

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

PUBLIC HEARING
CONGRESSIONAL AND STATE LEGISLATIVE REDISTRICTING

Wednesday, August 17, 2011
City Hall Council Chambers
Government Plaza
38 Hawley St., Binghamton, NY
10:16 a.m. to 12:14 p.m.

TASK FORCE MEMBERS PRESENT:

SENATOR MICHAEL F. NOZZOLIO, Co-Chair

ASSEMBLY MEMBER JOHN J. MCENENY, Co-Chair

SENATOR MARTIN M. DILAN

ASSEMBLY MEMBER ROBERT OAKS

DEBRA LEVINE

ROMAN HEDGES

WELQUIS LOPEZ

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2 (The public hearing commenced at 10:16
3 a.m.)

4 [Music]

5 SENATOR MICHAEL F. NOZZOLIO, CO-CHAIR,
6 NYS LEGISLATIVE TASK FORCE ON DEMOGRAPHIC
7 RESEARCH AND REAPPORTIONMENT: Good morning,
8 ladies and gentlemen. The New York State
9 Legislative Task Force on Demographic Research
10 and Reapportionment will come to order. This is
11 the Binghamton public hearing, and that I, New
12 York State Senator Mike Nozzolio, co-chair with
13 Assemblyman Jack McEneny of this task force call
14 this meeting to order, and are very pleased to be
15 here in Binghamton this morning. This is the
16 now--we've had five public hearings.

17 ASSEMBLY MEMBER JOHN J. MCENENY, CO-
18 CHAIR, NEW YORK STATE LEGISLATIVE TASK FORCE ON
19 DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT: This
20 is the fifth.

21 SENATOR NOZZOLIO: This is the fifth
22 that the hearings began in Syracuse and
23 Rochester. Continued into Albany and
24 Westchester, and now into the southern tier, and

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2 we are very pleased to be here. Without further
3 ado, I'd like to introduce members of the task
4 force. I had mentioned my co-chair, Assemblyman
5 Jack McEneny. Assemblyman McEneny and I are
6 getting to--we've known each other for many
7 years. We're getting to know each other a lot
8 more closely over these last few weeks in taking
9 testimony across this state.

10 On my right, I would like to indicate
11 the members of the task force and the staff of
12 the task force. To my immediate right is Senator
13 Martin Dilan. To his right is our--one of our
14 citizen representatives Welquis Ray Lopez, and
15 that on his right is staff director, Debra
16 Levine. to Assembly McEneny's left is New York
17 State Assemblyman Robert Oaks, and then to his
18 left is another of the citizen representatives of
19 the task force, Roman Hedges. We welcome your
20 testimony, your questions, your comments that we
21 have a list that we will be going through. If
22 someone is not present that it will be noted,
23 skipped over, and then called again at the
24 conclusion of the hearing. This is in no

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2 particular order, but before we begin we'd like
3 to note the presence of New York State
4 Assemblywoman Donna Lupardo, and that Assemblyman
5 Lupardo, we welcome you and thank you for your
6 attendance. That Senator Tom Libous is
7 represented by at least two members of his staff,
8 and that we appreciate Senator Libous' presence
9 and leadership in the State Senate.

10 Without further ado, let me ask if
11 Assemblyman McEneny has any comments that he
12 would like to make, and then any other member of
13 the panel wish to have any introductory
14 statements.

15 ASSEMBLY MEMBER MCENENY: All right.
16 Thank you, Senator. We would remind you that
17 these hearings are televised. The record then
18 goes on the LATFOR, which is the code for the New
19 York State Legislative Task Force on Demographic
20 Research and Reapportionment. You'll hear that
21 come up now and then, that word, LATFOR. It'll
22 be on the web site, so you'll be able to--you
23 actually see what people say and how they say it.
24 After that, it's produced as a transcript, and is

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2 submitted to the Justice Department and
3 conceivably to courts that might want it. Also,
4 on the LATFOR web site is a great deal of
5 information regarding redistricting. As we
6 proceed some of you know the rules intimately.
7 Others may not. We are bound by the civil
8 rights--the Voting Rights Act of 1965 and also by
9 the New York State Constitution, which tells us
10 except for exceptionally large towns, for
11 example, that towns may not be broken, but
12 cities, once broken have to be exact for block on
13 border.

14 Also, in the creation of the 27 new
15 congressional districts, the numbers have to be
16 exact. It can vary for the numbers of assembly
17 and senate as high as 5% above or below be
18 realistically, we try and--try and keep below
19 that. And I think that's probably enough for the
20 ground rules. Senator?

21 SENATOR NOZZOLIO: Thank you,
22 Assemblyman. Would any other member of the panel
23 wish to make a statement? Senator Dilan?

24 SENATOR MARTIN M. DILAN, NEW YORK STATE

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2 LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH
3 AND REAPPORTIONMENT: I would just like to say
4 good morning, and I'm really happy to be here in
5 Binghamton this morning. And I'm looking forward
6 to listening to your testimony. And the only
7 thing I'd like to reiterate is that in the
8 previous hearings, I have made remarks with--in
9 terms of the 2010 aprisonal [phonetic] law, and
10 the size of the senate. And I encourage everyone
11 here to visit the LATFOR web site where we do
12 have archived copies of the previous hearings.
13 And you could also hear testimony from other
14 individuals at that time. So with that said, I
15 look forward to hearing from you. Thank you.

16 SENATOR NOZZOLIO: Any other member wish
17 to--Assemblyman Oaks.

18 ASSEMBLY MEMBER ROBERT OAKS, NEW YORK
19 STATE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC
20 RESEARCH AND REAPPORTIONMENT: Thank you very
21 much. Just my pleasure to be here today, too.
22 Really, this has been an interesting and
23 informative process, and appreciate hearing from
24 people from the southern tier and the Binghamton

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2 area today to help us in the process going
3 forward. Thank you.

4 SENATOR NOZZOLIO: Thank you very much.
5 It--with that we'll proceed. wish to first thank
6 the City of Binghamton for the use of this
7 council chamber, and we'd like to call up the
8 chairman of the Broome County Legislature, Jerry
9 Marinich. And good morning.

