

NEW YORK STATE  
NEW YORK STATE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC  
RESEARCH AND REAPPORTIONMENT

PUBLIC HEARING  
CONGRESSIONAL AND STATE LEGISLATIVE REDISTRICTING

Thursday, February 16, 2012

Common Council Chambers

Buffalo City Hall, 13<sup>th</sup> FL

65 Niagara Square, Buffalo, New York

10:30 a.m.

Demographic Research and Reapportionment, 2-16-12

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

WELQUIS LOPEZ

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2 (The public hearing commenced at 10:35  
3 a.m.)

4 SENATOR MICHAEL F. NOZZOLIO, CO-CHAIR,  
5 NEW YORK STATE LEGISLATIVE TASK FORCE ON  
6 DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT: Good  
7 morning, the, I have your attention and order  
8 please. My name is Mike Nozzolio, I am the New  
9 York State Senator and I represent the Senate as  
10 co-chair of the LATFOR task force. This--can I  
11 have some order, please? If you have  
12 conversations, feel free to take them outside.  
13 This hearing is the 23<sup>rd</sup> hearing that this task  
14 force has engaged upon. The second time we have  
15 been in these beautiful city council chambers,  
16 I'm very proud to have been in 23 communities to  
17 hear from citizens along with all the members of  
18 the task force as we have prepared this process  
19 for the redistricting of 2012. Jeff, would you  
20 please shut the door. Without further ado, I'd  
21 like to introduce the Senate representatives on  
22 the task force. My co-chair Assemblyman McEneny  
23 then will introduce the Assembly Members. On my  
24 immediate right is the ranking member of this

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2 Senate task force, it is, on the Senate side,  
3 Senator Martin Dilan. To his right is the  
4 citizen representative appointed by the Senate on  
5 the task force and that is Welquis Ray Lopez, to  
6 his right the co-executive director of the task  
7 force, Debra Levine. I have been honored to work  
8 with Assemblyman McEneny in taking testimony  
9 throughout every corner of New York State. It  
10 has been a privilege to work with you,  
11 Assemblyman and that I appreciate your good work  
12 on behalf of the people of this state.

13 ASSEMBLY MEMBER JOHN J. MCENENY, CO  
14 CHAIR, NYS LEGISLATIVE TASK FORCE ON DEMOGRAPHIC  
15 RESEARCH AND REAPPORTIONMENT: Thank you very  
16 much, Senator. My name is Jack McEneny, I represent  
17 six towns and most of the city of Albany and Albany  
18 County and we are once again happy to be here in  
19 Buffalo in this, in this beautiful and historic  
20 building which, by the way, shares murals that are in  
21 the capital done by the same artist and his daughter.  
22 I am accompanied today with the minority member  
23 representative on LATFOR, Bob Oaks from, from Wayne

1 Demographic Research and Reapportionment, 2/16/12  
2 County to my immediate left and normally we would have  
3 our citizen representative, Roman Hedges, who's  
4 attending a meeting this morning in Albany and  
5 couldn't do double duty. We have some testimony that  
6 has been submitted, some of it is very brief, some of  
7 it is multiple pages. We have a time limit of five  
8 minutes, we have always let people exceed that by a  
9 reasonable minute or two after, but if you have one of  
10 those large evidences of testimony, please summarize  
11 out of respect to the other people that are here.  
12 Now, we have a list of people that have signed up, but  
13 anybody who comes, as long as we're here, is welcome  
14 to sign up and go on that list as well. This hearing  
15 will go as long as there are people who are willing to  
16 testify. So, with that I turn it back to you,  
17 Senator.

18 SENATOR NOZZOLIO: Thank you,  
19 Assemblyman. Any other members of the task force wish  
20 to make a statement? Hearing none. Before we invite  
21 the first witness to present their testimony, I'd like  
22 to let everyone know that there is a video recording  
23 taking place of these proceedings. It is the official

1 Demographic Research and Reapportionment, 2/16/12  
2 record of the task force. Cameras are behind and are  
3 being controlled here with the microphone in the  
4 center of the first row. So, please know that your  
5 testimony is being recorded. That recording is then  
6 placed on the task force's website. The LATFOR task  
7 force's website is--has placed all of our hearings  
8 across the state video record is for others to view.  
9 Without further ado, I'd like to call up Frank Housh,  
10 the Vice President of the Western Region New York  
11 Democratic Lawyers.

12 FRANK HOUSH, ESQ., VICE PRESIDENT, WESTERN  
13 REGION, NEW YORK DEMOCRATIC LAWYERS: Chairman,  
14 members of the committee, thank you for the  
15 opportunity to speak with you today. My name is Frank  
16 Housh, I am an attorney here in private practice in  
17 Buffalo. I enjoyed my time in Albany, where I was a  
18 legislative aide to your former colleague, Assemblyman  
19 Sam Hoyt. I am now Western Region Vice President of  
20 the New York Democratic Lawyers Counsel and co-chair  
21 of the Western New York Lawyers Chapter of the  
22 American Constitution Society. I have five minutes  
23 and I certainly wish to respect that time limit, so



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2 I'll keep my remarks brief. I will begin with  
3 offering my opinion as to whether the Assembly and the  
4 Senate districts as passed by the legislature were  
5 gerrymandered for political advantage. Yes. Of course  
6 they are. And they always have been. Redistricting  
7 is a political process which creates winners and  
8 losers and the New York State Constitution allows  
9 those in political power to draw the district lines.  
10 That's the system we created and it provides no  
11 prohibitions against acting to one's own political  
12 benefit. The legislature is merely following the  
13 rules we set up. The New York constitution could have  
14 created a different system to draw lines, such as an  
15 independent body thus allowing different players to  
16 create political lines, but it didn't. New Yorkers  
17 made a considered decision to place state legislators  
18 in charge of drawing their own lines. So, we  
19 shouldn't be surprised when they do so with political  
20 considerations in mind. Given the genuine puzzlement  
21 many demonstrate when it appears that politics have  
22 affected redistricting, I can't help but imagine  
23 Captain Renault walking into Rick's American Café,

1 Demographic Research and Reapportionment, 2/16/12  
2 declaring himself shocked, shocked that gambling is  
3 taking place in Casablanca. That said, I'd like to  
4 discuss with you, from the perspective of an active  
5 politically conscious citizen the deleterious effects  
6 that gerrymandered districts have on the body politic.  
7 This long history of legislative gerrymandering has  
8 created deep wounds on the body politic by isolating  
9 and exacerbating our political differences. When once  
10 we talked to each other about our views in public  
11 forums, now we talk past each other in increasingly  
12 strident echo chambers like Fox news. Although our  
13 system of government relies on collegial, informed  
14 public compromise in order to function, extremist  
15 demagogues now control the debate punishing any  
16 political compromise as ideological weakness. Funding  
17 for super PACS which advocate ideological purity at  
18 all costs seemingly have no limit and they have beige  
19 names like American Crossroads, Winning Our Future and  
20 Freedom Works. How did it get this bad? There's  
21 plenty of blame to go around, but as I am not an  
22 elected official, let me name one party who's rarely  
23 brought to account; the voters themselves. Although

1 Demographic Research and Reapportionment, 2/16/12  
2 elected officials may pander, we reward them with  
3 reelection. Although thoughtful, informed journalism  
4 exists, we watch Glenn Beck cry in our living rooms  
5 and drive around listening to Rush Limbaugh whine his  
6 paranoid fantasies. The adage is true. We get the  
7 government we deserve. To illustrate how gerry,  
8 gerrymandering hurts society, pretend we have a group  
9 of 200,000 citizens in Black Acre, evenly distributed  
10 between Democrats and Republicans by enrollment.  
11 Let's say that redistricting requires that we create  
12 two legislative districts, East Black Acre and West  
13 Black Acre with one 100,000 voters each. Will the two  
14 parties create two districts each with 50,000  
15 Democrats and 50,000 Republicans thus likely electing  
16 a centrist? Probably not. What is more likely is  
17 that if Democrats and Republicans each influence the  
18 redistricting process, the two districts will be  
19 gerrymandered, creating one Democrat and one  
20 Republican district. West Black Acre may have 65,000  
21 Democrats and 35,000 Republicans and immediately  
22 adjacent East Black Acre is drawn, as drawn could have  
23 67,000 Republicans and 33,000 Democrats.

1 Demographic Research and Reapportionment, 2/16/12  
2 Gerrymandering is thus successfully created two safe  
3 seats by packing the district, rendering moot the  
4 votes of a large number of Black Acre's electorate.  
5 As the system effectively allows legislators to select  
6 their own voters and prevent close elections, they  
7 will little reason to compromise with opposing views  
8 or even acquaint themselves with what those opposing  
9 views might be. Further, the Black Acre delegation  
10 will go the capital and associate themselves with  
11 other members of their own political party. Most of  
12 whom are in the same type of safe districts. The  
13 legislators will find that as they seek to communicate  
14 their policy programs to the people of Black Acre back  
15 home, their message is filtered through a corrosive  
16 media environment which cares little for the nuances  
17 of public policy and regards only brief, angry  
18 televised exchanges as newsworthy. Predictable, the  
19 200,000 voters of Black Acre gradually disengage from  
20 the ugliness and futility of civil politics. They may  
21 say my vote doesn't matter and as a statistical  
22 matter, they would largely be correct. I will  
23 summarize by pointing out that here in Western New

1 Demographic Research and Reapportionment, 2/16/12  
2 York we had two elections which demonstrate the  
3 principal that party politics or, or party affiliation  
4 is become less and less important to voters. Cathy  
5 Hockle won a ruby red Republican district, Antoine  
6 Thompson in this city lost a Democratic election to a  
7 Republican despite the fact that the enrollment  
8 outnumbered Democrats to Republicans 104 to 22,000.  
9 My final point is that legislatures who act in this  
10 way, in, in baldly political ways which alienate the  
11 electorate themselves are at risk of becoming  
12 obsolete. As all of you know, on February the 13<sup>th</sup>,  
13 District Judge Irizarry requested the 2<sup>nd</sup> Circuit  
14 appoint a special master to draw the lines for state  
15 legislative and congressional delegates or districts  
16 so that an orderly election can be held. If the  
17 legislature fails to act appropriately, courts will do  
18 it for them. I would suggest that legislatures can  
19 and should break out of this spiral and that such,  
20 such a time as now as both the Tea Party and Occupy  
21 movements have brought citizens into the public square  
22 both decrying the fact that they believe their  
23 government has been co-opted by forces which they

1 Demographic Research and Reapportionment, 2/16/12  
2 cannot hold accountable. Thank you for your time this  
3 morning.

4 ASSEMBLY MEMBER MCENENY: Thank you very  
5 much, I would point out that Common Cause has a Power  
6 Point presentation which describes the possibilities  
7 of creating combinations in the mythical district that  
8 you created which is very good for people wanting to  
9 understand how the process can work.

10 SENATOR NOZZOLIO: Thank you very much.  
11 Tim Kennedy.

12 ASSEMBLY MEMBER MCENENY: When you  
13 testify, hang around just a little bit because we do,  
14 on occasion, ask questions to clarify your statements.

15 TIMOTHY M. KENNEDY, SENATOR, 58<sup>TH</sup>  
16 DISTRICT: Good morning.

17 SENATOR NOZZOLIO: Morning.

18 SENATOR KENNEDY: Welcome to Buffalo.  
19 Thank you everyone for being here so attentive, it's  
20 obvious that this a certainly an issue that this  
21 community has been paying attention to by the turnout  
22 here today. I'll start with a simple message and  
23 response to your recently proposed legislative maps;

1 Demographic Research and Reapportionment, 2/16/12  
2 they simply won't do. The district drawing pen should  
3 have been--shouldn't be in the hands, excuse me, the  
4 district drawing pens should be in the hands of  
5 independent commission that will abide by the state  
6 constitution and take politics out of the process.  
7 When we all ran for election in 2010, most of us said  
8 we wanted an independent panel to take over  
9 redistricting duties before the 2012 election cycle.  
10 In fact, more than 85 percent of the State Senate  
11 signed a pledge to do so. I was new to the Senate but  
12 with 85 percent of legislators pledging support, I  
13 thought we'd quickly get to work and the job would be  
14 done on independent redistricting. Instead, Senate  
15 Republicans went back on their word and gave New York  
16 State a Senate map that reeks of political  
17 gerrymandering. Rather than making compactness,  
18 contiguity and communities of interest the guiding  
19 principles of the redistricting process, it appears  
20 the maps have been manipulated and carefully plotted  
21 to produce districts with the goals of maintaining  
22 power and safeguarding vulnerable incumbents. A  
23 recent analysis conducted by the New York World and

1 Demographic Research and Reapportionment, 2/16/12  
2 the Center for Urban Research is particularly  
3 troubling. It provides hard evidence proving  
4 political gerrymandering. They compare the results of  
5 a 2010 state legislative elections with your recently  
6 proposed lines to determine how those results might  
7 impact future representation. They found that Senate  
8 Republicans devise their proposed lines with the  
9 partisan intention of preserving their power.  
10 According to their analysis, if every voter cast their  
11 ballot for the same party as they did in 2010, the  
12 Senate Republicans would grow their majority to 34 to  
13 29. Considering the jagged by design districts you've  
14 sketched, there's no way this is just coincidence.  
15 You searched out favorable election districts and drew  
16 the Senate lines according to, to make them more  
17 friendly for the current Republican majority. For far  
18 too long the redistricting process has been abused as  
19 the Albany incumbent protection program. Majority  
20 legislators pick and choose their voters and if you  
21 don't fit their mold as a potential supporter, you're  
22 pawned off to a neighboring district. It's a  
23 backwards system that breeds voter apathy and



1 Demographic Research and Reapportionment, 2/16/12  
2 dysfunctional government. In addition to their  
3 practice of political gerrymandering, Senate  
4 Republicans also manipulated the state constitution  
5 for political purposes. You toyed with the  
6 constitution in order to squeeze an additional Senate  
7 seat into the capital region which will increase the  
8 size and cost of government at a time when we should  
9 be working on streamlining government and reducing  
10 costs. As many of my colleagues in good government  
11 groups have asked; I don't understand why you counted  
12 some counties one way and in others another way. It  
13 appears Senate Republicans targeted 63 as the number  
14 of seats they needed to pad their majority and then  
15 conducted their math in reverse to determine how they  
16 needed to manipulate the constitution. New York State  
17 enjoys and celebrates a diverse culture and rich  
18 history of fighting for the rights of minorities. But  
19 the Senate Republicans new map seems to constrict  
20 minority rights rather than seeking to expand rights  
21 and empower communities. The proposed map  
22 demonstrates the practice of cracking minority  
23 communities among several Senate districts to drown

1 Demographic Research and Reapportionment, 2/16/12  
2 any attempt to gain political voice. We see it in the  
3 town of Hempstead, it's visible in the city of  
4 Rochester and locally in Western New York, I think  
5 it's telling that the 60<sup>th</sup> Senate district, under this  
6 new remap plan would see it's demographic makeup shift  
7 from 54 percent white and 37 percent African American  
8 to 85 percent white and 5 percent African American.  
9 To me, this demographic shift indicates a disinterest  
10 from the Senate Republicans to represent the needs of  
11 Buffalo's minority communities. I will say this;  
12 regardless of how the process plays out, I will  
13 continue to be a representative for all of Western New  
14 York. Although I feel any partisan drawn lines should  
15 be vetoed, I would welcome more of the city of Buffalo  
16 to the district I represent so that I can residents in  
17 the city a voice in Albany. City neighborhoods are  
18 often referred to as underserved, they need an  
19 effective representation in the Senate and I would be  
20 proud to fight for these neighborhoods. But I am not  
21 much concerned with how I am personally impacted by  
22 the newly proposed map. I am far more concerned with  
23 this flawed process, it's gerrymandered product and

1 Demographic Research and Reapportionment, 2/16/12  
2 how it impacts hard working New Yorkers who deserve a  
3 government that works for them, not for political  
4 incumbents. You can make claims that you drew the  
5 lines in accordance with the constitution and well as  
6 Democratic and population shift but New Yorkers aren't  
7 buying it. You've told your story but the population  
8 deviations among districts, the cracking of minority  
9 communities, the packing of Republican friendly  
10 voters, the expansion of the Senate to 63, all of that  
11 tells a very different story--

12 Debra Levine, Co-Executive Director, New  
13 York State Legislative Task Force on Demographic  
14 Research and Reapportionment: Senator, you need to  
15 summarize - - .

16 SENATOR KENNEDY: --it tells the story  
17 of a flawed process that enables Senate Republicans to  
18 serve their own political self-interest rather than  
19 the public's interest. It tells the story of a broken  
20 promise that has kept the system secretive and kept  
21 New Yorkers in the dark. I urge you to make  
22 significant changes to your proposed maps, head back  
23 to the drawing board and lay the politics aside to

1 Demographic Research and Reapportionment, 2/16/12  
2 come up with fair, non-partisan redistricting proposal  
3 and if not, I ask for the governor to veto these  
4 lines. Thank you very much.

5 SENATOR NOZZOLIO: Senator Kennedy?

6 SENATOR KENNEDY: Yes, sir?

7 SENATOR NOZZOLIO: You wish to answer  
8 any question?

9 SENATOR KENNEDY: I'd be pleased to.

10 SENATOR NOZZOLIO: Senator Kennedy, did  
11 you vote this year for an independent redistricting  
12 measure that came before the Senate?

13 SENATOR KENNEDY: No commission--no  
14 independent redistricting commission was put before  
15 the Senate for the 2012 redistricting lines. What was  
16 put before the Senate--

17 SENATOR NOZZOLIO: [interposing] I  
18 didn't, I didn't ask you that question, Senator, I  
19 asked you--

20 SENATOR KENNEDY: [interposing] You  
21 asked me if I voted for an independent commission to  
22 be put forward for 2020, 2022. For that, I believe it  
23 was nothing more than a guise, a disguise of

1 Demographic Research and Reapportionment, 2/16/12  
2 independent redistricting, what we're calling for is  
3 independent redistricting, a commission to be in put  
4 in place for this year, not for, to push it off for  
5 another decade.

