lot to do with what  
14 happens. During that week, we'll be drawing up  
15 legal descriptions and preparing legislation for  
16 the full legislature when they return on the 27th  
17 for a vote as soon after as possible, bearing in  
18 mind that we now have a date established, at  
19 least for the congress, which will be drawn up  
20 during that period as well, for June 26th is the  
21 new primary. Anyone else like to make a comment?

22 SENATOR NOZZOLIO: Thank you.

23 ASSEMBLY MEMBER MCENENY: Yeah.

24 SENATOR NOZZOLIO: The hearing's

1 Demographic Research and Reapportionment, 1-30-2012

2 adjourned.

3 ASSEMBLY MEMBER MCENENY: And our co-  
4 executive director, Lew Hoppe, I realized I  
5 introduced him by title but, but by name, so for  
6 the record, he is one of our stalwarts here for  
7 many years. Thank you.

8 (The public hearing concluded at 1:59  
9 p.m.)

C E R T I F I C A T E

I, Kristina Wagstaff, do hereby certify that the foregoing typewritten transcription, consisting of pages number 1 to 204, inclusive, is a true record prepared by me and completed from materials provided to me.



Kristina Wagstaff, Transcriptionist

February 6, 2012