10 MR. JERRY MARINICH, CHAIRMAN, BROOME
11 COUNTY BOARD OF LEGISLATORS: Good morning.

12 SENATOR NOZZOLIO: Mr. Chairman, and we
13 thank you very much for your participation. I'd
14 just like to emphasize, before you begin, for the
15 audience, the comments of Assemblyman McEneny,
16 that we are creating a video record of these
17 proceedings. That this is a testament that will
18 be placed on the LATFOR web site for others to
19 view. Each of the hearings is receiving this
20 same designation and will be placed on the LATFOR
21 web site. But thank you, Mr. Chairman, and very
22 nice to, to see you this morning, and thank you
23 for your attendance.

24 MR. MARINICH: Good morning, Senator

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2 Nozzolio, Assemblyman McEneny, and members of the
3 task force. As you know, my name is Jerry
4 Marinich. I'm the Chairman of the Broome County
5 Legislature, and I appreciate this opportunity to
6 share my thoughts with you on redistricting. We
7 appreciate that you're holding a hearing here in
8 Broome County. Seeking input from all over the
9 state, not just in New York City or Albany is a
10 sign that you really do care about the residents
11 of the whole state.

12 Having attended a lot of hearings over
13 the years, I'll try to be brief. No one likes to
14 sit up in front of people and talk for 15
15 minutes. Having served as both Chairman of the
16 Legislature in the past--and in the past,
17 minority leader of the legislature, I have a good
18 perspective on working with members of both
19 parties. Broome County is a place where both
20 Democrats and Republicans are competitive in many
21 elections, and that dynamic means there has to be
22 cooperation between political parties to get
23 things done. Much the same way that you have to
24 do in Albany.

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2 I want to primarily discuss three topics
3 as they relate to redistricting. First, I want
4 to address the process of redistricting. There's
5 been a lot of media attention on independent
6 redistricting. I'm here to tell you, there's no
7 such thing. Everyone has an opinion or bias of
8 re--and simply selecting people to make decisions
9 who have been a different--who have a different
10 perspective does not make for independent
11 redistricting. Additionally, both tradition and
12 the state constitution gives responsibility for
13 setting district line to the state legislature.
14 Like it or not, just passing a law or a budget,
15 it's the role of the state legislature to
16 compromise, make tough decisions and get the job
17 done.

18 Here in Broome County, we're working on
19 a redistricting plan ourselves. In order to work
20 through the difficult decisions we have to make,
21 we set up a bipartisan ad hoc committee, much
22 like your task force, to do research, solicit
23 public input and then make decisions. And that
24 process can work to make fair districts. Just

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2 like our state officials, Senator Libous,
3 Assemblywoman Lupardo, Assemblyman Crouch and
4 Assemblyman Finch work together in a bipartisan
5 way in Albany now, I'm confident that members of
6 this task force can work out a plan that takes
7 into account the needs of all areas of our state.

8 Second, I want to address the
9 congressional districts in Broome County. While
10 Broome County's a major population center in
11 Upstate New York, our voice is currently being
12 diminished by having two congressional seats
13 based hundreds of miles away. These districts
14 sprawl through many counties and communities in
15 central New York, the Finger Lakes, the southern
16 tier, the Mohawk Valley and the Hudson Valley.
17 It makes no sense. My past three congressional
18 representatives, a Democrat and two Republicans,
19 have lived in the Utica area. Nothing against
20 Utica, but Binghamton is ten minutes away from my
21 home, and Utica is two hours.

22 Also, Broome County's other
23 congressional representative lives almost three
24 hours away in Hudson Valley. Again, while I'm

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2 sure Woodstock and New Paltz are nice places to
3 visit, they don't have much in common with Broome
4 County. At the very least, I ask that you join
5 all parts of Broome County together in one
6 congressional seat. Broome County is a very
7 diverse county politically, and putting all of
8 Broome County in one district would not create a
9 gerrymandered situation for either party.

10 Lastly is the issue of the state senate.
11 After last year's impasse, I can think I can
12 speak for many people around the state in saying
13 we need odd number of state senators. Since the
14 population of New York has grown by 400,000
15 people since 2000, I would suggest adding a seat
16 in the senate to make 63 senators. That would
17 ensure we don't run into the nightmare scenario
18 of a tie, which would lead to gridlock, lengthy
19 legal battles, and ultimately the business of the
20 state grinding to a halt. Again, I thank you for
21 your time. I thank you for coming to Binghamton.
22 I thank you for coming to Broome County, and good
23 luck as you tackle the tough decisions ahead of
24 you.

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2 SENATOR NOZZOLIO: Thank you very much,
3 Mr. Chairman. Any questions? Assemblyman
4 McEneny?

5 ASSEMBLY MEMBER MCENENY: an
6 observation. Because we have grown, and thank
7 you for acknowledging that. A lot of people say
8 we've lost population. We haven't. We've gained
9 400,000 people, but we have not grown as much as
10 the rest of the, of the nation. And that means
11 that we'll have no longer 29 members of the House
12 of Representatives, but 27. When you mention, as
13 has been mentioned at other hearings, the
14 sprawling, long distance, and, and inclusion of
15 communities that seem to have little in common
16 with one another, which is, I assure you, a
17 nightmare for constituent services for
18 congressional staffs and the members themselves,
19 the hard truth is that we'll be going from 650,
20 660, something like that, up to--the new number
21 is 717,707, which means there are districts--
22 every, single congressional district in the State
23 of New York, even where there's been a lot of
24 growth out around Suffolk and in Eastern Long

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2 Island, every, single one of them no longer
3 qualifies to be a congressional district.
4 They're all too small. Some will have to gain as
5 many as 70,000 people, and that's probably one of
6 the biggest problems facing the task force and
7 the people of New York.

8 The new number is enormous, so when
9 you're planning--and we encourage everyone here
10 to send in maps of what they think a district
11 should look like at any level, Assembly, Senate
12 or House of Representatives, that's the magic
13 number. 717,707, and the federal government is
14 about as flexible as flint on that number.
15 They'll split towns, which we tend not to do.
16 They'll do anything to make that number come out
17 exact, to the person. And thank you so much for
18 your testimony.