6 SENATOR NOZZOLIO: Senator, Senator,  
7 that's, that's very well and good, but there is also a  
8 significant amount of legal opinion, including  
9 opinions from the New York State, New York City Bar  
10 Association in a report issued in the middle of this  
11 decade past that a constitutional amendment is the one  
12 sure way to establish independent redistricting. And  
13 I asked you if you voted for it, you did, the Senate  
14 passed it and I think that, for the record, should be  
15 stated.

16 SENATOR KENNEDY: [interposing] If I  
17 could, if I could just clarify--

18 SENATOR NOZZOLIO: --you, you indicated,  
19 you indicated, you--

20 SENATOR KENNEDY: --53, 53 out of a 62,  
21 85 percent of sitting senators today call for  
22 independent redistricting prior to last year's  
23 election. Not one single Republican is willing to

1 Demographic Research and Reapportionment, 2/16/12  
2 call for an independent commission for the 2012  
3 redistricting lines.

4 SENATOR NOZZOLIO: Well, Senator I don't  
5 know if that is accurate. Just because you say is- is  
6 not a fact, and I think you're, you're performance is  
7 a, is noted and that I want to ask questions of you  
8 based on statements--

9 SENATOR KENNEDY: [interposing] Sure.

10 SENATOR NOZZOLIO: --you've made.

11 SENATOR KENNEDY: Sure.

12 SENATOR NOZZOLIO: And I'd appreciate if  
13 you continue to focus on the facts. You say that the  
14 constitution was manipulated and that's quite a  
15 charge.

16 SENATOR KENNEDY: Mm-hmm.

17 SENATOR NOZZOLIO: What section of the  
18 constitution are you alleging was manipulated by, by  
19 anyone?

20 SENATOR KENNEDY: It's a great question,  
21 as you know the number of Senate districts is  
22 determined by a rule dating back over 100 years to  
23 1894 from the state constitution. The rule applies to

1 Demographic Research and Reapportionment, 2/16/12  
2 counties that contain more than 6 percent of the total  
3 state population. Whenever the population of such a  
4 county rises to a larger proportion of the statewide  
5 total that in 1894, then a district is added to the  
6 total of 50 districts that existed in 1894. There's  
7 ambiguity in the formula, I will agree with you on  
8 that and that alone. But since some boundaries--

9 SENATOR NOZZOLIO: [interposing] I, I  
10 never, Senator, we don't agree on anything. Let's  
11 make it clear.

12 SENATOR KENNEDY: --sir?

13 SENATOR NOZZOLIO: I asked you a  
14 question and you made the statement that I'm asking  
15 the question on and my question is what section of the  
16 constitution are you alleging is manipulated?

17 SENATOR KENNEDY: Well, since I don't  
18 have the constitution in front of me at this moment in  
19 time, I certainly couldn't give you that answer at  
20 this point in time--

21 SENATOR NOZZOLIO: [interposing] Well,  
22 then let's try this: since you don't know what section

1 Demographic Research and Reapportionment, 2/16/12  
2 you're referring to, then what manipulation are you  
3 alleging?

4 SENATOR KENNEDY: Well, if I could go  
5 back to answering my question--your initial question,  
6 since you're asking me a particular ruling and I'm  
7 don't know if you're a lawyer or not, but I am not a  
8 lawyer. That being said, I can tell you that there's  
9 ambiguity in the formula whether we agree on that or  
10 not, since some county boundaries have changed since  
11 1894 and certainly counties in that originally shared  
12 the single district have vastly increased in  
13 population. So, three pairs of counties must be  
14 combined for comparison with 1894. Also, as you know,  
15 there's been two different methods of determining how  
16 this works; combine the populations of the two  
17 counties then round down to the number of full ratios,  
18 one-fiftieth of the state total contained in the  
19 combined population or count each county separately  
20 and round down to the number of full ratios in each  
21 county then add to the full, full ratios. This is  
22 certainly not something that you haven't heard before.  
23 Senate Republicans propose to apply the first method



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2 of combining counties to one pair of counties, Suffolk  
3 and Richmond, Staten Island and then the second method  
4 to another pair, Queens and Nassau. And it's  
5 important to note that by increasing the size of the  
6 Senate, the Senate Republicans are proposing to  
7 increase the cost of government.

8 SENATOR NOZZOLIO: Now, wait a minute,  
9 Senator. You're getting off your charge. Your charge  
10 is that the constitution was manipulated. That--are  
11 you familiar, I guess you're not familiar with the  
12 articles that require the size of the assembly and the  
13 size of the Senate. The constitution requires 150  
14 members of the state assembly. That cannot be changed  
15 unless the constitution is changed. The constitution  
16 also puts forward a formula. And that formula, which  
17 you have stumbled through, has basically indicated a  
18 series of ratio equations and I certainly concede your  
19 point that it is a very, let's just say not vague, but  
20 it's a, a very step by step process that needs to be  
21 engaged in. And that I think your charge of  
22 manipulation is one that obviously is made, I think,  
23 by you without any substantial background relative to

1 Demographic Research and Reapportionment, 2/16/12  
2 that charge. And that whatever plan is resolved, the  
3 state Senate must follow and the state assembly must  
4 follow the formulas that are in the constitution. We  
5 can more change the size of the assembly than we could  
6 change the size of the Senate unless it was so  
7 required by the constitution and I guess I was hoping  
8 that if you made such a charge, you'd have some  
9 background that, in effect, could back that up.

10 SENATOR KENNEDY: Well, I, I appreciate  
11 you saying such and Senator Nozzolio, you and I serve  
12 on the Senate for the last year and, and a couple of  
13 months. I will say this; that I am disappointed that  
14 with the addition of the 63<sup>rd</sup> seat, besides adding to  
15 the cost of government, it was put in a place that has  
16 no impact on Western New York and quite frankly,  
17 there's no impact on the population shift in New York  
18 State and if there was going to be an additional seat  
19 added, despite the fact that I disagree with you that  
20 the constitution was in fact violated and you say that  
21 it was--was not violated, the fact that this  
22 additional seated adding to the cost and size of  
23 government was added to a place in the capital region

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2 rather than a place where distinctly, distinctly the  
3 population grew down in New York City, I believe was  
4 based on the fact that had an additional district been  
5 added in the city, where the population shift had come  
6 from, it would included that seat being an additional  
7 minority seat. And that is why it put up in the  
8 capital region, rather than in the New York City area.

9 SENATOR NOZZOLIO: So, Senator, just so  
10 I'm clear, you would rather see, you prefer it and you  
11 stated in your comments just now; that you prefer if  
12 an additional Senate seat is required that the Senate  
13 seat be placed in New York City?

14 SENATOR KENNEDY: I would prefer if the  
15 constitution is followed--

16 SENATOR NOZZOLIO: [interposing]  
17 Senator, Senator--

18 SENATOR KENNEDY: --and with that said,  
19 with that said, I would prefer--

20 SENATOR NOZZOLIO: [interposing] I guess  
21 you just, so I understand it--

22 SENATOR KENNEDY: --if the constitution  
23 was followed.

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2 SENATOR NOZZOLIO: --just so I  
3 understand you. Just so I understand you, Senator, so  
4 I understand you Senator that you, in your prior  
5 statement, said that the--you prefer the City  
6 district, if it is created, an additional Senate  
7 district, if it, if it is required by the  
8 constitution, that it be placed, as you allege, where  
9 the population in the city of New York as opposed to  
10 upstate?

11 SENATOR KENNEDY: What--upstate is not  
12 the capital region and Western New York and that does  
13 nothing to help the city of Buffalo and Western New  
14 York. What it does- what it does is it continues to  
15 disenfranchise communities of color, it continues to  
16 add to the cost and size of government when we're  
17 asking to tighten their belts across New York State.  
18 And what it does is it violates the constitution while  
19 increasing the size of the Senate for one simple  
20 purple, in my opinion, for the senator- Senate  
21 Republicans to maintain the majority, period.

22 SENATOR NOZZOLIO: So, Senator, you are  
23 on record as saying that if the constitution requires

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2 another seat and although you indicated very adroitly  
3 how you oppose the addition of that other seat, that  
4 that other seat, additional seat should be placed in  
5 the city of New York.

6 SENATOR KENNEDY: I am on record calling  
7 for LATFOR to follow the constitution number one,  
8 number two, I am, I am in favor of LATFOR ensuring  
9 that the size and cost of government does not  
10 increase. I am also on record calling for an  
11 independent commission as were 52 of my fellow  
12 colleagues in the Senate, whether or not you signed on  
13 to that I don't know offhand but 53 of us in the  
14 Senate, 85 percent of us, called for independent  
15 redistricting, a commission to be put in place and  
16 were called and stood on the steps of this city hall  
17 with Mayor Koch, called heroes of reform and not one  
18 single Senate Republican is willing to step forward  
19 and enact independent redistricting for 2012. It's  
20 appalling.

21 SENATOR NOZZOLIO: And Senator, you also  
22 are on record saying, clearly, that the, if an

1 Demographic Research and Reapportionment, 2/16/12  
2 additional Senate seat must be created, it should be  
3 created in New York City--

4 SENATOR KENNEDY: [interposing] I am  
5 simply, I am simply calling for--

6 SENATOR NOZZOLIO: --thank you very  
7 much.

8 SENATOR KENNEDY: --I am simply calling  
9 for the population shift to be followed and most  
10 importantly for this legislature and LATFOR to follow  
11 the law.

12 SENATOR NOZZOLIO: Thank you very much,  
13 Senator.

14 ASSEMBLY MEMBER MCENENY: Senator,  
15 Senator.

16 SENATOR NOZZOLIO: Senator.

17 SENATOR KENNEDY: Yup, yup, sure.

18 SENATOR NOZZOLIO: Senator Dilan.

19 SENATOR MARTIN M. DILAN, NEW YORK STATE  
20 LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH  
21 AND REAPPORTIONMENT: Yes, just for the  
22 information of the public, the section of the  
23 constitution which Senator Kennedy refers to is

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2 Article III, Section 4 of the New York State  
3 Constitution which deals with reapportionment  
4 whenever there is the decade census count by the  
5 federal government. And within that section,  
6 there are formulas, one known as A. and a second  
7 one which is known as B. And for the last three  
8 decades, the Senate has followed one method of  
9 determining the size of the Senate. This year as  
10 Senator Kennedy indicates, that formula was  
11 followed inconsistently to come up to a  
12 predetermined number of 63. If the formula a  
13 were followed, you would get 62 and maybe if  
14 formula B. would be followed, you may get 64, but  
15 under no circumstances do you get 63. However,  
16 this matter is under litigation and will be  
17 decided by a court of law.

18 SENATOR NOZZOLIO: Are there any other  
19 questions, Senator, Assemblyman McEneny?

20 ASSEMBLY MEMBER MCENENY: Well, you make  
21 an observation, Senator, Frank Housh just spoke  
22 here and mentioned the polarization of society  
23 and Mayor Koch, I did not take his pledge and I

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2 never take a pledge on legislation that I'd never  
3 seen because there's always unforeseen  
4 circumstances. We saw in a hydrofracking bill  
5 that the Senate and went home and then we  
6 realized it was so badly written that it would  
7 have eliminated the hydrofracking which is  
8 different from the controversial type. It's been  
9 functioning rather well since 1947. So, wait  
10 until you see the bill before you make the  
11 pledge. I didn't take, especially Mayor Koch's  
12 pledge and I believe my colleague Bob Oaks did  
13 not as well. But the thing about Mayor Koch is  
14 he referred to anybody who went--who promised  
15 that they'd go along with his pledge and I  
16 remember his comments on upstate. By the way,  
17 I'm in Albany, it is upstate. I remember his  
18 comments on upstate which were rather derogatory,  
19 so I wasn't overly impressed with his ideas. But  
20 I also thought that when we have disagreements  
21 among ourselves and this is bipartisan committee,  
22 two-thirds of which are elected, there's an  
23 element of respect and politeness for the other



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2 side. Anyone who didn't go on Mayor Koch's'  
3 pledge was referred to as an enemy of the people  
4 with expensive ads going against them in their  
5 campaigns. And when they signed on to Shelly  
6 Silver's bill that was put in at the request of  
7 the governor, that wanted an independent  
8 committee, then they were listed as heroes of the  
9 people. That kind of extreme language, I think,  
10 does not help the body politic in its  
11 deliberations. So, I would avoid particularly  
12 that kind of, of language of subsidizing people  
13 with that kind of language. It's a little  
14 complicated, I happen to be a sponsor of  
15 independent redistricting. The governor failed  
16 in convincing the Senate that that committee that  
17 he suggested was not two-thirds one party, his  
18 party and one-third the other party. And  
19 throughout the course of a six month legislative  
20 session, the governor never offered some kind of  
21 amelioration, some kind of change to that bill to  
22 make it acceptable to the Senate majority to say  
23 that it was not a partisan bill. This group,

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2 which by the way, is weeks ahead of schedule from  
3 prior decades as far as the state legislature's  
4 concern and months ahead of congressional  
5 redistricting compared to the past, nonetheless  
6 stalled off meetings until the end of session  
7 waiting to see if a compromise could be offered  
8 that would be acceptable to all parties. So,  
9 the--we have a disagreement, but it's a  
10 technicality, it doesn't make people enemies of  
11 the people anymore than the opposite makes them  
12 heroes of the people. And as far as Fox news and  
13 Glenn Beck and some of these extremists in our  
14 society, we have them on both sides. I just  
15 don't buy either side of that and that's how,  
16 personally, I view Mayor Koch's opinions, that's  
17 pretty extreme language.

18 SENATOR KENNEDY: Certainly, and I  
19 appreciate you saying so, Assemblyman. I, I know  
20 that you've been in Albany and have made a  
21 reputation as being someone that stands up for  
22 the people of your district and the people of the  
23 state of New York. I certainly appreciate your

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2 service to the public good. That being, that  
3 being said, 53 out of 62 senators just a year and  
4 maybe 4 or 5 months ago signed on and called for  
5 publically independent, an independent  
6 redistricting commission to be put in place for  
7 the redrawing of the districts for this year.  
8 Following that--now they happened to be by former  
9 Mayor Koch, he can call them whatever they want,  
10 heroes of reform, enemies of reform, that was,  
11 that was his doing. That being said, the day the  
12 Republicans regained the majority in the Senate,  
13 there was not one single Republican who signed on  
14 to independent redistricting, not one, that stood  
15 out publically as they did prior to the election  
16 and called for independent redistricting for  
17 2012, for a commission to be put in place.  
18 Everyone went away quietly, they all went, hoped  
19 this would go away under the radar screen and I  
20 think by the showing you see here today, this is  
21 not going away quietly and it is not under the  
22 radar screen. And I am one of those people that  
23 signed to the pledge and although I might have

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2 only been in the Senate for the last 13 months  
3 and 16 days, I also recognized that Albany works,  
4 if there's a will there's a way. And in Albany,  
5 if, if we want to get something done, if we want  
6 to establish an independent commission and we  
7 want it done this year, it will be done, but the  
8 will needs to be there and I don't see the will  
9 there from the Senate republicans. That is why  
10 I'm here today. And that's why we're calling for  
11 the governor to veto these lines.

12 SENATOR NOZZOLIO: Thank you.

13 SENATOR KENNEDY: Thank you. Thank you.

14 SENATOR NOZZOLIO: Barbara Booth.

15 Barbara Booth.

16 DEBRA LEVINE, CO-EXECUTIVE DIRECTOR, NEW  
17 YORK STATE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC  
18 RESEARCH AND REAPPORTIONMENT: She's not able to  
19 make it - - .

20 SENATOR NOZZOLIO: Richard Siebert,  
21 Richard Siebert.

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2 RICHARD SIEBERT, REPUBLICAN CHAIRMAN,

3 GENESEE COUNTY: Yes, sir. Thank you Honorable

4 Senators, Honorable Assemblymen, my name is, my

5 name is Richard Siebert, I'm the Republican

6 chairman of Genesee County, I'm here in on a

7 bipartisan matter, not a political matter at all.

8 I'm specifically concerned with the Assembly

9 district, 139<sup>th</sup> Assembly district and the proposed

10 division of it. I'm going to read a letter, if I

11 may, on behalf of the chairman of Genesee County

12 Legislature and I would like to read another

13 letter by our current existing Assemblyman which

14 he has sent to Representative Oaks, but I'd like

15 to make it public for the committee. The first

16 letter I'd like to read is from the Genesee

17 legislative chairlady and again, it's about the

18 division of the 139<sup>th</sup> Assembly district, presently

19 served by the Honorable Steven Hawley. What

20 she's saying in her letter is: Dear Members of

21 the Task Force, and I think you all have a copy

22 of this, I am writing as chairperson of the

23 Genesee County Legislature to protest the

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2 proposed 139<sup>th</sup> Assembly district. It would remove  
3 the town of Pembroke from our 139<sup>th</sup> Assembly  
4 district, the only town to be separated from  
5 Genesee County, its historical home. Even  
6 looking at the district as it proposed raises  
7 questions. It appears like a bit has been taken  
8 out of the county and we feel it. In addition to  
9 two other towns have been added from Livingston  
10 County and although we are very friendly with our  
11 neighbors, the addition looks like the ill-fated  
12 Floridian chads from the elections past. The two  
13 towns just hang there and there's a map that  
14 she's attached to her letter. Please consider  
15 this matter and return the towns to their proper  
16 districts. I understand the challenges your  
17 group faces, certainly this configuration is not  
18 an indication of positive progress or a  
19 satisfactory solution. Thank you you're your  
20 consideration of this matter. Sincerely, Mary  
21 Pat Hancock, chair of the Genesee County  
22 Legislature. The second letter I'd like to read,  
23 and I will stay within my five minutes, is from

1 Demographic Research and Reapportionment, 2/16/12

2 our Assemblyman Steve Hawley, our existing 139<sup>th</sup>  
3 Assemblyman and this was addressed to Assemblyman  
4 Oaks. I am writing regarding proposal--proposed  
5 139<sup>th</sup> Assembly district, specifically the  
6 elimination of the town of Pembroke, Genesee  
7 County. The town of Pembroke is the only town  
8 out of 13 in the entire county of Genesee that  
9 has been eliminated in the proposed district.  
10 The proposed district now includes two towns in  
11 Livingston County, the town of York and the town  
12 of Leicester which have a combined population of  
13 55,597. The town of Pembroke's population  
14 including the village of Corfu is 5,001. It  
15 would seem to me that eliminating the only town  
16 in Genesee Count including only two towns from  
17 Livingston County would be a disservice to those  
18 citizens. To continue the - - that exists within  
19 the county I strongly believe that the town of  
20 Pembroke should be included in the 139<sup>th</sup> district  
21 and Leicester and York in Livingston County. I  
22 appreciate your consideration of this matter and  
23 such action that may be taken to resolve my

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2 Assembly district concerns. Thank you in advance  
3 for your time and consideration, please feel free  
4 to contact me with other question. When I say  
5 this is bipartisan, this is not a political  
6 issue, I have also talked to the chairlady of the  
7 Democratic committee of Genesee County who has  
8 talked to her committee and she is complete  
9 agreement that we would like to retain the town  
10 of Pembroke and make of Genesee County whole in  
11 the 139<sup>th</sup> Assembly district. This is not a  
12 political issue at all regardless of who serves,  
13 whether it's our current or whoever in the  
14 future, we would just like to see Genesee County  
15 whole and what's good for Pembroke is good for  
16 Genesee County and what is good for Genesee  
17 County is good for Pembroke and I just leave it  
18 at that. I'll take any questions, have any?

19 SENATOR NOZZOLIO: Assemblyman Oaks.

20 ASSEMBLY MEMBER ROBERT OAKS, NEW YORK  
21 STATE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC  
22 RESEARCH AND REAPPORTIONMENT: Yes, Mr. Siebert,  
23 thank you. One of the things that I appreciate



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2 your response today is specific recommendations  
3 are helpful to this task force, you know, an  
4 original proposal's been made. And we appreciate  
5 when someone has a specific suggestion, so thank  
6 you for being specific for that. Secondly, I  
7 would say I would think in this proposal there  
8 are perhaps 20 or so counties that are kept whole  
9 and there are a number of counties that aren't.  
10 It is not for, I would say in most cases lack of  
11 trying, the, the where we are controlled by the  
12 state constitution and our ability to have a  
13 depth or a, you know, a variation of the  
14 districts and the constitution requires a town on  
15 border rules which don't allow to just take a  
16 town and move it without other things falling  
17 into place as well. It, it sometimes is  
18 difficult, but your input is appreciated and this  
19 task force, like all the other recommendations,  
20 will be taken into consideration.

21 MR. SIEBERT: Thank you for the  
22 opportunity.

23 SENATOR NOZZOLIO: Thank you very much.

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2 MR. SIEBERT: Thank you.

3 SENATOR NOZZOLIO: Before I call the  
4 next wit--testifier, I'm going to ask everyone  
5 here that if you have a conversation, you're  
6 welcome to have it, but have it on the other side  
7 of those doors. And I'm asking those people that  
8 are sitting right, straight up here please sir,  
9 you've been talking constantly through this last  
10 witness' conversation, the beauty of this room is  
11 that acoustics are, are very good. And the bad  
12 part is that when you have a conversation that  
13 detracts from the person that's testifying. So,  
14 I'm asking everyone and I'm going to rule  
15 aggressively on this, take your conversation, sir  
16 and ma'am, outside. Any cell phones while, while  
17 you're talking, take it outside. If, I hate to  
18 do this, but I'm, I'm warning everyone I will  
19 stop the witness from speaking next time and  
20 request that you leave the room. So, please,  
21 spare us all that inconvenience, respect the  
22 person that's speaking here whether you are  
23 interested in what they say, whether you agree

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2 with them or disagree with them, it's not the  
3 point, they deserve to be heard and please  
4 respect that right. Sam McGavern. Good morning.

5 SAM MAGAVERN, CO-DIRECTOR, PARTNERSHIP  
6 FOR THE PUBLIC GOOD: Good morning, thank you Mr.  
7 Chair and commissioners, my name is Sam McGavern  
8 and I'm a Buffalo resident. I co-direct the  
9 Partnership for the Public Good which unites 108  
10 community groups interested in good public policy  
11 for Buffalo, Niagara and New York State and I'm a  
12 member of Common Cause. Thank you for the  
13 opportunity to testify, I want to take the  
14 opportunity presented by this hearing to compare  
15 and contrast the LATFOR state legislature drafts  
16 with the Common Cause reform plan. We at PPG and  
17 Common Cause New York are pleased to see that the  
18 LATFOR Assembly draft for the Buffalo region does  
19 a generally good job of drawing compact districts  
20 based on communities of interest. But there is  
21 still room for improvement. As you can see on  
22 page six of this testimony, the LATFOR draft  
23 divides Buffalo between four districts and

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2 divides the small cities of Lackawanna and North  
3 Tonawanda in half. The Common Cause reform plan  
4 offers an alternative showing how almost all of  
5 Buffalo can be drawn into two districts and how  
6 all the small cities of the region can be kept  
7 whole. This can be done while keeping the plan  
8 very similar to the overall structure of the  
9 LATFOR draft. One district, Common Cause reform  
10 district 141 can occupy central Buffalo while the  
11 second, second district Common Cause reform  
12 district 145 can unite the demographically  
13 similar communities of north and south Buffalo.  
14 This district would also include Buffalo's entire  
15 water front and keep nearly all of the cities  
16 rapidly growing Hispanic community together in  
17 one district. In the State Senate, we believe  
18 that drawing three long narrow districts  
19 stretching from Buffalo to Rochester, districts  
20 59,61 and 62, poorly serves the communities of  
21 Western New York. Buffalo and Rochester are each  
22 the center of separate regional economies and  
23 districts should instead be oriented about each

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2 city. The Common Cause reform plan, as you can  
3 see on page three of this testimony, again offers  
4 a concrete alternative of how this could look.  
5 One district for central Buffalo and Tonawanda,  
6 one district for the northern suburbs, one  
7 district for the southern suburbs, one district  
8 for the north, northern rural areas and one  
9 district for the southern rural areas. There is  
10 also the issue of the proposed district 60 in the  
11 LATFOR plan. As you can see on page five of this  
12 testimony, this district looks as if were drawn  
13 to protect the incumbent Republican senator Mark  
14 Grisanti. The irony here is that Senator  
15 Grisanti is living proof that a strong candidate  
16 can win without the advantage of gerrymandering  
17 and can win in a district that may not look  
18 politically favorable on paper. But this task  
19 force, so accustomed to political gerrymandering  
20 that the decision was made to separate Senator  
21 Grisanti from his current constituents anyway.  
22 For Congress, we can't repeat often enough how  
23 shameful it is that the public will not have an

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2 opportunity to offer input on a congressional  
3 draft. The current congressional lines are the  
4 product of an intensely partisan back room  
5 political process and we fear that without the  
6 benefit of public testimony, the new draft will  
7 be just as bad. As you can see on pages seven  
8 and eight of this testimony, the current  
9 districts kidnap half of Buffalo's population  
10 into a district that stretches all the way to  
11 Rochester. Instead, separate congressional  
12 districts can be drawn for the Buffalo and  
13 Rochester metropolitan areas as shown in the  
14 Common Cause reform plan. We look forward to  
15 seeing how this task force responds to the many  
16 testimonies offered by the public during these  
17 last few weeks. Hopefully, substantive changes  
18 will be made and this series of hearings will not  
19 prove to have been simply a kabuki show. Thank  
20 you very much for the opportunity.

21 SENATOR NOZZOLIO: Very much. Frank  
22 Mesiah. Good morning.

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2 FRANK MESIAH, PRESIDENT, NAACP-BUFFALO:

3 Morning. My name is Frank Messiah, M-E-S-I-A-H,  
4 I'm president of the Buffalo branch NAACP. I  
5 being this, it says, mentions Republicans because  
6 this is how that, the story was first reported in  
7 the paper and it was, this redistricting plan was  
8 a Republican plan. And that's what went into my  
9 letter when I appealed to the governor, because  
10 what it indicated is that the, to me, the  
11 Republican in North and South Carolina and Texas  
12 that the partisan proposal submitted in, in, for  
13 Western New York is very similar to the  
14 strategies that are used in South Carolina, Texas  
15 and other places relative to the voter ID.  
16 Because in many of those southern areas, it  
17 appears their strategy is to ensure that they  
18 diffuse the black vote because primarily their  
19 motivation is to not see a black president  
20 reelected. The, the motivation in New York State  
21 is that African Americans will never have a  
22 chance of electing one of their own to the State  
23 Senate. The--on behalf of the Buffalo branch

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2 NAACP, we strongly object to the suggested  
3 partisan redistricting plan in this area because  
4 although the methods used in South Carolina,  
5 Texas and other places, those methods are  
6 different, the strategies being attempted to be  
7 employed here in Western New York are the same.  
8 The idea is to reduce the African American vote.  
9 Not to eliminate it. We know that we've  
10 progressed and it's no longer, we no longer have  
11 to have a poll tax. We no longer have to know  
12 how many bubbles in a bar of soap, but the idea  
13 now is to create a, a redistricting plan that  
14 separates the two African American communities  
15 the one in Niagara Falls and the one in Buffalo  
16 so that collectively they will not have enough  
17 voting power to elect one of their own. And as I  
18 said, the method maybe be different between those  
19 in the South and they want to have, you know,  
20 voter, picture ID and all that but the strategy  
21 here, what we see, is identical. It's not to  
22 eliminate the African American vote, but to  
23 reduce it in such a way that it has no effect in



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2 producing its own political outcome. And for  
3 that reason, that is why we object to the plan  
4 that was proposed that we saw in the paper where  
5 the African American communities of Buffalo and  
6 Niagara Falls were combined and oh, we can still  
7 vote, but we can't vote with having any power.  
8 They--we've learned over the years you no longer  
9 have to use the N word, etcetera in talking or-  
10 or wanting to express yourself, what you do is  
11 create a, a dialogue that appears neutral but has  
12 the effect of not permitting people of color to  
13 vote and use the strength of their voting power.  
14 With that I thank you for allowing me to be  
15 heard.

16 SENATOR NOZZOLIO: Thank you very much  
17 Mr. Messiah.

18 MR. MESIAH: Okay.

19 SENATOR NOZZOLIO: Do you support the  
20 connection of Buffalo and Niagara Falls for  
21 congressional redistricting?

22 MR. MESIAH: We haven't yet addressed  
23 that. We haven't seen anything on that, so we

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2 can't really, really make a statement because we  
3 haven't seen the full picture. What does it mean  
4 when you bring those together for the  
5 congressional district, we have not an  
6 opportunity to analyze that and I don't think I  
7 should respond to something we have not looked  
8 and analyzed.

9 SENATOR NOZZOLIO: I was just looking at  
10 the Common Cause maps and wondered if, I think  
11 they may--it's difficult to tell from the map  
12 whether they are severed in the congressional  
13 plan, I believe they are and--

14 MR. MESIAH: [interposing] Okay, but we  
15 don't--I'm not here to argue against or attack  
16 another organization, I'm here to express the  
17 point of the NAACP and that is we object to the  
18 consolidation or the, the separation of the  
19 Niagara Falls and Buffalo African American  
20 communities to de- to take away the collective  
21 power they would have, as they have had together.  
22 That's what I'm here. I'm not aware and we have  
23 not seen any of the figures or any of the, the

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2 diagrams for any that have been produced by any  
3 other organization.

4 SENATOR NOZZOLIO: Well, Mr. Mesiah, let  
5 me ask you this question: if the congressional  
6 plan, which now, as you know, the district lines  
7 for Congress have Buffalo with Niagara Falls, all  
8 the way to Rochester, would you, would you oppose  
9 the separation of Buffalo from Niagara Falls in a  
10 congressional plan?

11 MR. MESIAH: I don't know, I'd have to  
12 see what that picture looked like. I don't know,  
13 see we're dealing here with Buffalo and Niagara  
14 Falls, I don't know what happens when we bring in  
15 Rochester, I don't know which way those lines  
16 would go when, if you do take in Rochester, the  
17 direction they would go, where they take in  
18 Batavia. I don't know that, that's all--I would  
19 not want to answer not seeing and not having  
20 enough information.

21 SENATOR NOZZOLIO: Well, I guess the,  
22 I'm asking about concepts and that you made a, a  
23 recommendation for keeping Niagara Falls and

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2 Buffalo together in Senate lines but you're  
3 referring or demurring and not making the same  
4 recommendation, at this point, for the  
5 congressional lines.

6 MR. MESIAH: I haven't seen those lines.  
7 I haven't seen any of that. So, I would hate to  
8 shoot from the hip and then somebody come back in  
9 a week or two days and say hey, Frank, you said  
10 this, you said you would go for this. Well, I  
11 haven't seen any of what you're talking about, I  
12 haven't seen the lines being drawn. You know, I-  
13 -

14 SENATOR NOZZOLIO: [interposing] I  
15 wasn't asking.

16 MR. MESIAH: --hate, I hate the be boxed  
17 into a what if.

18 SENATOR NOZZOLIO: I see.

19 MR. MESIAH: You know, what if, what if.

20 SENATOR NOZZOLIO: You were so  
21 passionate, you were so passionate about keeping  
22 those two communities together for the Senate, I  
23 thought that you'd have the similar passion for

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2 keeping those two communities together for the  
3 congressional lines.

4 MR. MESIAH: No, what I'm, what I'm  
5 interested in not so much keep, but to maintain  
6 that the African American community has a voice,  
7 a strong voice. However it matters, reduce the  
8 numbers in Niagara County, you know, get rid of  
9 those numbers, take away, and, and that way we  
10 would have a stronger voice, you know, you  
11 wouldn't--there's all kind of options, but I  
12 don't want to commit something just because I'm  
13 talking about separating Buffalo and Niagara  
14 Falls, the African American communities, there  
15 are other options. Let's get rid of the white  
16 population in Niagara County, okay. That's an  
17 option. And that way, let's, we could, we could  
18 separate Buffalo and Niagara Falls but if we then  
19 get rid of the white population in the rest of  
20 Niagara County and into the northern part of the  
21 Niagara County so that we would have almost no,  
22 nobody white in those areas, then of course the

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2 African--you know, let's you want to, is that  
3 what you're suggesting?

4 SENATOR NOZZOLIO: Thank you very much.  
5 Thank you very much.

6 [crosstalk]

7 SENATOR NOZZOLIO: Let's have some  
8 order, please. The next witness is David Saleh.  
9 David Saleh, S-A-L-E-H. I apologize, I probably  
10 mispronounced your name.

11 DAVID J. SALEH, CHAIRMAN, TOWN OF  
12 PEMBROKE, REPUBLICAN COMMITTEE: That's very  
13 close actually, Saleh.

14 SENATOR NOZZOLIO: Welcome.

15 MR. SALEH: Welcome, thank you, ma'am,  
16 gentlemen. I'm here today to bring to the  
17 attention of this task force the substantial  
18 hardship the present Assembly redistricting plan  
19 will have on the residents of the town of  
20 Pembroke located in Genesee County, New York.  
21 I'm supplementing some of things that Mr. Siebert  
22 had said. Since this plan was announced, I have  
23 had numerous conversations with concerned

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2 residents and local leaders expressing their  
3 dissatisfaction with the proposal to separate  
4 Pembroke from the rest of Genesee County and the  
5 139<sup>th</sup> Assembly district and I hope to express  
6 those concerns for you today. By the way, I'm,  
7 I'm a practicing attorney, I am the chair of the  
8 Pembroke Republican committee. But again, this  
9 is a bipartisan effort, I have been practicing in  
10 Genesee County and Erie Counties for over 34  
11 years and I'm a, a resident of Western New York,  
12 originally from Buffalo and then from the Genesee  
13 County area after. By way of background,  
14 Pembroke is a small rural town located  
15 approximately five miles west of the city of  
16 Batavia in Genesee County. The town is very  
17 rural in character and has a small population of  
18 approximately 4,300 residents. Pembroke embraces  
19 most of the village of Corfu which has an  
20 approximate population of 700 plus. It should be  
21 noted that the village includes a portion of the  
22 neighboring town of Darien. Pembroke has been a  
23 part of the 139<sup>th</sup> Assembly district for many, many

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2 years, encompassing many generations of our  
3 residents. Our residents are very familiar with  
4 the 139ths current Assemblyman, Steven Hawley who  
5 has represented the district very ably over the  
6 past several years. Assemblyman Hawley is also  
7 intimately familiar with the issues confronting  
8 out town. In addition to our long-standing  
9 presence as part of the 139<sup>th</sup> Assembly district,  
10 the interests of our residents of Pembroke are  
11 inextricably intertwined with the interests of  
12 the residents of Genesee County and slicing  
13 Pembroke from the rest of the county will do  
14 serious damage to our residents' mutual  
15 interests. The residents of Pembroke share a  
16 school district, fire district, economic  
17 development and many other services with  
18 neighboring towns and other areas within Genesee  
19 County. Since these services necessarily involve  
20 residents of multiple municipalities within the  
21 county, it is critical that these neighboring  
22 small rural communities be permitted to speak  
23 with a unified voice when we address New York



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2 State government's involvement and impact upon  
3 our communities. As Pembroke does not share any  
4 of these services with our communities, with the  
5 communities in Erie County, it will do a great  
6 disservice to Pembroke and our neighboring towns  
7 in Genesee County to split Pembroke off from the  
8 139<sup>th</sup> as the sole town that would not be  
9 represented by that district within Genesee  
10 County. Further, the economic development  
11 efforts that link many of the communities within  
12 Genesee County necessarily involve development  
13 along the New York State Thruway. The  
14 coordinated efforts of the towns within Genesee  
15 County that encompass the thruway include  
16 development at and near the county's three  
17 thruway exits, that's 47, 48 and 48A. All three  
18 of the thruway exits in Genesee County have  
19 industrial and commercial parks in the near  
20 vicinity and development efforts are coordinated  
21 through Genesee County agencies. Without  
22 question, these coordinated efforts will be  
23 severely prejudiced by dividing Pembroke's

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2 Assembly representation from the rest of the  
3 county including these towns that border the  
4 thruway. In addition to the impact that the  
5 current redistricting plan will have on these,  
6 these development and other interests, the  
7 current plans, plan divides the village, the  
8 portion of the village of Corfu which lies within  
9 the town of Darien into a separate Assembly  
10 district. This division further impairs our  
11 community's efforts to coordinate the  
12 representation of our residents without valid  
13 justification. We ask this task force to  
14 recognize the fact that Pembroke and the rest of  
15 Genesee County are predominantly rural, small  
16 community. And we share very similar interests.  
17 Pembroke's loss of representation in the 139<sup>th</sup>  
18 will push the town into a more urban and suburban  
19 district where there will be frequent conflicts  
20 of interest that will effectively disenfranchise  
21 Pembroke's residents where urban and suburban  
22 interests will not line up with ours. I've  
23 attached to this statement resolutions passed by

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2 the Pembroke Town Board and the Corfu Village  
3 Board of Trustees opposing the present  
4 redistricting, redistricting plan. I do not  
5 intend to read those, you have them in front of  
6 you, for the sake of time, I'll let you review  
7 them separately. We are respectfully asking that  
8 this task force reconsider the present plan and  
9 make the minor adjustments necessary to shift the  
10 Pembroke small community into the Assembly  
11 district that is currently drawn to represent the  
12 entire rest of Genesee County. And thank you  
13 very much for your time.