19 MR. MARINICH: Thank you.

20 SENATOR NOZZOLIO: Any other questions?
21 Senator Dilan?

22 SENATOR DILAN: Yes, I, I, I would like
23 to address your third point with regard to the
24 size of the senate. I know that you make a

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2 comment that we have grown by 400,000 in the
3 State of New York, but is there an actual
4 formula, or is there any basis for going up to
5 63? I know you also said that that state senate
6 should be an odd number. Why not go down to 61?

7 MR. MARINICH: Again, I think that'll
8 be--because the population has grown, you know,
9 400,000, and we hope that all of our economic
10 machines that we put in place will continue to
11 have New York State grow. I think at this point
12 here I think 63 is a better number than 61
13 because I hope--and I--and I know it's the vision
14 of everyone up there to make New York State grow.
15 And if it's going to grow, we're going to need
16 that representation. We certainly cannot stay at
17 62. I think 63's a better number because I, I
18 see growth in the future, and I see--I see growth
19 as a positive thing.

20 SENATOR DILAN: I believe that at this
21 time, the way that the census numbers did come
22 out, and based on the formula that we do have in
23 the Constitution of the State of New York, I
24 believe that number would call for the Senate

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2 staying at 62. And if we were to take your logic
3 into account and say 400,000, then it would be
4 appropriate to create that senate seat wherever
5 the population grew. Is that correct?

6 MR. MARINICH: Again you know that's
7 very--your, your tough decision to make. And I
8 would just like to see it. I'd like to see it
9 get off the 62 because as, as we can see, if we--
10 if we end up with a 31-31, then we know things
11 are going to--will go to stalemate. There's
12 going to be--

13 SENATOR DILAN: [Interposing] But if--
14 but if an odd number is what we're calling for--

15 MR. MARINICH: There's going to be--
16 there's going to be decisions made to--made to
17 who, who's going to be in charge, and things like
18 that. And that doesn't do--bode well for the
19 state.

20 SENATOR DILAN: Well, I think in view of
21 all the fiscal problems we're having, I think
22 going to 63 is going in the wrong direction.
23 Perhaps we really have to take a look at that
24 formula, and I'm sure we'll do the right thing.

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2 Thank you.

3 MR. MARINICH: I wish you the best.

4 SENATOR NOZZOLIO: I certainly
5 appreciate your comments about trying to
6 establish a number in the state senate that will
7 prevent future gridlock, and that's something
8 that that I note and is well-noted in your
9 testimony. I have a question about your comments
10 very interesting comments about your decision
11 herein Broome County to establish a bipartisan ad
12 hoc committee for the redistricting process. Mr.
13 Chairman, could you elaborate on that endeavor?

14 MR. MARINICH: Certainly. At the
15 beginning of the year when we took the majority
16 back, I knew that we would have to have this
17 decision done based on the census. And I knew
18 that in the referendum two years ago that the
19 voters passed, we had to reduce from 19 to 15, an
20 odd number. We still stayed at an odd number
21 from 19 to 15. So I knew that was going to be a
22 very difficult task, and so I had the chairman of
23 the County Administration Committee put together
24 a committee, and he selected two from the

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2 majority party, two from the minority party.
3 They were each allowed to select someone from
4 outside of government to sit on, on, on the
5 committee. We also had an independent or retired
6 government workers on it, and we had a
7 representative from the League of Women Voters on
8 the committee. And we went through this whole
9 process, and at the end of the day, it passed.
10 There were nine people on the committee, and
11 eight people voted for it. And even the League
12 of Women Voters voted for our redistricting. So
13 we were--we were able to do that, I think, in a
14 fair and, and bipartisan way, and we also
15 included the public. We had interactive maps
16 that were available on our web site so they could
17 go ahead and pick different districts, and it
18 would give us the plus minus--plus or minus the
19 5% each way. And so they were able to put
20 together different districts, and so--and they
21 could submit it to us. We had public--all our
22 meetings were open to the public, like--much like
23 this is here for comments from the public. We
24 took comments through e-mail, telephone, anyway

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2 they wanted to get it to us, and we're--we
3 listened to all those things, and we came up with
4 a formula and a map that that the committee came
5 up with. It was approved by the committee, and
6 it was approved by the legislative body. But
7 unfortunately, the, the executive vetoed it.

8 SENATOR NOZZOLIO: Hm. Well that is
9 unfortunate, particularly the, the amount of work
10 that you put into the process. But I--the work,
11 nonetheless, is a template for other work that we
12 are working here on a bipartisan basis.

13 MR. MARINICH: Yes.

14 SENATOR NOZZOLIO: And I appreciate your
15 own reference to the local process here in Broome
16 County with the process that we are engaged in
17 right now at the state level. So I--without any
18 further questions--Assemblyman Oaks.

19 ASSEMBLY MEMBER OAKS: Yes, just one, I
20 appreciate your comments, one on the independent
21 redistricting, as well as the senate numbers.
22 Just a quick think on Congress. I guess you
23 talked about the issue of sprawling and keeping
24 the county whole. I would say to you that

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2 reflecting on Co-Chairman McEneny's comments,
3 sprawling is very difficult not to do because of
4 the size of the numbers. And also because of
5 having to go to the single person, keeping
6 counties whole sometimes is also difficult. But
7 your sensitivity toward that I think is something
8 that this task force is looking to take into
9 account as it impacts across the state. But if
10 you look at Broome County's population, around
11 200,000, and you even take in your neighboring
12 that gets to about 450, maybe, the people around
13 you. There's still 260-or-so-thousand people
14 even if Broome was the center, having to go out
15 and find those. And so the impact of putting
16 that, that together with all the other districts
17 to be drawn, I think that's just part of the
18 implication of the difficulty that I--it's
19 important that you make your comments so that as
20 these are drawn, they can be taken into account.
21 So thank you very much.

22 MR. MARINICH: Thank you.

23 SENATOR NOZZOLIO: Mr. Chairman, I have
24 one more question. A series of questions.

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2 Whereabouts is your district? Where do you
3 represent?

4 MR. MARINICH: I represent the town of
5 Chenango, which is currently District 10 in
6 Broome County.

7 SENATOR NOZZOLIO: Do you have the
8 entire town?

9 MR. MARINICH: I have the--I have
10 currently in our current district before we go to
11 redistricting, I have all--I have nine out of the
12 ten election districts in my town.