14 SENATOR NOZZOLIO: Thank you for your  
15 testimony. The village straddles the town line?

16 MR. SALEH: Yes.

17 SENATOR NOZZOLIO: Is it, where's the  
18 other half of the village, is it in--

19 MR. SALEH: [interposing] I, I, not the  
20 half, I, the village of Corfu about 10 or 12  
21 years ago annexed a portion of the town into the  
22 village, town of Darien, some commercial  
23 property--

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2 SENATOR NOZZOLIO: --but it's, the other  
3 half is in Genesee County? That - - .

4 MR. SALEH: [interposing] The rest is  
5 all in Genesee County.

6 SENATOR NOZZOLIO: --county.

7 MR. SALEH: Yes, it's all in the town of  
8 Pembroke and - - .

9 SENATOR NOZZOLIO: So, you would be,  
10 you--putting the Pembroke back into Genesee  
11 County and you'd be uniting the village?

12 MR. SALEH: That's correct.

13 SENATOR NOZZOLIO: Yeah, on a  
14 technicality, villages are not recognized for  
15 redistricting purposes and it becomes a problem  
16 many times because small towns can't be split  
17 according to the constitution and many of those  
18 towns use a stream which, as a town line, which  
19 historically a little mill town will develop or a  
20 center, you know, farming services area and the  
21 villages wind up in two towns. But, in your  
22 case, you'd be calling for the reunification of  
23 village and county and the village--

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2 MR. SALEH: [interposing] Of the village  
3 in the same Assembly district--

4 SENATOR NOZZOLIO: --as well.

5 MR. SALEH: Yes, and it's also in  
6 addition to the bringing Pembroke back in with  
7 the rest of the county.

8 SENATOR NOZZOLIO: Yes, well, we'd also  
9 have to find 4,000 to, to go out on another end  
10 somewhere, so--

11 MR. SALEH: [interposing] Yes, and  
12 that's why we were looking at the Livingston  
13 County portion and there's also portions in Erie  
14 County where there could be some shifts, so.

15 SENATOR NOZZOLIO: Thank you.

16 MR. SALEH: Thank you very much.

17 SENATOR NOZZOLIO: Thank you very much.  
18 Councilman Richard Fontana. Councilman Fontana.

19 COUNCILMAN RICHARD FONTANA, BUFFALO CITY  
20 COUNCIL: Thank you. Just to be brief, the  
21 residents are speaking today and on behalf of the  
22 Common Council, just here today to speak  
23 regarding redistricting.

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2 SENATOR NOZZOLIO: Would you put the  
3 microphone closer to you, sir?

4 COUNCILMAN FONTANA: Yes. Sorry about  
5 that.

6 SENATOR NOZZOLIO: Thank you.

7 COUNCILMAN FONTANA: Thank you to all  
8 the residents that are coming today. I think  
9 today you see the residents of Erie County and  
10 Niagara Counties here today speaking on behalf of  
11 this redistricting process. I can only tell you  
12 that many people that call my office feel that  
13 the process is being drawn from more of the  
14 individual senator per se or the senators per se  
15 than for the residents and the communities of  
16 interest together. Residents would like to see  
17 these communities of interest stay together,  
18 Niagara County has always been a hotbed of  
19 concern because of the two Senators that would  
20 normally share Niagara Falls, but as far as Erie  
21 County goes, we just want to make sure that the  
22 city of Buffalo is treated fairly. That we have  
23 a district that represents the needs of the city

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2 of Buffalo and the needs of the residents of the  
3 city of Buffalo in the state capital.

4 Essentially, residents are fearful that this new  
5 district that's being drawn and the new one  
6 that's being added are expenses that really, you  
7 know, it costs money to add a Senate district, so  
8 that's the concerns that have been raised to my  
9 office. Residents have called the office on the  
10 extra district and also the new lines that are  
11 being drawn for the district that will now span  
12 the west side through into the southern parts of  
13 Erie County. That's what we're hearing. They  
14 also are concerned about the time frame, they'd  
15 like to see the districts drawn in a timeframe  
16 that's conducive to a democratic process for the  
17 elections, they wouldn't like to see this thing  
18 go beyond the fact of people being able to  
19 actually petition for office and run for office.  
20 And those are the concerns that were brought to  
21 my office.

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2 SENATOR NOZZOLIO: Thank you. Any  
3 questions of Councilman Fontana? Hearing none,  
4 thank you Councilman.

5 COUNCILMAN FONTANA: Thank you very  
6 much.

7 SENATOR NOZZOLIO: These are all add ons  
8 to the list. It's Thomas Gregory. Thomas  
9 Gregory.

10 THOMAS GREGORY: Morning, sir.

11 SENATOR NOZZOLIO: Good morning.

12 MR. GREGORY: I'd like to note that I  
13 presented a report to this committee yesterday in  
14 Rochester, New York and would like to just make a  
15 follow-up statement. First of all, it's really  
16 great to be here at Erie County. I haven't been  
17 here for a long time, but I'll say that I work  
18 for a lot of companies as a union iron worker who  
19 are located here. Frank Ernst was--had a company  
20 here, Buffalo Structural had a company here and  
21 Johnny Gast had a company up there in Grand  
22 Island and the truth is, when I look at Buffalo,  
23 New York and I look at Rochester, New York, I



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2 think our interests are a whole lot more tied  
3 than, than maybe we like to acknowledge or maybe  
4 that we even see. I know that we had a lot of  
5 union iron workers from Buffalo Local 6 who  
6 worked up in Rochester and I when we used to have  
7 the Bethlehem mills over here, I used to go down  
8 here and work for Cowper Corporation on shut  
9 downs. In other words, we're tied together  
10 economically. Now, you know, I heard the same  
11 comments that which brought me up here today, by  
12 leaders up in Rochester, New York yesterday who  
13 say well, you know, we've got to take care of our  
14 own communities. And some of them even cited  
15 Governor Cuomo's plan where Governor Cuomo has  
16 had economic regional thing. But, you know  
17 something, those arguments where we're competing  
18 in different regions, the Western region and the  
19 Finger Lakes region, actually makes great sense  
20 why we should have the type of districts that we  
21 have which are a little bit more regionalized,  
22 because while we're competing in one particular  
23 program, is our legislative representatives who

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2 basically keep our whole community and I mean  
3 Erie County and Genesee County and all the  
4 counties in between and Monroe County, all  
5 connected together. And I think that's really  
6 important. You know, I've heard, I'm, I'm really  
7 involved in a lot of politics up in Monroe  
8 County. I love politics. I'll tell you right  
9 now, I've been doing this for a long time. And  
10 when I think about the initiatives that we're  
11 trying to bring forth up in Monroe County and  
12 some of the things that the community of color in  
13 particular would like to see in Rochester, and  
14 I'm talking about the idea of failing schools in  
15 the urban communities and the idea of creating  
16 more regionalized school districts, and I think  
17 you know something? If I built a Senatorial or  
18 Assembly district around my urban center, then  
19 it's going to be we against they, just like we've  
20 heard. Erie County against Buffalo or, or  
21 against Monroe County. But if I have  
22 regionalized representation, if I have a  
23 representative who's reaching from the urban

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2 community out into the suburbs too and across  
3 even to Genesee County and all the way here to  
4 Buffalo, New York, by gosh, I've got at least one  
5 voice who doesn't see it from a myopic view of we  
6 versus they, but actually is going to represent  
7 all of us. And all of us want the best for the  
8 state of New York. All of us want best for Erie  
9 County and all the counties in between. And I  
10 just want to say thank you very much, I love this  
11 beautiful, beautiful city hall. I've never been  
12 here before, by gosh, it really a great place to  
13 be. Thank you very much and I thank you for the  
14 time.

15 SENATOR NOZZOLIO: Thank you, Mr.

16 Gregory, thank you very much.

17 MR. GREGORY: And someone left--

18 SENATOR NOZZOLIO: [interposing] Thank  
19 you. Janet Massaro. Janet Massaro. Is that,  
20 whose is this here? Oh, it's yours.

21 JANET MASSARO: Good morning, gentleman.

22 SENATOR NOZZOLIO: Excuse me just one  
23 second.

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2 MS. MASSARO: No problem.

3 SENATOR NOZZOLIO: I know you have,  
4 citizen, feel free. We have, we have 18 more  
5 scheduled. So, - - apologize for the  
6 interruption, thank you very much.

7 MS. MASSARO: No problem. I can still  
8 say good morning and welcome to Buffalo, we're so  
9 happy to have you here, my name is Janet Massaro,  
10 I live in the city of Buffalo, county of Erie. I  
11 am sure you will all be relieved of the close of  
12 this chapter of redistricting 2012 at the end of  
13 today's hearing, it's been a long process. Thank  
14 you for listening to New Yorkers express their  
15 different views as to how the lines should be  
16 drawn. It is my hope that the final outcome will  
17 produce lines that are fair, respectful of our  
18 diverse communities and as free from political  
19 influence as possible. I would like to address a  
20 few issues of concern to me as a resident of  
21 Western New York. We know that Western New York  
22 has lost considerable population since the last  
23 census and that significant adjustments to our

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2 districts on a state and national level will be  
3 required. Our state and congressional districts  
4 must become geographically larger and include  
5 more people, especially since the state will also  
6 lose two congressional seats. Problems continue  
7 to plague the present redistricting process.

8 Redistricting is governed by certain federal,  
9 state and local criteria which sometimes overlap  
10 or conflict with one another. LATFOR could have  
11 established a hierarchy of criteria that it would  
12 use to judge boundary lines and could have  
13 explained how they would chose among the criteria  
14 in drawing the lines as they have. I could find  
15 no narrative or justification on the LATFOR site.  
16 Although chairpersons have frequently cited one  
17 or another of the criteria when addressing some  
18 of the speakers yet these comments, comments have  
19 not always been consistent or helpful. I am  
20 presently in district, Senate district 60. My  
21 district contains the cities of Niagara Falls and  
22 Buffalo. Both of these cities are the urban core  
23 of Western New York and they share many

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2 characteristics, both cities have large minority  
3 populations and greater levels of poverty than  
4 the more prosperous suburbs that surround them.  
5 In both, there is less home ownership, more  
6 dependence on public transportation, less well  
7 educated individuals and fewer white collar  
8 professions. There is every reason to keep these  
9 areas in the same district so that together they  
10 have a more united and stronger voice in Albany.  
11 district 60 as proposed by LATFOR destroys these  
12 significant communities of interest that I have  
13 described. The city of Niagara Falls has been  
14 removed. District 60 is now confined to Erie  
15 County. It embraces all of Grand Island, the  
16 city and town of Tonawanda, the more prosperous  
17 white areas of North Buffalo. It then snakes  
18 down the outermost rim of Buffalo along an  
19 industrial waterfront corridor no more than a few  
20 yards wide, picks up the town of Orchard Park,  
21 one of Erie County's more affluent communities,  
22 continues on south encompassing Hamburg, Evans  
23 and ending in rural Brant. I argue that by

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2 reconfiguring district 60, LATFOR has failed to  
3 recognize distinct minority communities in  
4 Western New York and has essentially eliminated  
5 the opportunity for minority populations to elect  
6 a senator of their choice. I am therefore, I am  
7 sure LATFOR commissioners will respond that its  
8 decision reflects the criteria of keeping  
9 municipal boundaries in this respect, counties  
10 intact. Senator Maziarz has wholeheartedly  
11 endorsed the LATFOR proposal and is happy to give  
12 up his small portion of Monroe County. I am sure  
13 Senator Grisanti shares his, this enthusiasm as  
14 well, looking at his new district of mainly white  
15 Erie County voters. Yet I found there is little  
16 connection between the city of Niagara Falls and  
17 the small, small rural towns, villages and farms  
18 that make up most of Niagara County. I would  
19 argue that Niagara Falls and Buffalo belong in  
20 the same district as they currently are. I have  
21 looked at maps produced by Common Cause and I  
22 find them more satisfactory even though suburban  
23 and rural areas with small populations cover more

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2 than one county. I recommend that the Common  
3 Cause Senate district maps for Western New York  
4 be accepted as a better alternative to those  
5 proposed by LATFOR, Senate district 63. I have  
6 not read the New York State constitution with  
7 regard to the perplexing formula used to decide  
8 how many Senate districts there should be, but  
9 should the new proposed 63<sup>rd</sup> survive a court  
10 challenge, then I think the population figures  
11 dictate that the district should be drawn not in  
12 Albany, but in New York City where Senate  
13 districts are routinely overpopulated. Using the  
14 one person, one vote principle, each Senate  
15 district using now the new 63 number should have  
16 a population of 307,588 people. We know that the  
17 Senate or Assembly districts are consistently  
18 adjusted to favor political party in power in  
19 each house. For this reason, in upstate New York  
20 Senate districts are consistently under-  
21 populated. I think I have handed in my statement  
22 and perhaps you have it before you, because I  
23 listed down the districts one by one in Western



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2 New York. Anyway, district 60 population has  
3 292,000 plus--

4 MS. LEVINE: [interposing] Ms. Massaro,  
5 please summarize.

6 MS. MASSARO: --the deviation is a -  
7 14,508, district 61 population again 292,000  
8 plus. The ideal deviation--a deviation from the  
9 ideal, excuse me, is -15,000. District 62  
10 population 292,000, deviation from the ideal is -  
11 15,190. And so on to district 63. To approach  
12 the ideal number, each of Western New York's  
13 Senate districts should have larger populations.  
14 I'm sorry?

15 MS. LEVINE: Summarize your statement,  
16 please.

17 MS. MASSARO: Sorry. LATFOR will argue  
18 that the one person, one person principle applies  
19 most rigorously to congressional districts and  
20 that state legislative districts have a greater  
21 leeway in meeting this criteria. This is  
22 certainly true. However, it is possible to  
23 easily reduce the disparity between over and

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2 under populated Senate districts. Common Cause  
3 maps have done so without sacrificing communities  
4 of interest. My district, number 60, on the  
5 Common Cause map has a deviation of only 4,745  
6 people. Once more, the Common Cause map is my  
7 choice for Western New York district boundaries.  
8 Congressional districting is particularly  
9 important to Western New York because, again, we  
10 have lost population since the next sentence--  
11 census. LATFOR, as far as I know, has not yet  
12 released the--those congressional districts and  
13 the election calendar is growing shorter. The  
14 University of Buffalo law students who won 1<sup>st</sup>  
15 place in the citizen mapping competition for  
16 their congressional district maps released their  
17 maps, including, including a thorough narrative  
18 in December, 2011. Common Cause also released  
19 their maps in December. I attended the first  
20 round of the LATFOR hearings in Buffalo last  
21 August. One of the first speakers lamented that  
22 because Erie County had failed to come to an  
23 agreement, a federal judge had drawn the county

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2 maps and since there was not time for gathering  
3 nominating petitions, had also ruled that the  
4 political parties would chose the candidates. I  
5 remember that you all expressed great dismay that  
6 the democratic process had been so thwarted.  
7 However, remarkable to me was that the person who  
8 spoke had been a member of a redistricting  
9 commission appointed by the Erie County  
10 legislature. And that he, along with his  
11 colleagues, was instrumental for the delay and  
12 responsible for the outcome that he was  
13 lamenting. Federal judge William Stretney, in  
14 his decision to draw Erie County district lines  
15 and forego the petition process wrote, and I  
16 quote, "The loss of primary opportunities which  
17 Erie County contends will favor incumbents and  
18 political parties over challengers have occurred  
19 due to the county government's own inaction and  
20 those responsible have only themselves to blame  
21 for any resulting disservice to the residents of  
22 Erie County." It appears that LATFOR is now in a  
23 similar situation with redoing congressional

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2 lines. An article in the "New York Times" from  
3 February 13<sup>th</sup> reported that because of the  
4 current, current state of inaction in redrawing  
5 New York political map, federal judge Dora  
6 Irazarry has recommended that the state's  
7 redistricting process be turned over to a court  
8 appointed special master. Noteworthy here is  
9 that--is the additional statement that New York  
10 State has failed to draw congressional lines in  
11 2002 and in 1992. Surely this failure over two  
12 and now possibly three redistricting cycles in an  
13 indictment of New York state government and the  
14 current redistricting process and I think it is a  
15 terrible embarrassment and disservice to the all  
16 the people of New York. Quite a few years ago,  
17 one, one New York legislative district might,  
18 excuse me, reform of the redistricting process is  
19 essential and it has been ongoing. Quite a few  
20 years ago, one New York legislative district  
21 might have had a population of 5,000 people,  
22 another might have had a population right next to  
23 it, a population of 100,000 people. A US Supreme

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2 Court decision changed all of that when it  
3 declared that every person's vote must be equal  
4 and districts must complain, contain essentially  
5 the same number of people. Some years ago,  
6 minority voters were routinely disenfranchised  
7 and one tool used was outrageously gerrymandered  
8 districts. The Voting Rights Act changed and  
9 many of these abuses have been eliminated,  
10 although we continue to struggle with that  
11 legislation. I have listened to and read some of  
12 the testimony from different LATFOR hearings and  
13 do not doubt that redistricting reform is  
14 difficult and it's messy. There are no perfect  
15 maps but there are good maps and there are not so  
16 good maps. I support an independent  
17 redistricting commission. The goal of an  
18 independent redistricting commission is to create  
19 a firewall between those who draw the lines and  
20 elected officials and party leaders thereby  
21 giving mapmakers, mapmakers the independence they  
22 need to draw more fair and equitable boundaries.  
23 An independent commission may give challengers a

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2 greater chance to be elected, shake up the  
3 political culture in Albany and possibly improve  
4 voter turn out. We are at a crucial point in the  
5 redistricting process for this decade. The  
6 extent to which LATFOR adjusts their proposed  
7 maps and draws good maps will determine how the  
8 governor will respond. I would ask that you  
9 incorporate the recommendations of civic and good  
10 government groups when making your decisions. An  
11 amendment to New York state's constitution  
12 reforming the redistricting process has passed  
13 only in the Senate. I am not aware, Mr. McEneny,  
14 whether or not an amendment has been introduced  
15 or passed in the House, in the Assembly, excuse  
16 me. Models for--it must be passed by both  
17 legislative chambers if future reform is to  
18 occur. Models for reforming the redistricting  
19 process have been introduced by the governor and  
20 by legislators in both Assembly and the Senate.  
21 These are good places to start, but we must start  
22 without further delay. There is much left--work  
23 left to be done but I'm sure we can do it. Thank

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2 you so much for giving me the opportunity to  
3 speak a little bit longer than five minutes.

4 Thank you.

5 SENATOR NOZZOLIO: Carol, thank you  
6 very, very much. Assemblyman McEneny and I  
7 agreed to give you a waiver from the five minute  
8 rule because you came to our first Buffalo  
9 hearing and we appreciate you being there. In  
10 the future, we have about 20 speakers that have  
11 signed up. All have signed up today, so I hate  
12 to have anyone at the end of the line sign up,  
13 have to leave because we didn't obey the five  
14 minute rule. If you have any written testimony,  
15 please present that to the desk, we will make  
16 sure that the entire written testimony becomes  
17 part of the record and please summarize what you  
18 are submitting so that we can make sure that  
19 every speaker has the opportunity here to speak  
20 today. Michael Halberstram.

21 MICHAEL HALBERSTAM, ASSOCIATE PROFESSOR,  
22 SUNY LAW SCHOOL AT BUFFALO: Good morning, my  
23 name is Michael Halberstram, I'm an associate

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2 professor at the University of Buffalo Law  
3 School. Of course, I, I teach election law and  
4 I'm also a member of the New York State Bar.  
5 I'm, of course, not here to represent the views  
6 of the law school or any public institution.  
7 Thank you so much for giving me the opportunity  
8 to testify. I'd like to--

9 SENATOR NOZZOLIO: [interposing]

10 Professor, pull that microphone right close to  
11 you, yes.

12 MR. HALBERSTRAM: --sorry. Okay. I'd  
13 like to make a couple of specific observations  
14 and some general observations. First, I'd like  
15 to speak to some of the discussions that have  
16 gone on before with regard to the process. The  
17 problem with the process is there, that there's a  
18 conflict of interest on the part of the  
19 legislators who are doing the redistricting.  
20 This kind of conflict would not be tolerated in  
21 other professional situations. For example, on  
22 corporate boards, corporate boards are not  
23 permitted to pass conflict of interest



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2 transactions without having them ratified by the  
3 shareholders. Conflict of interest transactions  
4 are not permitted for attorneys, they're not  
5 permitted for all sorts of people without further  
6 process corrections or safeguards. Now this is  
7 not personal and, in fact, my, my remarks are  
8 critical of both parties. Previously, offense  
9 was taken by the use of the word manipulation  
10 when it came to discussing the redrawing of  
11 districts. And I personally took offense at the  
12 offense taken, the problem--the charge is  
13 inevitable and I appreciate the difficulty that  
14 all of the gentlemen and ladies on the committee  
15 are and of all the legislators. The problem is  
16 inevitable, there's a conflict of interest and  
17 the burden has to be on LATFOR and on the  
18 legislature to explain itself and explain why it  
19 made the decisions that it did. Unfortunately,  
20 LATFOR has provided no specific explanation of  
21 why specific lines were drawn where they were  
22 drawn, none, except for providing online some  
23 different graphics. Common Cause's maps, which I

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2 don't necessarily endorse, I have not done the  
3 full analysis, Common Cause's maps gives, for  
4 each district drawn, a separate explanation why  
5 those districts were drawn the way they are.  
6 Now, often it's said that I'm also not advocating  
7 for any particular independent redistricting  
8 commission. But I am saying that there is a  
9 profound conflict of interest here. It calls  
10 into question the legitimacy of the constitution  
11 of the legislature at a time when distrust is  
12 particularly high of our governing institutions.  
13 And it puts you all in an impossible situation  
14 every ten years. There's no doubt about that.  
15 When we talk about conflict of interest  
16 situations in corporate, for corporate boards,  
17 the burden is on the corporation to justify its  
18 decision in detail and to describe why it's fair.  
19 As I said, LATFOR has not provided any  
20 explanation for why it has drawn the lines where  
21 it has and, and it has not even provided the  
22 congressional maps, making it impossible, for  
23 example, for the gentleman from the NAACP who

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2       rightly refused to a question about a  
3       hypothetical question, it makes impossible for  
4       him to represent his constituency here. And you,  
5       in fact, wanted him to represent his constituency  
6       and wanted to get some information. There's no  
7       basis for a conversation. So, unconstitutional  
8       manipulation, now an unconstitutional motive is  
9       identified in other contexts such as employment  
10      discrimination or race discrimination under the  
11      Arlington Heights standard and other, under  
12      McDonnell Douglas standard as you know, by first  
13      seeing whether there's a discriminatory action or  
14      a disparate impact and then you ask, well, was  
15      there discriminatory purpose. And how do you  
16      answer that? Well, you answer that roughly  
17      speaking without going details, you see whether  
18      there was a reasonable explanation offered for  
19      the action and the disparate impact and if there  
20      is no other reasonable explanation for the  
21      outcome, but for example race or age  
22      discrimination and the proffered explanations are  
23      pre-textual and the burden has not been satisfied

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2 by those people who have acted, if they have not  
3 satisfied their burden, that is in this case you  
4 and the Legislature, to show that there's no  
5 unconstitutional purpose, then the  
6 unconstitutional purpose is established.

7 MS. LEVINE: Sir, you need to summarize,  
8 please.

9 MR. HALBERSTRAM: Good. So, there's no  
10 other reasonable explanation for the outcome of  
11 the Senate map but politics and that necessarily  
12 implicates race. So, specifically, and the  
13 problem here is not that its politics, but that  
14 it is bipartisanship. That there is a bipartisan  
15 gerrymandering going on, the gentleman for the  
16 house is a Democrat representing the Assembly  
17 map, which is Democratic and has been. The  
18 gentleman from the Senate is a Republican as I  
19 understand, am I correct and is representing the  
20 Senate Republican map. The problem here is not  
21 that this is politics, the problem is that it's  
22 bipartisan, it's a bipartisan gerrymandering. A  
23 partisan gerrymander might be okay. You can

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2 argue about that, but you cannot argue about a  
3 bipartisan gerrymander. So specifically, with  
4 regard to the map and that is shameful for  
5 everyone involved in the process. Now, the  
6 problem with specifically the Senate map is, of  
7 course, that the creation of the 63<sup>rd</sup> Senate  
8 district in Albany County creates it in a white  
9 neighborhood. The white population, however, has  
10 decreased totally in this state and I have the  
11 numbers but you know the numbers. The African  
12 American population has not increased or  
13 decreased, but remained the same. The Asian and  
14 Hispanic, Hispanic populations have increased  
15 substantially. But the extra district was drawn  
16 in Albany in a white neighborhood. Secondly, the  
17 only explanation for the lines of Senator  
18 Grisanti's district are political. I like  
19 Senator Grisanti, I think he's a great guy and I  
20 may vote for him regardless. I am in his  
21 district. Either way, I believe.

22 MS. LEVINE: Professor, you really need  
23 to summarize.

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2 MR. HALBERSTRAM: Yup. Okay.

3 MS. LEVINE: Please. Do you have  
4 written testimony?

5 MR. HALBERSTRAM: I will submit it.

6 MS. LEVINE: Good.

7 MR. HALBERSTRAM: So, in other words,  
8 you're not interested in me continuing?

9 MS. LEVINE: We're very interested, of  
10 course, that's why we ask for--

11 MR. HALBERSTRAM: [interposing] I have  
12 extra time.

13 MS. LEVINE: --testimony.

14 MR. HALBERSTRAM: Okay, I can stay long,  
15 but thank you very much, thank you very much for  
16 giving me this opportunity. I believe that the  
17 process has to be changed.

18 SENATOR NOZZOLIO: I have some  
19 questions.

20 MR. HALBERSTRAM: Sir?

21 SENATOR NOZZOLIO: Professor, what, what  
22 area of law do you teach?

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2 MR. HALBERSTRAM: I teach political  
3 process regulation including election law, but  
4 also corporate law and civil procedure.

5 SENATOR NOZZOLIO: Did--you raised a  
6 number of issues that certainly are thought  
7 provoking. That the, the question of a conflict  
8 of interest, the question of votes, I first want  
9 to correct your characterization of I made the  
10 statement based on prior statement that alleged  
11 the, the state constitution was manipulated. I  
12 asked for clarification of that charge and I  
13 heard none. It was a question of the  
14 constitution manipulation that I was trying to  
15 address. Are you familiar with the state  
16 constitution?

17 MR. HALBERSTRAM: Somewhat, I'm not a  
18 specialist in the New York state constitution.

19 SENATOR NOZZOLIO: We all took an oath  
20 to defend the constitution of the state of New  
21 York as well as the federal constitution and in  
22 the New York state constitution, it requires this  
23 process to be done by the Legislature.

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2 MR. HALBERSTRAM: Oh, absolutely.

3 SENATOR NOZZOLIO: Now--

4 MR. HALBERSTRAM: [interposing] No  
5 question.

6 SENATOR NOZZOLIO: --the constitution as  
7 the voice--the document of the voice of the  
8 people have said this is what we expect and what  
9 we want.

10 MR. HALBERSTRAM: No question.

11 SENATOR NOZZOLIO: That is not our  
12 choice, it's the constitution's choice. So, I  
13 think that certainly you raise a, a question of  
14 conflict and it's--you're not the first person to  
15 do so and, of course, I think at every hearing  
16 we've heard that question. But you asked where  
17 the, where the, the standard is and where that  
18 process begins and it begins, really, in the  
19 state constitution. It ends in the state  
20 constitution, it says the Legislature is the only  
21 enterprise that can do this process. Now, people  
22 can disagree with that and they're certainly  
23 welcome to change the constitution of the state



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2 of New York, that's what is about our government  
3 and the beauty of it and it's very fluid. My  
4 question; would it be a conflict for the Senate  
5 and the Assembly to draw the congressional lines  
6 under your--

7 MR. HALBERSTRAM: [interposing] Not as  
8 much, not as much.

9 SENATOR NOZZOLIO: --not as much.

10 MR. HALBERSTRAM: Not as much, no. It  
11 would not, in fact, be the same kind of conflict.  
12 I fully--so I would actually, probably have no  
13 objection to the state Legislature drawing the  
14 congressional lines.

15 SENATOR NOZZOLIO: It's, it's an  
16 interesting topic that my good friend and I  
17 discussed today--

18 MR. HALBERSTRAM: [interposing] In fact,  
19 in California, as you know, there were two  
20 propositions, California adopted an independent  
21 redistricting commission for this round and there  
22 were separate propositions for redistricting the  
23 state legislature by commission, independent

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2 commission and the congressional, the  
3 congressional, drawing the congressional  
4 redistricting map. So, clearly other people have  
5 also felt that this, these are separate issues  
6 although they might appear to have to be  
7 regulated in the same way. May I respond?

8 SENATOR NOZZOLIO: Oh, I--

9 MR. HALBERSTRAM: [interposing] May I  
10 respond to your other comment about the  
11 manipulation of the constitution.

12 SENATOR NOZZOLIO: That was a charge  
13 made, that's what, just want to clarify, that was  
14 a charge that somebody else made.

15 MR. HALBERSTRAM: --the charge, yes, and  
16 I don't, I don't mean to make this personal  
17 because none of this is really personal, it is  
18 about the institutional situation. Indeed, I  
19 think it is fair to say and not an overstatement  
20 that the provision in the constitution has been  
21 used, the LATFOR has the discretion, you  
22 characterized, let me, let me finish. You, you

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2 said LATFOR is required to draw that extra 63<sup>rd</sup>  
3 district in the way it has done.

4 SENATOR NOZZOLIO: No, I didn't say  
5 that.

6 MR. HALBERSTRAM: That is not correct.  
7 It is not accurate. LATFOR, the, the only  
8 explanation that I have heard anywhere and no one  
9 has given a different explanation, is that the  
10 63<sup>rd</sup> district has been drawn to preserve the  
11 Republican political majority in the Senate. And  
12 that it is likely that had that district not been  
13 drawn, had a, had a new majority minority  
14 district, Hispanic or African American, been  
15 drawn in New York, on Long Island, instead of in  
16 Albany, and had Mr. Grisanti's district not been  
17 shored up, it is very likely that the Senate  
18 would have gone Republican. Now that's not a  
19 political interest--

20 SENATOR NOZZOLIO: [interposing]  
21 Professor, that's not the issue. The issue, with  
22 all due respect, the issue is whether the charge  
23 said that the constitution was manipulated to

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2 increase the number of the Senate. The response  
3 was that the formula drives this process. It's  
4 in the constitution. There was never a  
5 discussion I made, or anyone in this panel made,  
6 about where this, the ultimate district is  
7 placed. The question is whether the--the  
8 question at hand was whether or not there should  
9 be a district as dictated--an additional district  
10 added to the Senate numbers based on the formula  
11 in the constitution. That's the issue at hand--

12 MR. HALBERSTRAM: May I?

13 SENATOR NOZZOLIO: --you can, you can  
14 extrapolate all you want, frankly I don't really  
15 have a question for you to extrapolate on.  
16 You've already made your point two or three  
17 times. And it's been made by others. The fact  
18 is I, I believe the charge of manipulation was,  
19 was relative to the creation of the seat on the  
20 first place. And at that, I believe would be in--  
21 --and the counsel's believe that an advised on  
22 this issue provided advice on this issue is that  
23 a plan would be jeopardized if it did, if it did

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2 not have this placement. That--I've been  
3 reminded I've gone over the five minute rule, but  
4 you know what, I'm a chairman and I don't have a  
5 five minute rule. So, I appreciate you and I can  
6 continue this discussion at some other time, I  
7 appreciate very much your input and thank you  
8 very much for your present, presentation today.  
9 Any other questions, members of the panel?

10 Hearing none, thank you very much, professor.

11 Laura Williams. Laura Williams, Laura, I'm sorry  
12 L-O-R-A Williams. L-O-R-A Williams.

13 MS. LEVINE: She left.

14 SENATOR NOZZOLIO: She left.

15 MS. LEVINE: We have your name, okay - -  
16 came up from the - - .

17 SENATOR NOZZOLIO: Alvin Thomas. Good  
18 afternoon, Mr. Thomas.

19 ALVIN THOMAS: Good afternoon, I guess  
20 it is now. You know, I know there's a, a problem  
21 here. See, you're not from here, but all these  
22 folks here, we've been through this twice  
23 already, okay. Where we sit here and we talk and

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2 tell you what the people want and then you still  
3 go do what you want to do. Okay. You keep  
4 getting stuck on the word manipulation. Let's  
5 stick with the world self-interest 'cause that's  
6 what this whole thing is about. Just self-  
7 interest, okay, I mean, we're talking about  
8 taking from 35 to 5 percent of the black  
9 population out of the 60<sup>th</sup> district and, and  
10 basically from a man who, I don't understand how  
11 he won in the first place, but that's the last,  
12 after last week's comment and I use this word  
13 because that's what he used, last week's comment  
14 of nigger. Okay. I need him to come for--I need  
15 him to come down here and I need him to explain  
16 to all these folks how he--no, I'm not going to  
17 say the N word because I'm not soft enough,  
18 because he didn't call a security guard the N  
19 word, he called him a nigger. And I need the,  
20 the this conflict of interest that you keep  
21 talking about, there's no conflict of interest.  
22 It's self-interest. It's all about what's going  
23 to work best for the people that are in office,

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2 okay. We watch, we watch two other bodies of  
3 government pick and chose how they were going to  
4 lay their district out, not to help me, not to  
5 enfranchise most of people you see here, not to  
6 stall, but basically just to get what they want.  
7 You talking about taking--you talking about all  
8 these, all these black folks will be  
9 disenfranchised if you let this man who we know  
10 is not a nigger lover, let this man come in and,  
11 and just chop out, like, what over 100,000 votes  
12 that may not vote for him? Didn't he win the  
13 first time, what's he scared of? Keep it real,  
14 okay, I'm not, I'm not a lawyer, I'm not a  
15 doctor, I'm not a, a, I don't work at any school,  
16 I'm not going to sit here and use big words, I'm  
17 just going to sit here and tell you that we've  
18 been through this before and, and I don't have to  
19 step in something for you to tell me how it  
20 smells. I don't have to step in something for  
21 you to tell me how it smells. I don't have and  
22 have you take a man like Fred Mesiah and talk to  
23 him about issues that are not on the table when

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2 just 15 minutes before that you gave you own  
3 soliloquy about how you don't discuss and you  
4 didn't sign on because you didn't see the bill.  
5 You did the same thing and then you turn around  
6 and ask him to do it. These people are not  
7 stupid, we've been here before, not too long ago.  
8 We've been here, we watched one district here go  
9 from one side of town across natural boundaries  
10 go all the way around the water, come back up  
11 just to keep one elected official in office.  
12 We've been here before. Okay, and if you serious  
13 about doing what you say, if you're serious about  
14 helping us out, then include us in the district  
15 where we can have some representation because I  
16 know you'll--I'll never see you again. Thanks  
17 for letting me talk. No questions?