13 SENATOR NOZZOLIO: One of the concerns
14 we have that is the state constitution. That's
15 not a con--the constitution isn't a concern.
16 Following the constitution is the concern we, we
17 all have. And the constitution is designed to
18 protect the integrity of, of towns, and prevents
19 towns from being cut in this process for state
20 legislative lines.

21 I just looked up your congressional
22 districts, and they do not cut towns, apparently.
23 in the information we have.

24 MR. MARINICH: But it does cut the

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2 county.

3 SENATOR NOZZOLIO: But it does cut the
4 county. And that in some areas where it cuts
5 towns that has--others have testified, in Monroe
6 County, in particular how that has wreaked havoc
7 with administration of that town, the ability to
8 get grants and the ability to bring attention to
9 their, their needs. Are--do you find that to be
10 the case, or could be the case here in Broome as
11 well?

12 ASSEMBLY MEMBER MCENENY: Well,
13 absolutely. It's--as you know, it's a lot easier
14 to deal with one entity than, than multiple
15 entities. You know what I mean? If you have one
16 congressmen versus two congressmen, as we do
17 presently, it seems to me it's easier to go to
18 one office and, and try to explain your needs
19 and, and what you would like to see for the
20 county as a whole. Right now, we're split up in
21 two. I mean, they're, they're both doing the
22 best that they can, but they're, they're spread
23 out so far. The southern tier Broome County has
24 the largest population base. Let's try to keep

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2 at least that whole for at least one congressmen
3 instead of splitting it up into two.

4 SENATOR NOZZOLIO: And that was
5 Assemblyman McEneny's point earlier that a number
6 of years ago, I recall, when I was a--first an
7 intern in politics, and I remember finally Howard
8 Robison represented this area. At that time, the
9 districts were around the same size as our
10 senatorial districts now. In the past number of
11 decades--I won't say how many, but in the--since
12 those decades have gone by, the districts have
13 almost doubled, if not more so. the
14 congressional districts, and that has created, I
15 think what you're saying the, the, the sheer mass
16 of--and Assemblyman McEneny said it earlier, the
17 sheer size of these districts makes it difficult
18 to have--also the requirement at, at the federal
19 level, or the non-requirement at the federal
20 level, if you will, that the towns can be broken
21 for congressional districts presents upstate, I
22 believe certain disadvantages for those towns
23 that need to be cut.

24 MR. MARINICH: I agree. I agree. It,

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2 it certainly does because you're right. We,
3 we're more rural. We do have our centers. We do
4 have an increased population base, but other than
5 that, in Tioga, in Delaware, in Chenango, they're
6 more of a rular--rural type of county. But
7 again, I just want to go back. I think Broome
8 County needs to be the center. Start from there,
9 if you can, and work your way out, you know, if
10 that--if that's possible as you're looking at the
11 map so that at least Broome County can have one
12 representative, which is the major population
13 base, which was the engine that drives, you know?

14 SENATOR NOZZOLIO: In terms of community
15 of interest I know Senator Libous advocates for
16 this every day that I hear him in the state
17 senate, and that is the needs of the southern
18 tier. Senator Libous said that the prime
19 advocate for the southern--have always been a
20 prime advocate for the southern tier. How do you
21 relate with the, the southern tier communities,
22 the county legislatures in Tioga, Chemongand
23 moving west to Bend [phonetic]. Is there, in
24 fact, a southern tier community?

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2 MR. MARINICH: Well, there is, and I, I
3 think--I think maybe the governor rec--recognized
4 that in the fact that he made one of the economic
5 develop al--development regions is the southern
6 tier, going all the way out to Corning, New York,
7 and in, into Delaware County, and he made that
8 one economic region. So do we all work together?
9 Yes, we have to. We all have to work together.
10 I mean, one job is one job.

11 SENATOR NOZZOLIO: Well, thank you very
12 much, Mr. Chairman, for your very insightful
13 testimony. We appreciate it, and with that I'd
14 like to, on behalf of the task force, thank you
15 very much for your participation.

16 MR. MARINICH: Thank you for the
17 opportunity.

18 SENATOR NOZZOLIO: It--Michael Lane,
19 Tompkins County Legislator. Good morning, Mr.
20 Lane. Would you, for the record, state who you
21 are, where you're from and what you do?

22 MR. MICHAEL LANE, TOMPKINS COUNTY
23 LEGISLATURE: Certainly. My name is Michael
24 Lane, L-A-N-E. And I'm a Tompkins County

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2 legislator from the town of Dryden in Tompkins
3 County. And I currently chair for our county
4 legislature, the government operations committee.
5 In, in real life, I am a lawyer.

6 SENATOR NOZZOLIO: Welcome.

7 MR. LANE: Thank you. And I want to
8 thank you, too, for holding a hearing on this
9 important topic here in the southern tier, and
10 for affording me the opportunity to comment on
11 your important task. By way of background, as I
12 said, I'm Michael Lane, a resident of the village
13 and town of Dryden in Tompkins County. I
14 formerly served in village government. I was a
15 mayor of the village of Dryden for ten years, and
16 I'm now in my 14th year of service as a Tompkins
17 County legislator. I current--as I said, I
18 currently chair the county's Government
19 Operations Committee.

20 Back in 2001, I chaired its
21 redistricting committee after the 2000 census.
22 Like Congress and the New York State Legislature,
23 most counties must be redistricted as well. For
24 the redistricting process after the 2010 census,

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2 the Tompkins County Legislature has made a
3 thoughtful and considered decision to establish a
4 local, independent redistricting commission to
5 redraw districts to equalize populations. By a
6 bipartisan and nearly-unanimous vote, a
7 resolution was adopted by our legislature by
8 which a nine-member commission was established.
9 No elected or appointed officials and no officers
10 of any political parties or committees were
11 eligible for appointment to that redistricting
12 committee.

13 The commission was directed not to take
14 into consideration the residences of any
15 incumbents and to try to establish districts that
16 respect municipal boundaries and communities of
17 interest. There are copies of the resolution in
18 the memorandum establishing the redistricting
19 commission next to my written testimony.