18 SENATOR NOZZOLIO: Chris Barbera, Chris  
19 Barbera.

20 CHRIS BARBERA: So, it's my  
21 understanding that the political, economic and  
22 social order is maintained and preserved,  
23 perpetuated primarily by fear. And that fear is



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2 the root of power and so when a mind that is  
3 poisoned by fear makes laws, then it's inevitable  
4 that racism and poverty and war and environmental  
5 destruction will just be inevitable. So, my  
6 specific proposal to you is this: de-occupy the  
7 fear from your mind. Now, secondly you can see  
8 how this whole structure is set up that the  
9 majority of people are out here and we are giving  
10 obedience to the few powers here. This is the,  
11 the democratic, this is the empire system and  
12 it's not democratic. This is not consensus  
13 democracy, this is whatever word you want to use,  
14 but you can see how the power is all focused to  
15 one individual here and then transferred to the  
16 individuals there, completely undemocratic,  
17 against the laws of physics against the law of  
18 spirit.

19 SENATOR NOZZOLIO: Valerie Neederhoffen.

20 Valerie Neederhoffen. She left, thank you, sir.

21 John Davis. John Davis. Shirley Hamilton. Good  
22 afternoon.

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2 SHIRLEY HAMILTON, NAACP-NIAGARA FALLS:

3 Good morning, oh, good afternoon, I started it  
4 was in the morning. My name is Shirley Hamilton.  
5 I reside at the 1155 Ontario Avenue in Niagara  
6 Falls, New York 14305 and I am president of the  
7 NAACP, Niagara Falls branch. I'm here to speak  
8 against the proposed redistricting maps for  
9 Niagara Falls. Section 2 of the Voting Rights  
10 Act of 1965 prohibits voting practices or  
11 procedures that discriminate on the basis of  
12 race, color or membership in one language  
13 minority groups identified as section 4F2 of the  
14 Act. In 1909, the National Association for the  
15 Advancement of Colored People, the NAACP was  
16 created with the mission to promote blacks civil  
17 rights including to secure them from impartial  
18 suffrage. Southern legislators quickly devised  
19 alternative ways to keep Southern blacks  
20 disenfranchised through the early 1960s. We're  
21 not going backwards to the days of taxation  
22 without representation, because we all know, we  
23 all know that the war of 1775 was fought then,

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2 not today in 2012. It seems as though you're  
3 taking a page from the playbook of the South by  
4 trying to disenfranchise African Americans here  
5 in the North in New York State. Our right to  
6 participate in the electoral process are being  
7 unlawfully denied or abridged by the New York  
8 State legislators when they came out with this  
9 redistricting map that separates the African  
10 American voting block of Buffalo and Niagara  
11 Falls. This plan dilutes minority voting  
12 strength such that the political processes  
13 leading to nomination or election in Niagara  
14 County and in parts of Erie County, that are not  
15 equally open to participation by minorities. As  
16 such, it violates the Voting Rights Act of 1965.  
17 This plan would result in African Americans  
18 having less opportunity than, than others of the  
19 electorate to participate in the electoral  
20 process and elect representatives of our choice.  
21 And please don't think we're naïve enough to  
22 think that this was not a conscious effort to  
23 limit our voting strength or the strength of

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2 people of color, to increase electoral  
3 opportunities of white voters, don't think that  
4 we're naïve enough to think that things have  
5 changed and in 2012 we are--would not be  
6 affected, don't think that we are naïve enough to  
7 think that this plan was not devised so that our  
8 community would not make up a significant portion  
9 of the proposed official constituency so that  
10 these elected officials would be left with or no  
11 incentive to respond to our needs. They rarely  
12 respond now and we usually only see them around  
13 election time, yet it seems as though we get  
14 treated with little respect and so much disdain.  
15 We have the same needs as everyone else. We want  
16 our taxes lowered, we want living wage jobs for  
17 our children and our families, our members. We  
18 want decent affordable housing, we want  
19 healthcare, we want an educational system that  
20 works for all of the people, not just some, some  
21 of the time. But the top 1 percent of this  
22 state, nation that continuously believes that the  
23 top down approach works and we'll just be

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2 grateful to accept the crumbs off the table where  
3 all the decisions are made, they usually most  
4 always disproportionately affect the working  
5 class, the middle class, the lower class and the  
6 impoverished class people of society. Enough is  
7 enough. We are tired of being lumped into a  
8 category of the have nots, because are not at the  
9 table to demand our rights as American citizens.  
10 We have the right to have our voices heard in New  
11 York State Senate. The gerrymandering that has  
12 been done to protect the status quo is shameful  
13 and we wonder why nothing seems to change for the  
14 better quality of all residents in this so called  
15 Empire State. Please allow me to give you a  
16 current day example of what the proposed plan  
17 looks like using the legislative districts in  
18 Niagara County. Niagara County, County until  
19 recently had 19 county legislators. There was  
20 only one, only one legislator the represented the  
21 African American community, there has never been  
22 more than one. I repeat there has never been  
23 more than one. And the only reason, the only

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2 reason we had that one representative was because  
3 a group of ordinary citizens sued to--with the  
4 help of the National Chapter of the NAACP to  
5 create this district under Section 2 of the  
6 Voting Rights Act to ensure that our voices did  
7 not remain silent. To make sure that we, the  
8 people, had a chance to elect representation that  
9 would address our constituencies as well as  
10 represent the people of Niagara County. And that  
11 representative was one of the best legislators  
12 that Niagara County has ever had, implementing  
13 landmark legislation that our community as well  
14 as our county needed. What if those citizens did  
15 not sue? What if those citizens did not take a  
16 stand to let their voices be heard and known. We  
17 as a community, Niagara County as a county and  
18 Western New York as a region would have been  
19 deprived of the inspired leadership that provided  
20 us by this individual, a woman, a person of  
21 African descent, descent. Why is--this is why  
22 diversity is good, because all voices have the  
23 opportunity to sit at the table with disparate

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2 perspectives to solve some of the most difficult  
3 problems.

4 MS. LEVINE: Ms. Hamilton, you need to  
5 summarize, please.

6 MS. HAMILTON: And this is why our  
7 region continues to be in doldrums. We  
8 continually do the same old thing the same old  
9 way. I was told if you want to make change, you  
10 must come up with a game changing strategy.  
11 Insanity is just doing the same thing over and  
12 over again and expecting different results.  
13 Well, I'm here today to tell you that we, the  
14 people, are not insane. And we will not do  
15 things here in Niagara, Erie counties the same  
16 old way, we believe in holding our elected  
17 officials accountable. And this may appear as a  
18 new concept to some of you, but we do have  
19 rights, we know our rights and we're going to  
20 exercise our rights. We're going to exercise our  
21 legal rights, our constitutional rights, our  
22 civil rights, our human rights, our ballot box  
23 rights, our protest rights, our petition rights

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2 and our God inalienable rights, which has been  
3 given to each and everyone of us by all seeing  
4 and all knowing God who controls this universe  
5 and who I have called upon to give me strength,  
6 wisdom and knowledge to make sure our rights will  
7 not continually be violated by those in power who  
8 only care about preserving the status quo. The  
9 status quo ain't good anymore. Our communities  
10 are dying due to lack of all the inclusive  
11 leadership at every level of government. If the  
12 current premise which brought about this proposed  
13 plan, plan to separate African American  
14 communities in Erie County and Niagara County  
15 were true, then there should have been more than  
16 one person of color out of 19 districts in  
17 Niagara County elected to the Niagara County  
18 legislator. This is not, it has not and it will  
19 not be the case. We have forgotten our history,  
20 we have forgotten, we have not forgotten our  
21 history, we have not forgotten that blood, sweat  
22 or tears that took us up to this point in our  
23 history. We knew how to fight then and, trust



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2 me, we certainly know how to fight now. And we  
3 will win, because we have God, truth, the law the  
4 people on our side. Thank you.

5 SENATOR NOZZOLIO: Thank you very much,  
6 Samantha Colon. Samantha Colon. Is there--

7 SAMANTHA COLON: [interposing] Good  
8 afternoon. I appreciate the opportunity to speak  
9 before the LATFOR committee. I'd like to begin  
10 by saying gerrymandering is politically  
11 motivated, it is wrong. It doesn't serve the  
12 people. I'm a New Yorker, I was born and raised  
13 in Suffolk County, I went to universities in  
14 Monroe County and I moved to Buffalo for  
15 university and I stayed in Buffalo. I live on  
16 the east side of Buffalo where my state senator,  
17 Grisanti, has not shown his face since he has  
18 been elected. Now, I don't understand the  
19 purpose of gerrymandering a district for him when  
20 he got elected in a predominantly Democratic  
21 district. That don't make no sense. And really,  
22 I'm just, I'm just a person on the streets, I  
23 live in my community, whatever. But it seems

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2 like this is a political thank you from if, if  
3 Governor Cuomo approves this new district for  
4 him, it's going to seem like a political thank  
5 you for Grisanti being that pivotal vote on gay  
6 marriage. That's all I want to say.

7 SENATOR NOZZOLIO: Thank you very much.  
8 Rita Yelda. Rita Yelda, Yelda.

9 RITA YELDA, FOOD AND WATER WATCH: Hell,  
10 my name is Rita Yelda and I'm a resident of  
11 Buffalo, New York. Thank you so much for  
12 allowing me to speak today. I reviewed LATFOR's  
13 proposed redistricting maps and have a few short  
14 comments to share. The main issue with the  
15 current proposed plan is the state Senate. The  
16 three long east-west districts, 59, 61 and 62  
17 poorly serve the communities of Western New York.  
18 Districts should not stretch from Buffalo to  
19 Rochester metro areas and should instead be  
20 oriented around each city. There is also the  
21 issue of the new district 60 which pops out to me  
22 right away when looking at the proposed maps  
23 because of the unusual shape of the district and

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2 the communities that it includes. It appears to  
3 be designed to protect the current incumbent.  
4 This district avoids the less conservative voters  
5 of Buffalo and skirts along the water to combine  
6 northern and southern suburbs. Western New York  
7 is a unique area that needs to be divided up  
8 accordingly. As a side note, I'm an organizer  
9 for Food and Water Watch in Western New York  
10 Drilling Defense and I'd like to state that we  
11 also have our own local issues here that will be  
12 affected by redistricting. If the current  
13 proposed districts go through, the only senator  
14 who will represent Niagara Falls is Senator  
15 Maziarz which is unwise. Niagara Falls is the  
16 first location to begin testing carcinogenic,  
17 radioactive waste water from hydrofracking to see  
18 if they can treat it which is a horrific thing  
19 Western New York should not be the guinea pig  
20 for. Last year, Senator Maziarz said that  
21 treating toxic waste could be Western New York's  
22 cottage industry and out of all the state  
23 legislators, he received the most money from the

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2 gas industry for his campaign. Niagara Falls is  
3 already an area plagued with jaw dropping cancer  
4 rates and a legacy of Love Canal and it would  
5 have no one watching over it. I am opposed to  
6 the separation of Buffalo and Niagara Falls  
7 because of issues like this. This hand out of  
8 Niagara Falls is another to disenfranchise  
9 minority voters. I have seen Common Cause New  
10 York's maps for Western New York and they appear  
11 to be much more fair overall. So, I'm here today  
12 to ask LATFOR for maps that more truthfully  
13 represent the varying communities of Western New  
14 York without taking into account any party  
15 politics.

16 SENATOR NOZZOLIO: Martha McMillan.

17 MARTHA MCMILLAN, BAILEY BLOCK CLUB:

18 Good afternoon.

19 SENATOR NOZZOLIO: Good afternoon.

20 MS. MCMILLAN: I am a concerned citizen  
21 of Buffalo, New York. I came here from the south  
22 and as long as I have been here, when I first  
23 came here they said this was equal opportunity

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2 coming north. Since I have been here, it's been  
3 a lot going on and I listen to you as President  
4 Messiah spoke, the way you laugh and the way your  
5 demeanor was to him, which was not right. But  
6 for me to say I am a concerned citizen, I have  
7 been all over, I have traveled the country and to  
8 sit here and see you make a mockery of our  
9 President Messiah was not right. First of all,  
10 first of all, and the other thing, what you do is  
11 to take the black vote, take our voting rights  
12 away from us hurts me very dearly, very dearly  
13 'cause I am from the South. And there a lot of  
14 things go on. To come here and sit here in this  
15 council and see you speak to my people that way  
16 is not right. You sit and you laugh and you  
17 smirk which is not right. You give us our right,  
18 let us make the decisions on what is right for  
19 us. Don't take our rights away from us. It is  
20 not right, it is unfair to the minority, to the  
21 blacks. If you take it away, we will not have a  
22 black senator again. If you redistrict and do  
23 all this, we know that we would not have another

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2 black senator. We won't. But you won't tell us  
3 because you want to do what you want to do.

4 You're going to do what you want to do anyway  
5 whether we speak or stand up. But I stand up

6 today as a black African woman standing proud,

7 let me tell you, I'm a proud black woman. Proud

8 of my ancestors who fought and gave us the

9 dignity to vote and to stand for what is right.

10 We will not stand for this anymore, anymore. The

11 question you have for me, go to my dog.

12 SENATOR NOZZOLIO: Samuel Hebert, Samuel  
13 Hebert. Juliet Graves.

14 JULIET GRAVES: My name is Juliet Graves

15 and I'm a citizen of Buffalo, New York. I only

16 came to observe what's going on in the council

17 and I was, I came to get material to take back to

18 my students and say this is how government work.

19 But when I came in, there was no information,

20 there was no information, so I'm sitting here to

21 say I am upset because if we--if you're going to

22 be teaching people about redistricting this

23 community, it should be enough of material to go

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2 around for everybody, whether they come in early  
3 or whether they come in late, because I saw a map  
4 and I thought it was from this council but it  
5 wasn't, it was from someone else and I am totally  
6 disgusted in people that's going to represent  
7 communities and don't give enough of material.

8 In my classroom, if I come to work without  
9 preparing material, my principal would tell me to  
10 get my hat, my books and my coat and go home.

11 So, I am here to if you have anymore meetings,  
12 make sure there's enough material to go around.

13 Everybody may not have computers. May everybody  
14 may not have a cell phones that with cameras on  
15 them. So, you have to consider all the people in  
16 the community. So, when I go back to my

17 classroom, I have nothing to show. I can say  
18 well, you know, I got up and I spoke, but that  
19 doesn't help them. They need to have something  
20 concrete to see and go on the computers.

21 Everybody don't have computers. So, when the  
22 next time you have a meeting, make sure there's

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2 enough information to, to go around. That's all  
3 I have to say and thank you for letting me speak.

4 SENATOR NOZZOLIO: Terrence Robinson.

5 TERRENCE ROBINSON: Good afternoon. My  
6 name is Terrence Robinson, I'm a private citizen  
7 living in the city, city of Buffalo. I'm also a  
8 community activist which is something like a  
9 community organizer but without the  
10 responsibility. I think that my focus before  
11 this panel is on the larger issue that I believe  
12 that necessarily this entire process is fatally  
13 flawed. Regardless of what the work product or  
14 outcome of the LATFOR task force maybe, it will  
15 necessarily be superimposed upon more local  
16 redistricting and district considerations. I  
17 think that that is an inherent flaw in this  
18 scheme and the reason I come before you is  
19 because I, I would like for this panel to take as  
20 a charge both in its capacity as the LATFOR task  
21 force and in your individual capacities of the  
22 representatives to address this issue.  
23 Necessarily, communities of interest have been



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2 eroded in various redistricting schemes  
3 throughout the state of New York. I think that  
4 that's a process that has occurred over decades  
5 and as far as I'm concerned, Democrats,  
6 Republicans, in this context are, are labels that  
7 share a common interest. That common interest  
8 has been incumbency protection. That first  
9 occurs at the local level. You're here in the  
10 city of Buffalo today and this is in, in some  
11 respects, an excellent case study. Gentleman  
12 before me spoke to the problem of the  
13 gerrymandered districts within the city of  
14 Buffalo. When we begin with that fundamental  
15 gerrymandering, which we've had an excellent  
16 opportunity to see the practical consequences of  
17 it over this electoral phase. When you begin  
18 with a fundamental inequity, when you begin with  
19 a fundamental flaw in the most basic local  
20 districts, that is only aggravated when you  
21 attempt to put a superstructure on it, first at  
22 the county level, then at the state level and the  
23 Assembly and Senate districts and then finally,

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2 in the congressional districts. Once you have  
3 that fundamental unfairness and flaw, whatever  
4 you do, to some extent aggravates that. And it  
5 goes then further to the very most fundamental  
6 unit, which is the election district. The  
7 election districts, by the way, the laws of the  
8 state are written, it, it becomes a complex  
9 interplay between party politics, partisan party  
10 politics and the structure of government itself.  
11 And what it does is fundamentally undermine the  
12 credibility of the entire electoral process.  
13 What has happened here in the city of Buffalo,  
14 first with our council redistricting,  
15 subsequently with our county redistricting and  
16 now with the imposition of the state and Senate  
17 district has conflated governance with partisan  
18 political machinations. And it does it  
19 philosophically, it's, it's almost something that  
20 you cannot get out of without a fundamental  
21 readdressing of the way that redistricting occurs  
22 within the state of New York but first and  
23 fundamentally, at the local and municipal level

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2 and then beyond that. When you have communities  
3 of interest that are divided for political  
4 considerations, then the persons that are elected  
5 as representatives cannot, by definition,  
6 represent communities of interest. That cascades  
7 in such a way that you cannot do holistic and  
8 logical development plans on either the economic  
9 or social sphere. So, that you're constantly  
10 serving another interest. In other words, you as  
11 legislators, you as the representatives of the  
12 people, in doing the people's business, are  
13 fundamentally incapable of advancing in any  
14 logical way, interest that reflect the people's  
15 interests. It, it is a natural process. But  
16 that does not make it any, any less insidious--

17 MS. LEVINE: [interposing] Mr. Robinson,  
18 if you can summarize your - - , please.

19 MR. ROBINSON: --what ends up--what we  
20 have here has become sort of a collusive system  
21 that, in essence, protects entrenched plutocratic  
22 policies because our founding fathers recognized  
23 these inherent flaws and structured a particular

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2 system to address those flaws, but naturally,  
3 over time the, the interest of power, you know,  
4 exude their influence. And so, that it's time to  
5 really take a fundamental step back and to  
6 address on a legislative level this entire  
7 process. What you're doing here, to some extent,  
8 and I mean no disrespect by that, but it's a  
9 fool's errand, necessarily. Because no, no--  
10 regardless of how perfect a state redistricting  
11 effort you were able to come up with, it would be  
12 imposed on a flawed foundation.