20 I believe that Tompkins County may be
21 the only one in New York that has established an
22 independent redistricting commission. We did it
23 for two reasons. The first was to provide fair
24 divisions to make sure everyone's voice is

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2 equally heard. And the second, as emphasized by
3 many county legislators at the time of its
4 adoption, was to send a message to the New York
5 State legislature that an independent process can
6 be constructed for redistricting and to do so is
7 the right thing to do. Even though we are a
8 junior partner, we chose to set an example.

9 It matters to our democracy how we
10 redraw our representative districts, whether at
11 the congressional, state or county level. The
12 process should not be about the personal power of
13 incumbents or loading the dice for one party or
14 the other. It should be about establishing fair
15 play. You all know the abuses. For a frank
16 assessment, I commend to you a book by the former
17 New York State senator, Seymour Lachman, entitled
18 *Three Men in a Room*. Mr. Lachman, a Democrat,
19 describes the said--State Senate gerry--describes
20 the State Senate gerrymandering after the 2000
21 census, and in particular, an incident in which
22 the Republican majority leader promised him a
23 safely-constructed district, if only he would
24 change parties or do what the majority leader

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2 told him. An excerpt from that book is attached
3 to my written testimony.

4 Tompkins County has been the recipient
5 of substantial gerrymandering abuse. Take a look
6 at the map. The county is shared by two
7 congressmen. Before 2000, it was only in one
8 district, but it's now divided in two. Most of
9 the county, including where I live, is a part of
10 District 24, represented by Richard Hanna. But a
11 narrow wedge, consisting of the towns of Danby
12 and Ithaca and the City of Ithaca, pierces from
13 the south and attaches to District 22,
14 represented by Maurice Hinchey. That
15 gerrymandering was done for just one reason. To
16 keep the city and town of Ithaca attached to the
17 22nd District for Congressman Hinchey because it
18 had given him the margin of victory in at least
19 one election.

20 The rest of the towns in Tompkins County
21 found themselves connected to a district
22 extending east to Utica and Rome, and then well
23 into the north country, areas with which there is
24 almost no community of interest. Because the

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2 county boundaries were not respected and the
3 Ithaca population center was stripped away, those
4 towns have very little influence in District 24.
5 The gerrymandering of Tompkins County for the New
6 York State Senatorial Districts is even more
7 offensive. Tompkins County is nearly unique, and
8 upstate is the home of Cornell University and
9 Ithaca College. It has a majority Democratic
10 registration and often votes that way. It ought
11 to be part of a single district, but has been
12 split into three parts to dilute its voting
13 power.

14 The west part of the county, including
15 the City of Ithaca, is attached to the 53rd
16 District represented by Thomas O'Mara, which is a
17 heavily-Republican district. The east part of
18 Tompkins County is attached to District 51,
19 represented by James Seward, and then there's the
20 lone town of Lansing, that is chopped off and
21 annexed to District 54, represented by Senator
22 Nozzolio.

23 Senator Seward's district is a
24 remarkable feat of gerrymandering. As you may

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2 have heard, the irregular shape of that District
3 looks like the outline of Abraham Lincoln riding
4 a vacuum cleaner. So much for regular, compact
5 districts. To reach to the west and eventually
6 to Cortland and Tompkins Counties, a row of towns
7 is connected that are obviously there only to
8 minimally comply with the legal requirement that
9 the district be contiguous. This dysfunctional
10 system of gerrymandering is fueled by the
11 domination of incumbent state legislators. New
12 legislators appear rarely, except when there are
13 vacancies caused by death or retirement. Many
14 incumbents are followed by hand-picked
15 replacements. Two of Tompkins County legislators
16 got their jobs after having been employees on the
17 staffs of retiring popular legislators, who of
18 course endorsed them. There are many reforms
19 that are needed to correct the deficiencies in
20 the New York State Legislature, but none is more
21 fundamental than to correct the process of how
22 Senate, Assembly and Congressional districts are
23 drawn. Since the 1970s and even more so since
24 the redistricting that took place after the 1980

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2 federal census, there has evolved a fundamental
3 deal in New York. It goes like this. The
4 legislature must redistrict every ten years, and
5 the governor must approve the plan.

6 Three counties in New York City have to
7 meet federal muster for representation of
8 minorities under the Federal Voting Rights Act.
9 The Senate is controlled by the Republicans and
10 the Assembly by the Democrats. Republicans draw
11 district lines to favor their incumbents and to
12 keep voting control of the senate, and the
13 Democrats do the same in the assembly districts
14 to keep control there.

15 The congressional districts because both
16 houses must agree are slightly fairer, but their
17 irregular shapes make campaigning in them very
18 difficult for challengers. It's called
19 gerrymandering, and it's done as a science,
20 complete with the latest computer technology.

21 I support Governor Cuomo's call for an
22 independent, nonpartisan redistricting
23 commission. It's time to act. The details need
24 to be agreed to, and I'm not minimizing the

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2 difficulty of that discussion. There is time to
3 do that if the legislature wants it. The process
4 needs to start now. I would like to see all of
5 New York State legislators pledge to support
6 this, as most of them have pledged in the past.
7 It's the right thing to do for the people.

8 I would conclude by saying that the
9 current process is undemocratic. Let's do it the
10 right way. If this task force or the legislature
11 as a whole recommends districts in the old,
12 corrupt fashion, then I hope governor--the
13 governor will keep his word and veto them. It
14 would not be pretty, and court actions might have
15 to come into play. Whatever occurs, it's
16 definitely time that self-serving partisan
17 gerrymandering come to an end. Make it happen.
18 Thank you.

19 SENATOR NOZZOLIO: Any questions,
20 members of the panel? Assemblyman McEneny?

21 ASSEMBLY MEMBER MCENENY: Yes, I was
22 interested in the comment, which I heard at
23 another hearing on the Abraham Lincoln on the
24 vacuum cleaner analogy for the district.

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2 MR. LANE: Yes.

3 ASSEMBLY MEMBER MCENENY: Which is, in
4 the absence of more elegant language, it's a glob
5 along the Mohawk Valley with a huge stovepipe hat
6 on top of it.

7 MR. LANE: Yes. And and--

8 ASSEMBLY MEMBER MCENENY: You're giving
9 that as an example of gerrymandering?

10 MR. LANE: Yes, because it's act--
11 obviously with the, the string of towns to
12 connect the east and west parts of that, which is
13 the, the broom, if you want on the, on the
14 picture, or the Abraham Lincoln--on the vacuum
15 cleaner, pardon me. It's, it's simply put
16 together to do that. There's no community of
17 interest in that district from one end to the
18 other.