13 MS. LEVINE: Mr. Robinson, we need to  
14 conclude, please.

15 MR. ROBINSON: Okay. I, I just would  
16 like to say that I'm a preservationist, I'm in  
17 the sustainable development and coming with those  
18 foundations, I recognized in advocating for those  
19 various policies, that it was almost impossible  
20 for me to do that in a, in a realistic way and I  
21 would just to like to, for the record, one of the  
22 big benefits that has come out of this process  
23 and I have to applaud Senator Dilan in his

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2 advocacy for, for almost independently correcting  
3 an injustice in regard to the, the representation  
4 and the enfranchisement of prisoners within the  
5 political context within the state of New York.

6 I, I recognize that stepping outside of even the  
7 context of the LATFOR task force and doing that,  
8 that that is, to me, a very significant and  
9 positive development if no other comes from--out  
10 of this process. Thank you.

11 ASSEMBLYMAN MCENENY: A couple of  
12 observations, one general that we've listened to  
13 literally hundreds of people give testimony and  
14 it's interesting in this, the 23<sup>rd</sup> public hearing,  
15 couple of issues came up. Your previous speaker,  
16 Juliet Graves, whom I take it is a speaker, is a  
17 teacher, was the first person to seriously object  
18 to the lack of paper material available. I think  
19 it if was ten years ago, we would have had a  
20 revolution but it shows that I'll just include  
21 myself as one of those dinosaurs that would  
22 rather see it in paper. I was surprised that we  
23 didn't get more heat on it and it shows that

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2 between the public library, home computers, group  
3 computers, that the technology is, is out there  
4 whether we like it or not. But I personally  
5 would have rather seen more paper handouts. Your  
6 comment is the first that I've heard on  
7 redistricting as it involves the entire process  
8 of city, of county and other branches before we  
9 get up to our level. It's not secret that the  
10 Senate the Assembly have been trying to negotiate  
11 a constitutional amendment and from my insiders  
12 point of view, I've been doing this for 40 years  
13 on a local level, but not on a state level, the  
14 things like block on border and town on border  
15 which slaughter neighborhoods and communities of  
16 interest, I'd like to see them out of there.  
17 There are people who want, they say an  
18 independent board, you don't want somebody so  
19 independent. I used to say well, then give it to  
20 French Canadians because they'll be independent,  
21 you never have anyone without any bias or  
22 background or experience. But usually they mean  
23 bipartisan and also someone who's not a member or

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2 recent member of the body being, being  
3 redistricted. But the other thing is, and, and  
4 I'm one of those people who would like to see an  
5 independent redistricting commission, but I don't  
6 want to hand it over without rules and one of the  
7 rules is community of, of interest. A community  
8 of interest as defined is not defined. We have  
9 had advocate that the, the gay community be kept  
10 together, that the merchants association be kept  
11 together in a revitalized street, that commuting  
12 patterns be recognized up and down a road or in a  
13 particular area that, that racial groups be kept  
14 together, language groups be kept together. Some  
15 feel keeping Democrats together is a community of  
16 interest or putting Republicans together is a  
17 community of interest. How would you define, in  
18 general, a community of interest?

19 MR. ROBINSON: I think that, I think  
20 that persons of good intent can arrive at a  
21 reasonable definition of what a community of  
22 interest. I can speak to the process that has  
23 occurred within the city of Buffalo over the last

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2 30 or 40 years is to have a planning process that  
3 comes up with master plans that define  
4 neighborhoods, that define economic and, and  
5 planning quarters. All of those things, to some  
6 extent, exist already legislatively and they  
7 exist in the things that you do everyday to  
8 allocate funding to particular projects. To  
9 determine what legislative intent or what  
10 legislative initiatives are necessary to further  
11 the public interest. I think that, in some, to  
12 some degree, these things are long codified and  
13 even if we were to go, and they are, to some  
14 extent imperfect, to a large degree. But I will  
15 go just to the city of Buffalo's planning process  
16 which has come up with a master plan which is  
17 relied on incalculable calculations based on  
18 sometimes neighborhoods, sometimes ethnicity,  
19 sometimes political interest, sometimes  
20 geographic interest. These things are extant  
21 right now. And that is, that is where I see the  
22 inherent flaw that when you're talking about  
23 doing the things that you do every single day in



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2 the legislature in terms of allocating resources,  
3 that's essentially what it comes down to; making  
4 tough decisions in the old phrase guns or butter.  
5 But all of those allocation decisions are based  
6 upon some sort of sense of a community of  
7 interest. Now, when you define it at the micro  
8 level and you get into things like election  
9 districts or census blocks and that sort of  
10 thing, I, I think that if you were to look at  
11 this process anew and to try to alleviate for the  
12 immediate time and proceed in a logical, holistic  
13 ways, that those sort of things will or to some  
14 extent, apparent. Obviously, over the period of  
15 decades, the, the thing will corrupt itself. It,  
16 it just has to. It's, it's human nature, but I  
17 think that that should not, the perfect cannot be  
18 the enemy of the good. And this is so removed  
19 presently from any rational sense of how to do  
20 the business of the people that the political  
21 process has become an animal completely unto  
22 itself and completely divorced from the public  
23 good and it makes your mission impossible.

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2 ASSEMBLYMAN MCENENY: Well, then my  
3 final question is a yes and no; do you think when  
4 and if we can put together a constitutional  
5 amendment which will create some independent  
6 entity is as best we can, should we also, in that  
7 amendment include local branches of government  
8 like the county and the city and require it in  
9 every city and every county in the state of New  
10 York, for example?

11 MR. ROBINSON: Just briefly, and I know  
12 - - I, I think it's his mistake first of all to  
13 talk about political decisions and to assume that  
14 there is an apolitical aspect of it. It is  
15 necessary--these are necessarily political  
16 decisions. And if it does not, whatever the  
17 architecture of that amendment maybe, if it, if  
18 it allows the perpetuation of those existing  
19 special interest groups then it's self-defeating.  
20 It's, it's a futile exercise anyway. I think  
21 that in some sense this almost has to be a  
22 theoretical approach that, in the best of all  
23 possible worlds, this is how it would occur. And

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2 then I think necessarily it will exclude the  
3 existing political and special interest  
4 superstructures.

5 SENATOR NOZZOLIO: Thank you very much.  
6 Thank you very much. Ron Cunningham, Ron  
7 Cunningham. Aletha Sadic, S-A-D-I-C. Janice  
8 Nelson-Wells. Janice Nelson-Wells.

9 ASSEMBLYMAN MCENENY: Right here, yup.

10 SENATOR NOZZOLIO: - - Ms. Nelson.

11 JANICE NELSON-WELLS, YOUTH PLANNING  
12 COUNCIL: Okay, thank you for this opportunity.  
13 I have to voice my opinion, yes. Pretty much  
14 what I had on my heart has been said by Mr.  
15 Mesiah, the school teacher and Sam McGavern and  
16 the professor. However, I just wanted to say  
17 that on behalf of the Youth Planning Council,  
18 which is a community based organization that  
19 gears young people into resources that solidify  
20 what their interests are, I think it behooves the  
21 school system concerning political terms such as  
22 gerrymandering, gentrification, redlining,  
23 redistricting, all those ugly words that come up

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2 especially during this season, the political  
3 season, a lot of our young people may not know  
4 what these words mean, but they get the brunt of  
5 what it actually comes out to be. And I think we  
6 need to be. And I think we need to include our  
7 children more so at the educational level, so  
8 that when they come out of high school and enter  
9 college, they may have a political interest and  
10 knowing that gerrymandering is not always the  
11 best thing, redlining, redistricting and  
12 gentrification can hurt a community. And along  
13 with black history, teaching these kinds of  
14 important terminology can help our young people  
15 be more formidable in helping our elders and  
16 sometimes our young people can teach us if we pay  
17 attention to what they say and hear what they're  
18 saying. So, in a perfect world, yes, we can have  
19 everything we need before and still mess it up,  
20 but quote unquote, we don't live in a perfect  
21 world. So, I'm being sarcastic. But the fact of  
22 the matter is I think we need to include our  
23 children early on on those things that they have,

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2 they get the brunt of, because our children get  
3 the end of what our decisions are. We're very  
4 selfish people as, as adults and our young people  
5 get the brunt of our selfish decisions. So, I  
6 think that we maybe a kindergartner won't, you  
7 know, benefit from knowing what gerrymandering  
8 is, but by the time they in high school, they  
9 should be more familiar with this from either  
10 their churches and the community. So, we need to  
11 let to our children be in on the ground floor in  
12 some more of those things that effect them in the  
13 long run. And with the Youth Planning Council,  
14 these are some of the interests that we have and  
15 I applaud the teacher for mentioning the fact  
16 that there was no information to disseminate to  
17 the young people, because they are interested.  
18 Thank you.

19 SENATOR NOZZOLIO: Thank you. Thank you  
20 very much. Arthur Robinson.

21 ARTHUR ROBINSON, SENECA-BABCOCK BLOCK  
22 CLUB: Thank you. I was here in August and here  
23 again.

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2 SENATOR NOZZOLIO: I remember you.

3 MR. ROBINSON: My name is Arthur

4 Robinson, I am a block club president. I am also  
5 on the board of block clubs which represents 517  
6 block clubs, 21,000 strong for the city of  
7 Buffalo. I'm sorry. And the contingent I got  
8 from everybody was why draw new lines? Leave the  
9 lines the way they are. The numbers support that  
10 the lines should not be changed. You've added a  
11 63<sup>rd</sup> senator which, to me, should come from New  
12 York City because they had a gain of 4 percent, I  
13 think, a population gain, but it shouldn't--the  
14 lines and the percentages are the same, they  
15 should not really be changed that much, so why  
16 should the lines be changed? They should stay  
17 the way they are which supports the people of  
18 Niagara and Erie County. It shouldn't be changed  
19 because, in fact, it disenfranchises people. And  
20 it really waters down the vote of the African  
21 American community itself. And that should  
22 never, never be allowed. So, thank you.

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2 SENATOR NOZZOLIO: Thank you very much.

3 Larrone Williams, Larrone Williams. Yes. Okay.

4 Larrone?

5 LARRONE WILLIAMS, PRESIDENT, EAST SIDE

6 BLOCK CLUB: - - good morning ladies and

7 gentlemen, my name is Larrone Williams and I am a

8 block club president and I'm also a community

9 activist in the east side. A lot of the people

10 that are here know me, I come to certain events

11 and I speak out when I think there are problems.

12 And I speak out when there are problems not just

13 dealing with gerrymandering or basically most

14 problems that exist within our communities.

15 Earlier you said--asked Terry about how things

16 should be linked up as people. 40 some odd years

17 ago, when New York City went broke, Western New

18 York bailed them out. The state of New York

19 bailed them out. When our plants closed, when

20 the auto industry left, nobody came. Nobody

21 came. I look at the senatorial set up of the new

22 district and I know for a fact I have more in

23 common with the people in with the people of

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2 Niagara Falls than I have with the people in  
3 Wyoming County. Not that I don't like Wyoming  
4 County, I don't frequent Wyoming County that  
5 often. I drive through Wyoming County. But  
6 anyway, I have a statement that I want to read  
7 and I'm going to read it and let you people do  
8 what you have to do. My name is Larrone  
9 Williams, I think this senatorial thing is a  
10 question of fairness. I think it is a question  
11 of inclusion, the last four senators that we have  
12 had that represent that senatorial district, two  
13 have been minorities and two have been of the  
14 greater majority. One has been a Republican,  
15 that seemed like democracy to me. The drastic  
16 changes in the senatorial district will dilute  
17 the minority vote. And surely hurt, hurt us all  
18 in the long run. In some ways this smacks of Jim  
19 Crow. Do we reside in New York or do we reside  
20 in Texas? Our way the state's that our, my  
21 parents chose to move to in 1955 or are we going  
22 to regress to the politics of divide and conquer.  
23 In closing, we are not happy with these proposed



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2 lines. And we're calling on the legislative  
3 bodies and the governor to respond to our fears.  
4 Hopefully, the people that are here today can  
5 earnestly see that there are fears and they are  
6 fears that are in politics that are driving  
7 politics from nationwide. And this is not  
8 America. This is not the America that I grew up  
9 as a child looking forward to. I look forward to  
10 the day when I could elect a minority mayor, I  
11 look forward to the day when I could elect a  
12 minority state senator. But I also voted for  
13 state senators in the majority. Me and Mr.  
14 Grisanti, we have conversations, I don't believe  
15 he's an unjust man, I believe that this district  
16 that's being formulated is unjust. And before we  
17 do something that will hurt us all as New  
18 Yorkers, we need to sit, contemplate, go out  
19 among the people, find out what they want beyond  
20 just this little arena. There are people that  
21 are in this state that don't have access to  
22 computers and Twitter and all this other stuff.  
23 We're the absent, we're the absent people that I

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2 have to and knock on their doors and ask them are  
3 they hungry. Ask them is their lights and gas  
4 on? We do things in our community that no one  
5 else seems to care about. But I also know that I  
6 can call Mr. Slaughter and say I don't like it.  
7 When we recently had this asbestos problem, we  
8 raised heck and trust me, if this procedure  
9 persists, it's not going to be that 99 percent  
10 people that are sitting out there on the grass,  
11 it's going to be real live people that understand  
12 that we do not want to regress to a separate but  
13 unequal political. Thank you very much.

14 SENATOR NOZZOLIO: Frank Garland. Mr.  
15 Garland, are you representing a city council  
16 member?

17 FRANK GARLAND: Yes.

18 SENATOR NOZZOLIO: Thank you. Would you  
19 be so kind--

20 MR. GARLAND: [interposing] Good  
21 afternoon.

22 SENATOR NOZZOLIO: --as to state your  
23 name and the name of your member.

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2 MR. GARLAND: Yeah. Good afternoon, my  
3 name is Frank Garland III, I am a legislative  
4 assistant to Council Member Demone Smith,  
5 Buffalo, Buffalo Common Council.

6 SENATOR NOZZOLIO: I'm sorry, I didn't  
7 hear the first name.

8 MR. GARLAND: My name is Frank Garland  
9 III. Okay, as a legislative assistant, I get a  
10 lot of calls--

11 SENATOR NOZZOLIO: [interposing] Excuse  
12 me.

13 MR. GARLAND: --from our constituents.  
14 Many of my, many of our constituents for the  
15 Masten district are in the gallery here today.  
16 Now, the thing is, the problems that we have  
17 here, the problem we may have here is that when  
18 you redistrict, when you redistrict in the sense  
19 that you redistrict, yes, it's okay to do that,  
20 but this is a bit extreme. They say to the  
21 victor goes the spoils, but this is gotten out of  
22 hand, unfortunately. Now, the thing is: is we  
23 all have a right to equal representation. We all

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2 have a right, you know, we all have a ballot, we  
3 all have a voice, we all have a ballot, we all  
4 that voice is our ballot. The problem is: is  
5 that if you redistrict the way, the way the plan  
6 is going to be arranged, you--what will happen  
7 is, is there will be a group of people who will  
8 be left behind. And unfortunately, that's not a  
9 good thing. As a life long resident of when I  
10 first realized where I was at it was the 50, 58<sup>th</sup>  
11 district, then the 59<sup>th</sup> district then the 60<sup>th</sup>  
12 district. But, you know, I've seen redistricting  
13 done before, but not to this extreme. Would it  
14 be wrong to have an independent council outside  
15 of the Senate to redistrict based on vote,  
16 populations, so forth rather than to have a bunch  
17 of men in the room redistrict so they can keep  
18 their jobs. Now, the thing is, can I get--we get  
19 calls everyday from not only our district, people  
20 in the city of Buffalo, people in the city of  
21 Buffalo feel that they're going to be left behind  
22 and unfortunately, that's not a good thing  
23 because we are one of the biggest cities in the

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2 state. I just ask that maybe, just maybe the  
3 governor will see it in his heart to veto this or  
4 maybe force a constitutional amendment for an  
5 independent task force on redistricting. That  
6 way you don't have senators who come in trying to  
7 keep their jobs because they know next time  
8 around they may not be there. You know, we, we  
9 all do things to keep our jobs, but this is a  
10 little bit extreme, unfortunately. Okay. Okay.

11 SENATOR NOZZOLIO: Thank you very much.

12 Jim Anderson.

13 ASSEMBLYMAN MCENENY: - - you Jim.

14 SENATOR NOZZOLIO: Jim Anderson. That's  
15 it.

16 JIM ANDERSON, STATE VICE PRESIDENT,  
17 CITIZEN ACTION OF NY: Can I ask you a question,  
18 am I last person, by any chance?

19 SENATOR NOZZOLIO: Sir?

20 MR. ANDERSON: Am I last, by any chance?

21 SENATOR NOZZOLIO: No, because what we  
22 do is--

23 MR. ANDERSON: [interposing] Okay.

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2 SENATOR NOZZOLIO: --your--

3 MR. ANDERSON: Because I didn't want  
4 ya'll to leave on a bad note.

5 SENATOR NOZZOLIO: --no, no, you're,  
6 you're last so far, but before we do it, we read  
7 any name of anybody who's missing and couldn't  
8 show for any reason or other and then we ask if  
9 there's anybody here present who would like to  
10 speak.