19 ASSEMBLY MEMBER MCENENY: So--

20 MR. LANE: districts ought to be
21 compact, and people ought to be able to travel
22 across them in a reasonable way.

23 ASSEMBLY MEMBER MCENENY: Do you know
24 why that hat goes up into the Adirondacks?

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2 MR. LANE: I would assume because that
3 is a large county up there, and it's--it probably
4 has a Republican voting record.

5 ASSEMBLY MEMBER MCENENY: Then I would
6 think you would owe an apology to somebody. It's
7 called the era--the Herkimer County, County Line,
8 and the governor, who recently carved up the
9 state into economic development districts--I'm
10 not sure what independent advisory group he used
11 to do it has that same Abraham Lincoln on a
12 vacuum cleaner shape, and that's because that's
13 what Herkimer County looks like. And it's looked
14 that way for 200 years, I would think, more or
15 less.

16 There are other examples in our history
17 that aren't pretty on maps. The State of
18 Maryland, for example, with the huge panhandle
19 that's probably about ten miles wide before it
20 gets a little bit, a little bit wider. There are
21 reasons why some of these lines are drawn, which
22 have nothing to do with politics, unless it's
23 purely coincidental.

24 The, the, the Herkimer County Line is

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2 troublesome, but that's their county. And it's
3 been that way for 200 years, and one of the
4 things we try to do is to respect municipal
5 boundaries when they can be respected.

6 MR. LANE: Assemblyman, I appreciate
7 that--

8 ASSEMBLY MEMBER MCENENY: Especially
9 counties.

10 MR. LANE: But the, the, the, the figure
11 that I was re--referencing on the map is, is
12 larger than Herkimer County. That's just a part
13 of it.

14 ASSEMBLY MEMBER MCENENY: Well, we've
15 also seen others that--where there's a, a rush to
16 judgment. There's one down in the Bronx, which
17 the same group that comes up with these rather
18 memorable statements describes as oops, I spilled
19 coffee on my map, and the district goes in and
20 out and about, etc., etc. That's a civil rights
21 county. That's under the jurisdiction of the
22 Justice Department, and if you're trying to
23 establish an African-American opportunity
24 district and a Hispanic District, they don't all

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2 live in little square boxes. It's not all going
3 to look like Colorado or Wyoming.

4 And consequently, the product to satisfy
5 the voting rights act of 1965 is often going to
6 look very awkward on a map for people who have
7 particularly never been in that county and don't
8 understand the patterns of commuting the history
9 patterns of settlement and so and so.

10 I would be a lot happier if people would
11 go into the districts that they feel are badly
12 drawn and then come up with evidence that they're
13 badly drawn. The Herkimer County one especially
14 throws me. It's usually from people who have
15 never been in Herkimer County and have no idea
16 why Lincoln's stovepipe hat has been put in
17 there. There's actually very few people that
18 live there, something like 1,300 people in the
19 entire hat. But because it's in the same county,
20 same county seat, same county government, the
21 tendency is always to include it, as Governor
22 Cuomo just did with his economic development
23 district.

24 MR. LANE: I take your point,

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2 Assemblyman, but I think you're missing the
3 larger picture. We're not talking just about the
4 hat. We're talking about the whole district.

5 ASSEMBLY MEMBER MCENENY: But if that's
6 the example, it makes me wonder about the other
7 examples.

8 SENATOR NOZZOLIO: Senator Dilan.

9 SENATOR DILAN: Morning, sir.

10 MR. LANE: Good morning.

11 SENATOR DILAN: I, I just want to
12 mention that Suffolk County--Suffolk and Ulster
13 Counties have recently created independ--
14 independent commissions. And the question that I
15 have for you is, do you think that we still have
16 time to create in--independent commission? I
17 know that there have been arguments with respect
18 to the constitutional issue of having two
19 legislatures pass it, and a ref--public
20 referendum. But do you believe that if there was
21 a will in the state legislature to create an
22 independent redistricting commission, that we
23 could still do that?

24 MR. LANE: I believe so. I don't

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2 believe it has to be through a constitutional
3 amendment process.

4 SENATOR DILAN: Um hm. And can you
5 elaborate? Can we do that, legally?

6 MR. LANE: I believe that the New York
7 State would, would be able to pass a law that
8 would be approved by the governor setting up an
9 independent communication. I know there are
10 bills that have been in the legislature for years
11 setting up a very detailed process for that. I
12 think they could be taken up. I think they sh--
13 ought to be taken up, and they ought to put the
14 process in place.

15 Sadly it's, it's, it's approaching the
16 time when, when things can't happen that way, and
17 I think that that may be from, from neglect at
18 the legislative level, and it and that's too bad
19 because this is the right thing to do. I think
20 you could still get it done.

21 SENATOR DILAN: Um hm. Thank you.

22 SENATOR NOZZOLIO: Mr. Lane thank you
23 very much for your testimony. Before you go, I
24 have a couple of questions.

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2 MR. LANE: Certainly.

3 SENATOR NOZZOLIO: That--for the record
4 it's my understanding you ran for the New York
5 State Legislature at some point--

6 MR. LANE: I ran for in a primary
7 election for Assemblyman, yes. That was in 2002.

8 SENATOR NOZZOLIO: Andin what, what
9 primary--was that in a--what party was that a
10 primary for?

11 MR. LANE: I was a Democratic primary.

12 SENATOR NOZZOLIO: It was a Democratic
13 primary. in terms of your support for
14 independent redistricting, and this is not--I, I
15 think we, we did not state this at the outset,
16 but I think it, it certainly bears repeating,
17 that decision is not the decision of, of the four
18 state legislators who are here today. It's a
19 decision for the entire state legislature. I
20 guess, though, that your definition of
21 independent is, is not the same definition as--
22 that I would have as independent particularly
23 when this election process as outlined by some of
24 the proposals is heavily weighted in favor of one

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2 party, that's the Democrat party, over another.

3 Doesn't that bother you at all?

4 MR. LANE: I'm, I'm sorry Senator. What
5 is weighted toward them?

6 SENATOR NOZZOLIO: It's weighted--

7 MR. LANE: What is weighted?

8 SENATOR NOZZOLIO: This election process
9 to choose who would be the proposed legislation
10 that you endorsed in your testimony weights the
11 selection of the so-called independent body where
12 some have characterized it at other hearings as
13 being eight Democrats and two Republicans. Does
14 that--is, is that the type of independent process
15 that you are s--espousing here today?

16 MR. LANE: I'm espousing a, a fair
17 process. The, the details of the legislation
18 would have to be agreed to by, obviously the
19 Senate and the Assembly, and Governor Cuomo. And
20 the last I knew, the, the Senate was still a--
21 Republicans were still in charge of the Senate,
22 and Democrats were still in charge of the
23 Assembly. So I think that if they really wanted
24 to work something out, they could come up with

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2 something fairly held that was--that was
3 bipartisan.

4 SENATOR NOZZOLIO: Your comments about
5 the Constitution, and I, I, I point out, before I
6 get to that point, that there is a--both parties
7 equally represented here at the task force. In a
8 bipartisan fortune--fashion. But the comment
9 about the Constitution is what--of all the
10 comments you made, troubles me the most. You are
11 an attorney, are you not?

12 MR. LANE: I am.

13 SENATOR NOZZOLIO: you believe that the
14 Constitution of the State of New York would not
15 be in any way superseded by the establishment of
16 a--and violated by the establishment of the
17 proposals now before us, calling for an
18 independent redistricting process?

19 MR. LANE: No, because the final
20 approval of the process is going to have to be at
21 the legislative level.

22 SENATOR NOZZOLIO: But the deviations
23 that are suggested, required by this proposal are
24 such that would require the cutting of towns.

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2 And that is the, the constitutional provision we
3 discussed with the Chairman of the Broome County
4 Legislature at the prior testimony, and it's one
5 that bothers me, concerns me the most that to
6 achieve the deviations suggested in that
7 legislation that towns would likely have to be
8 cut in upstate. The issue about the legislative
9 approval then doesn't that contravene your whole
10 message about independence? Then how can an
11 independent communication be established that
12 still requires the approval as the Constitution
13 requires, by the legislature?

14 That would not an independent commission
15 be established that did not require, should it--
16 an independent commission be established that has
17 no legislative approval process in it?

18 MR. LANE: Well, you could never take--I
19 agree with the Chairman of the Broome County
20 Legislature. You can never take everything out
21 of it that has to do with politics because our
22 government has to do with politics. But we can
23 do better. We can--we can come up with a system
24 of appointing a commission that is not populated

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2 by incumbent legislators that can take a look at
3 it. Other states have done it. Other states are
4 doing it. California has gone to a different
5 process. New York used to lead the nation in
6 good government. Why aren't we doing that here?

7 SENATOR NOZZOLIO: Any other questions
8 of Mr. Lane? Hearing none, thank you very much
9 for your testimony.

10 MR. LANE: Thank you for the
11 opportunity. I appreciate all you being here.

12 SENATOR NOZZOLIO: Gene--I apologize if
13 I'm mispronouncing this name. Gene Faughnan?
14 How bad was that?

15 MR. EUGENE FAUGHNAN, COMMISSIONER,
16 BROOME COUNTY BOARD OF ELECTIONS: Not too bad.
17 It's Gene Faughnan.

18 SENATOR NOZZOLIO: Faughnan?

19 MR. FAUGHNAN: Yeah.

20 SENATOR NOZZOLIO: Thank you for your
21 participation. Could you please, for the record,
22 indicate who you are, sir, and what you do, and--

23 MR. FAUGHNAN: Yes.

24 SENATOR NOZZOLIO: What you represent?

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2 MR. FAUGHNAN: I'm Gene Faughnan. I am
3 the Republican Election Commissioner in Broome
4 County, and I'm also a practicing attorney and a
5 partner at Hinman, Howard and Kattell, LLP.

6 SENATOR NOZZOLIO: Welcome.

7 MR. FAUGHNAN: Thank you. Good morning.
8 I'd like to thank you for taking the time to come
9 to Binghamton to hear the views of our community
10 on the difficult task that you have been charged
11 with. At the Board of Elections, we recently
12 undertook a rebalancing and a consolidation of
13 election districts here in Broome County, so I do
14 have a small understanding for what you're going
15 through. I'd like to express my appreciation for
16 your willingness to undertake this thankless, but
17 vital mission.

18 Over the past number of months, this
19 task force and many legislators have received
20 criticism in the media and from so-called good-
21 government groups regarding this particular
22 process. And for not going with the Governor's
23 so-called Independent Commission Plan. This plan
24 calls for a committee to choose the members of

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2 the commission. The committee of eight is chosen
3 as follows. Four are appointed by the governor,
4 and one each by the Senate Majority Leader, the
5 Senate Minority Leader, the Assembly Speaker, and
6 the Assembly Minority Leader. As was just spoken
7 about, in my view, that stacks the deck in favor
8 of the Governor. It ensures that he and his
9 partisan allies have six of eight votes.

10 It's not even so much a Republican and
11 Democratic issue. Whoever the governor is, is
12 going to have the stacked deck when it comes to
13 the redistrict--or the reapportionment. The
14 proposals of this so-called independent
15 commission would then have to be voted on by each
16 house of the legislature, without amendment, and
17 only after failing twice can minor amendments be
18 made.

19 As might be expected from my opening
20 remarks, I am here for voice my support for this
21 task force. I'm recognizing the bipartisan
22 nature of the task force, and I have difficulty
23 understanding why it is viewed as not being an
24 independent task force. I mean, this is a group

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2 that is representing both parties. We have
3 individuals from both government and outside of
4 government, and to me, that looks like an
5 impartial and independent body that's making the
6 decision.

7 I believe that any district--
8 redistricting and reapportionment plan must be
9 done in a way that is both fair and legal. The
10 fair I just spoke about. To me, you have elected
11 officials. You have non-elected officials. It's
12 a bipartisan task force that you have here today.
13 I believe that this structure ensures that your
14 findings and representations will be the product
15 of a fair and reasoned, if not contentious,
16 process. As previously noted, the governor's
17 plan seeks to stack the deck in favor of the
18 executive branch. I believe it is neither fair,
19 nor bipartisan. It is not a suitable replacement
20 for LATFOR.