11 MR. ANDERSON: Okay. Okay. I'm fine  
12 with that, I, I--

13 SENATOR NOZZOLIO: [interposing] So far,  
14 you're last.

15 MR. ANDERSON: Okay. Great.

16 SENATOR NOZZOLIO: Yeah.

17 MR. ANDERSON: Well, anyway, and first  
18 of all, let me just say, you know, I, this is  
19 black history month and I thought about some of  
20 the great words and lessons the elders have  
21 taught us, one told us you don't go to the crook  
22 for justice. Another told me, he said, there is  
23 a time at which silence because betrayal. And so

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2 I stand between those two. I'm not calling you  
3 crooks but I am here to indict you because I  
4 think you guys were already the gatekeepers on  
5 this issue. I think at the moment that this idea  
6 was hatched, and you did not stand up there and  
7 your caucus areas, in your council, in your  
8 legislative chambers and raise holy hell that you  
9 did a disservice to the people that you're there  
10 to render statesmanship on behalf of. I feel  
11 like this amounts to nothing but the regular,  
12 okay, we hatch a bad idea, now we got it through  
13 the gate and you run around and, and you're kind  
14 of doing that. I don't even accept the good  
15 features that you done on some other things that  
16 don't relate to this issue. See, you know,  
17 because that's part of the trick that has downed  
18 most communities and particularly communities of  
19 color in the first place, is because you'll come  
20 and you'll say how well you were in another area  
21 or another issue, but I don't want talk about  
22 your good features, I want to talk about your bad  
23 features and your bad features are on this issue,

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2 in this nation, where racism is clear, you can  
3 wear a blindfold and you know racism exists. I  
4 want to also and I, and I believe that some of  
5 you may be impacted by white privilege and almost  
6 white privilege and that, that you don't fully  
7 understand how that impacts you. Now, I also  
8 want to say, for the people, this is not a time  
9 for us to be quiet, this is time for open speech  
10 and fearless thinking and we all trying to think  
11 and we're all trying to figure out why the heck  
12 you guys couldn't get this thing right in the  
13 room. No doubt, not doubt at all in this whole  
14 redistricting scheme, the rights of people of  
15 color in this area should not be diminished. No  
16 doubt that trying to redistrict this area to  
17 ensure safety for Senator Mark Grisanti should  
18 not be done, nothing against the man, but that  
19 should not be done and, and you guys are not  
20 blind and know that it shouldn't have been. But,  
21 you know, history is clear, year after year,  
22 scheme by scheme, people's rights are trampled  
23 underfoot, laws are perverted and all kind of



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2 stuff is released upon communities with seemingly  
3 little care because you're not going to feel the  
4 weight of this. So, I'm going to tell you this;  
5 every economic decision, ever state legislated  
6 decision must be judged in the light of whether  
7 it protects or undermines the dignity of human  
8 persons and the rights. It is true that in this  
9 state that this state legislature has been very  
10 weak in doing that. And it is true at this  
11 moment that this body you cited, you know, in, in  
12 the fact that you mentioned about the papers not  
13 being dispersed. Well, you know, that was a ball  
14 that was in your arena. And you could have done  
15 that, but also is an insight to where you're  
16 thinking and fore thought is about the people  
17 you're dealing with. It has been long  
18 recognized, however, that the special status of  
19 corporations, the place they have in our history,  
20 the amount of power they have gained from their  
21 economic endeavors have also invaded our  
22 democracy and indeed our electoral process. And  
23 so, one of the reasons I come to indict you, I

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2 don't think that you guys really stand on behalf  
3 of the people but more the interests of those who  
4 can finance reelections or those things you  
5 really care about. I may sound offensive and I,  
6 and I mean to make it somewhat personal because I  
7 think, until you feel the depth of how the so-  
8 called statesmanship that is supposed to come out  
9 of Albany has played in our communities and  
10 others, I don't think you can really understand  
11 some of the things you heard here today. We  
12 didn't come to be articulate, we didn't come to  
13 truly understand all the law, but we did come to  
14 under--try to understand why you, who have been  
15 elected to higher office to represent on  
16 everybody's behalf, seem to get this self-imposed  
17 blindness about its impact on folks that will be  
18 harmed. In this issue of redistricting, there is  
19 no question, you got a long history. I heard the  
20 sister and you did too and you already probably  
21 know the history of what redistricting has done  
22 to communities of colors in all of the South  
23 below Canada. And to sit here, to think that

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2 there's some myth or some kind of well, there is  
3 no independent commission needed, there's just  
4 fairness and the will of you who already elected.  
5 You don't need another body to be sent off to go  
6 hear the concerns. Don't you travel the state?  
7 I mean, you're in your positions and you're not  
8 reaping the brunt and carrying the load that many  
9 of us have to carry and then you want us to  
10 swallow this. I'm reminded when New York City on  
11 a detective's office, there was a sign that say,  
12 you know, if you can't impress them with  
13 brilliance, dazzle them with BS and in some ways,  
14 these kind of hearings become that. You know you  
15 guys should be out here arguing, arguing and  
16 before the people why it should be one or the  
17 other. You do it in the safety of the, of the  
18 kind of games, you don't neither party is all  
19 that good, anyway--

20 MS. LEVINE: [interposing] Mr. Anderson,  
21 you need to summarize your statement.

22 MR. ANDERSON: --neither party. All we  
23 want is simple statesmanship. All we want is

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2 fair representation and to look at that map, if  
3 you didn't have any words before you, if you  
4 looked at that map of how they're drawing the 60<sup>th</sup>  
5 district and try and think that's okay, then it  
6 is true what Malcolm said, you can't get justice,  
7 you don't go to get justice from the crooks.

8 Thank you.

9 SENATOR NOZZOLIO: Anyone else wishing  
10 to testify, we've exhausted those who have been  
11 called, anyone else wishing to testify, sir,  
12 you're next. Please, for the record, state your  
13 name and where you're from and anyone else  
14 wishing to provide testimony this afternoon,  
15 please come forward after the conclusion of this  
16 speaker. Good afternoon, sir--

17 RONALD E. CUNNINGHAM, CAC [interposing]  
18 That was - - .

19 SENATOR NOZZOLIO: --would you please  
20 state your name?

21 MR. CUNNINGHAM: My name is Ronald E.  
22 Cunningham, I reside at 1616 15<sup>th</sup> Street--

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2 SENATOR NOZZOLIO: [interposing] I'm  
3 sorry, sir, I couldn't hear your name.

4 MR. CUNNINGHAM: --my name is Ronald E.  
5 Cunningham.

6 SENATOR NOZZOLIO: Thank you.

7 MR. CUNNINGHAM: I reside at 1616 15<sup>th</sup>  
8 Street, Niagara Falls, New York. The city known  
9 as the king power, queen of beauty and the  
10 honeymoon capital of the world. This country is  
11 founded on no taxation without representation.  
12 Therefore, this committee should be very careful  
13 on how they draw the congressional and state  
14 legislative lines. The Niagara Falls is a  
15 multicultural diverse community. And the lines  
16 should reflect the people in those communities.  
17 And it should not be watered down, 38 states  
18 right now are suppressing voter rights throughout  
19 this country. And they're not using Jim Crow  
20 anymore, they're just blatantly drawing lines, so  
21 we, we don't even need the Ku Klux Klan anymore.  
22 We just draw the lines and, and you're finished.  
23 And I would, would beseech you brothers and

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2 sisters not to become a part of that political  
3 atrocity and right the Latinos, the African  
4 Americans and the struggling white folks in this  
5 community off. This is inner city, this is where  
6 our strength lies and this is--we should have a  
7 right to be represented. And I'm, I'm seriously  
8 concerned about the, the watered down version of  
9 our vote. I really think that the lines that  
10 they have just should basically stay intact.  
11 There, there hasn't been that much change in  
12 demographics, so I, I just think that when, when  
13 people feel like they're threatened by losing  
14 power, they become deviant and afraid. I, I  
15 think that the lines should be kept intact  
16 basically, I think we as, as people in the man  
17 mentioned about black history month, just, just  
18 upon the first man to die in the Revolutionary  
19 War was a black man, Crispus Attucks. That just  
20 shows you we, we love this country, too. And I  
21 don't think the sharing of power by getting us  
22 the right to vote should be unacceptable to you  
23 all. I, I think we should make sure that we have

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2 the ability to elect a state Assemblyman or  
3 legislator of color in New York State, too. So,  
4 I hope you just don't write us off with these,  
5 with these lines. Let's, let's give everybody a  
6 fair chance to participate, participate in the  
7 political process. Thank you for listening.

8 SENATOR NOZZOLIO: Thank you. Thank you  
9 very much. Is there anyone else, miss? You - -  
10 now.

11 SISTER WANDA STRONG THOMPSON HOWARD:

12 I'm sure many people know who I am and those who  
13 don't, I am going to introduce myself. I'm  
14 Sister Wanda Strong Thompson Howard, I represent  
15 God as he has called me to minister to His  
16 people. I'm also the mother of former New York  
17 State Senator Antoine Thompson. And I would be  
18 wrong to sit here and not say a word. As God as  
19 placed me back in Buffalo, New York and it was  
20 this weekend, ten years ago, Patriots Day  
21 weekend, February of 2002 when the Lord had me  
22 come back to Buffalo, New York. I am not  
23 surprised at anything that has been said here, I

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2 am not surprised at anything that's going on in  
3 New York State, because God has spoken to me, he  
4 has shown me in the Word, the Holy Bible, all the  
5 things that goes on in this state. And as  
6 someone said, the things that's going on is, it's  
7 an embarrassment to our state. I used to did not  
8 see the fall of America. But I begin to see over  
9 the past ten years, the fall of our country with  
10 the things that are going on in this state, in  
11 this country. God is an equal opportunity God.  
12 He love us all in spite of our sin. He doesn't  
13 care if we're black, white, Hispanic, he doesn't  
14 care if we're Baptist, Apostolic, Catholic, rich  
15 or poor, he love us all. He put us all here to  
16 get along, to love each other and build. No, and  
17 I'm not representing my son, because I know he's  
18 done an excellent job. And as I said to my son,  
19 about the gay marriage bill, I said let me say  
20 this to you, Antoine, whatever you do, you got to  
21 respect the Word of God. If it costs you  
22 position to do what God, your position with God  
23 has said in his Word, forget the job. But I want



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2 to say to everybody, in this redistricting and  
3 all that is done, God is not pleased, he's not  
4 pleased. And the decisions that we make as  
5 adults, it's going to not only effect this  
6 generation, but you can curse one, two, three,  
7 four, five, six, seven, eight, nine, ten  
8 generations. So, in conclusion, I don't want you  
9 all to leave here thinking that behind those  
10 closed doors that God does not have his eyes on  
11 you all, because he does. I don't worry about  
12 what you say about us, I know our family and the  
13 things that does not surprise me is all the  
14 things that my family have suffered because of  
15 the call and the position that Antoine have had.  
16 Okay, because God covers us, we have endured a  
17 lot. But this here Buffalo, New York, Western  
18 New York, is not surprising. We've got to pray  
19 for these people and all I'm saying, in my words  
20 is, may the Lord be with you for generations to  
21 come, you've got to pray and know that you know  
22 that God is in control in the name of Jesus  
23 Christ. God bless you.

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2 SENATOR NOZZOLIO: Thank you very much.

3 Good afternoon.

4 LESLIE THOMAS: Hello, my name is Leslie  
5 Thomas and I'm from Birmingham, Alabama. I've  
6 been in Buffalo for over 40 years now. My  
7 husband used to be the locksmith, 1476 Fillmore  
8 Avenue and I have owned my own business now for  
9 about six months and my business is One Man's  
10 Junk is Another Man's Treasure boutique. And I  
11 come here because I was disappointed in how you  
12 want to set up the district. I live at the  
13 corner of Fillmore and Woodlawn and about two  
14 years ago, my pipe busted and I needed help from  
15 FLAIR and they could not help me because in the  
16 computer, it got me the Masten district and also  
17 have me in the Fillmore district. So, I asked  
18 the lady, I said well, which part of my house is  
19 Fillmore district and which part is the Masten  
20 district? And she said you need to go down to  
21 city hall and--so they can give you a statement  
22 of, of where you at. And I couldn't get it.  
23 It's really crazy. Again, about six years ago, I

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2 needed a gas meter and they came down Fillmore  
3 and they put gas meters in and went across the  
4 street and I asked the man; I said how come I'm  
5 not going to receive a gas meter? He say because  
6 if I come over this here street, you are in the  
7 Masten district. I said well, I'd be doggone.  
8 So, I didn't get a gas meter. Again, I'll call  
9 city hall, I needed a tree cut down and they told  
10 me it would cost me \$1,000 to get this tree cut  
11 down. Okay? I said all right, but thank God for  
12 the tree storm. When the branches start to fall  
13 from this here dead tree, after a while, they  
14 came out, the city of Buffalo came out and they  
15 cut the tree down for free. Come on, only thing  
16 I have to say is we have got to get it together.  
17 Because when a storm come, it doesn't matter what  
18 color, where you live, you're going to go down.  
19 So, in order for this here thing to work, we need  
20 to come together, thank you for this opportunity.

21 SENATOR NOZZOLIO: Thank you very much.

22 Calling again, anyone who wishes to testify. Did  
23 some, yes, miss? And you're next.

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2 SENATOR NOZZOLIO: You should ask. If  
3 you could have it placed on the recording,  
4 please, state your name.

5 JANICE BELL: Okay, my name is Janice  
6 Bell and I host a weekly radio broadcast on WUFO,  
7 it's called You Need to Know and my comment is  
8 you need to know do us right and you need to know  
9 don't do it. Thank you very much.

10 BLANCHE LECURT: Good afternoon,  
11 gentlemen, I'm a little nervous because I've  
12 always wanted to come up here. My name is  
13 Blanche LeCurt, I'm with the Board of Block Clubs  
14 and I'm also very active in my community. I came  
15 here because I wanted to speak on behalf of  
16 Senator Antoine Thompson, the former senator and  
17 also the people in the community, I feel--I can't  
18 our of respect to the American people, I think  
19 they should wake up the next time they vote for  
20 election day, because I feel they voted for the  
21 wrong senator who was trying to make a difference  
22 and improve and do good for the community in the  
23 city of Buffalo and the government. And they

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2 ended up voting for someone that was  
3 irresponsible, Grisanti, I just feel that I'm a  
4 United States citizen and I feel that the people,  
5 the American people, all due respect, need to be  
6 careful how they vote for election day and I'm  
7 also speaking for the community people, you know,  
8 the American people, of all the problems that  
9 going on, to me it doesn't matter whether you're  
10 white or color, politician or whatever, I just  
11 feel that when the people vote, we would like to  
12 politicians to be on top of things and to do  
13 their job right to solve the community's--to  
14 solve the problems in the community and in the  
15 government, because whether you're Republican or  
16 Democratic party and are been fighting your color  
17 and race is not going to solve the problems at  
18 all in the government or the economy or in the  
19 community and all, all due respect, this is all I  
20 have to say. Thank you for letting me talk.

21 SENATOR NOZZOLIO: Thank you.

22 SENATOR NOZZOLIO: Thank you very much.

23 One last mention, is there any one else wishing

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2 to testify? Anyone else? If not, the conclusion  
3 of the 23<sup>rd</sup> hearing, I should ask before  
4 concluding, any of my colleagues wish to make a  
5 statement? Senator Dilan.

6 SENATOR DILAN: First of all, I would  
7 like to thank all the members of the public here  
8 in Buffalo who participated in both the  
9 preliminary and, and the second round. I would  
10 like to thank all those individuals who partook  
11 in this process throughout the course of the 23  
12 hearings that we have had. As the ranking member  
13 from the Democratic party, initially from day  
14 one, I had called for transparency and I also had  
15 called for working sessions where we, as a panel,  
16 and where the public could actually see us  
17 working and see the process of us drawing these  
18 lines. Also initially, I had requested that this  
19 panel come up with transparent criteria so the  
20 public would know on what basis we were proposing  
21 or drawing any preliminary lines or the final  
22 product. In those two instances, this commission  
23 has failed to produce or work based on those

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2 requests. Also from the preliminary round, I had  
3 also called upon this task force to let the  
4 public know whether we were working based on a  
5 proposal of 62 seats or 63 seats. We never got  
6 that answer. However, we did get that answer on  
7 the day that the proposed lines were released to  
8 the public. We were all led to believe that we  
9 were drawing plans that would have 62 seats, but  
10 that did not occur. I do want to thank this  
11 panel for implementing the prisoner law of 2010,  
12 however that was neutralized as one witness  
13 testified yesterday in Rochester, that was  
14 neutralized by the fact that we added that 63  
15 seat. But that is an issue that apparently will  
16 be settled in the courts, so I will not make any  
17 further comment with respect to that. The whole  
18 purpose of redistricting and reapportionment is  
19 for this panel and the state legislature to  
20 balance the districts throughout the state both  
21 in the Assembly, Senate and Congressional lines  
22 to adhere to the one person, one vote. We have  
23 also failed miserably in doing that because in

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2 many districts within the Senate, we ranged from  
3 -15,000 to +10,666 and if we really look at the  
4 numbers, you subtract one and you add one, that's  
5 really a difference of about 25,000 voters in  
6 some districts. That doesn't come close to one  
7 person, one vote. The only thing that I can hope  
8 for, at this time, is that during the course of  
9 this second round, I hope that unlike in the  
10 preliminary round where I don't think that this  
11 panel heard one word the public was saying, I'm  
12 hoping that during the course of the second  
13 round, that we do hear what you're saying. And I  
14 still believe that there is room for this--room  
15 and time for this panel to do the right thing and  
16 listen to what the public is saying. So with  
17 that said, I would like to think, thank all those  
18 that participated and before the lines, the final  
19 lines are drawn, I hope there is room for  
20 discussion for all. Thank you.

21 ASSEMBLYMAN MCENENY: I want to thank  
22 the city of Buffalo for their hospitality for two  
23 public hearings now in these wonderful chambers



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2 and for those who have been watching these, these  
3 hearings on, on the telecast on the computer,  
4 you'll notice that the hearings are geared  
5 towards the problem areas and there are a number  
6 of areas throughout the state, in fact quite a  
7 number, some of whom have minority populations  
8 that have received virtually no complaint  
9 whatsoever. So, purpose, purpose of the hearing  
10 is not to receive accolades of good job here and  
11 good job there, but rather to identify the  
12 problems. We've listened to your problems, we  
13 have to draw maps over the course of slightly  
14 over a week and, and do the job that the  
15 constitution and the law requires. Thank you all  
16 for your participation.

17 SENATOR NOZZOLIO: In concluding, I want  
18 to thank the members of the task force for your  
19 participation, especial want to thank the  
20 citizens of the region for taking time out of  
21 your schedules to provide your thoughts and  
22 comments. The record reflects those comments and

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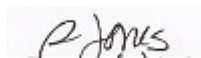
2 that we certainly appreciate the input. This,  
3 the 23<sup>rd</sup> hearing for the Legislative Task Force on  
4 Reapportionment and Redistricting is now  
5 adjourned.

6 (The public hearing concluded at 1:40  
7 p.m.)

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C E R T I F I C A T E

I, Rachel Jones, do hereby certify that the foregoing typewritten transcription, consisting of pages number 1 to 156, inclusive, is a true record prepared by me and completed from materials provided to me.



Rachel Jones, Transcriptionist

2/27/12