21 Now the legal. Under the state
22 constitution, it is the duty and obligation of
23 the Senate and Assembly to reapportion
24 legislative and congressional districts every ten

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2 years. The provisions of Article 3, Section 3
3 and 4 make clear that this is a non-delegable
4 duty of the Senate and the Assembly. The Senate
5 and the Assembly may and indeed have chosen to
6 delegate fact-finding responsibility for the
7 adopted plan--or, excuse me, to this task force.
8 But in the end, the responsibility for adopting a
9 plan goes back to the legislature. This
10 responsibility cannot be avoided or delegated.
11 It is my belief that the governor's proposal runs
12 afoul of the Constitution. It would not
13 withstand constitutional challenge.

14 The Constitution provides specific
15 powers to the branches of state government. Such
16 powers cannot be altered by mere legislation. I
17 am of the opinion that the governor's proposal
18 seeks to unconstitutionally limit the powers of
19 the legislature. I am of the belief that current
20 provisions regarding redistricting in the state
21 constitution should be amended. The Senate
22 passed a reform several months ago. That reform
23 would begin by amending the Constitution.

24 The reform transfers the legislatives--

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2 legislature's authority for reapportionment to a
3 five-member commission. That commission would be
4 comprised of four individuals selected by the
5 majority and minority leaders in each house. The
6 fifth member is chosen by a vote of at least
7 three of the other four members. And none of the
8 commission members may be current or past office
9 holders.

10 The Senate's proposal strikes a partisan
11 balance, while ensuring an ultimate resolution,
12 and by definition, by being a--in en--en--
13 encompassing a constitutional amendment, it's
14 going to be constitutional. Now, amending the
15 state constitution is, is appropriately no small
16 matter. Proposed amendments must be passed by a
17 majority in both the Senate and the Assembly in
18 two consecutive sessions. And then place--then
19 placed before the voters. For this reason, it is
20 not a change that can be effectively pursued for
21 this reapportionment.

22 For this reason, I support the current
23 bipartisan approach to LATFOR, and would
24 encourage the Senate and Assembly to pass a fair

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2 and constitutionally sound reform. One final
3 observation. It was mentioned a little bit
4 earlier, we all recently witnessed the
5 difficulties in the state Senate with the evenly-
6 divided Senate. For this reason, it is my belief
7 that any redistricting plan should envision a
8 Senate having either 61 or 63. Not an even
9 number.

10 Again, I want to thank you all for
11 coming here today and for allowing me to express
12 my views on this important matter, and I want to
13 thank you again for your service to our state.

14 SENATOR NOZZOLIO: Thank you,
15 Commissioner. Any members of the panel wish to
16 ask the commissioner any questions? Senator
17 Dilan?

18 SENATOR DILAN: So you're advocating for
19 an odd number, and you're saying that that odd
20 number could be 61?

21 MR. FAUGHNAN: Sure.

22 SENATOR DILAN: All right. So you're
23 just advocating for that. And basically the
24 state constitution does have a formula that

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2 determines the size of the Senate. So you do
3 believe that we should follow the Constitution
4 and whatever that formula is?

5 MR. FAUGHNAN: I, I think you have no
6 choice but to follow the Constitution.

7 SENATOR DILAN: Thank you. Thank you
8 very much. Thank you.

9 SENATOR NOZZOLIO: commissioner, before
10 you leave, I wanted to highlight some of your
11 testimony. I appreciate your comments regarding
12 the, this constitutional issues, and speaking as
13 an attorney on the constitutional issues
14 confronting changing this process as well as the
15 partisan aspects of the authority so delegated.
16 And so thank you for that.

17 I'd like to ask you to take your lawyer
18 hat off and put your commissioner hat on. that--
19 Assemblyman McEneny are--and I are concerned, as
20 I believe other members of the task force are,
21 with the potential of having an earlier primary
22 required by the federal government. that primary
23 has yet to be determined. The speculation is
24 that it would be sometime as early as June of

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2 2012. What we are trying--one of the lines of
3 questioning we're trying to ask for the record,
4 is to understand the dynamics of what that June
5 primary would mean in a redistricting year where
6 the Board of Elections would be confronted with a
7 massive amount of work in a very short period of
8 time. Do you have any sentiments on that issue
9 to date?

10 MR. FAUGHNAN: Oh, I definitely think
11 it's a significant factor. I mean, we--having
12 re--just changed--

13 SENATOR NOZZOLIO: [interposing] And
14 excuse me. If I could also indicate, Assemblyman
15 McEneny just whispered in my ear, as well as a
16 presidential primary in April of this year.

17 MR. FAUGHNAN: Absolutely. Absolutely.

18 SENATOR NOZZOLIO: You have an April
19 primary, a June primary and a redistricting
20 process along with that.

21 MR. FAUGHNAN: As I indicated in my
22 testimony, we just went through a process of
23 resetting election districts within Broome
24 County. A largely apolitical enterprise. I

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2 mean, just where are people going to go vote, and
3 in what groupings? And even in doing that, it
4 took a long time. So I appreciate the time that
5 it takes to do this.

6 When we look at the change in the
7 primary, I think--I think in part, yes, we would
8 get squeezed by any sort of reapportionment, but
9 I am--I'm actually more concerned about the
10 presidential primary, to be honest with you.
11 That's, that's something that's more real to me
12 because it's right in front of my face. And the-
13 -we have requirements under the Move Act to get
14 military ballots out in a way that requires that
15 we get them back. So obviously the primary has
16 to be moved earlier.

17 I'm assuming that there is some belief
18 that we can't have a primary during the
19 summertime because people are on vacation, and so
20 we then skip over the summer and move to perhaps
21 June. What that does do is compress our
22 political calendar, especially on a presidential
23 primary year in that we are just wrapping up a
24 presidential primary, and then we have to already

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2 be passing petitions. In fact, as we started
3 looking at the calendar, it appeared to me that
4 we would be passing local petitions possibly in
5 the middle of the presidential primary season in
6 order to backdate everything enough. Because
7 really, we, we end up backdating--everything
8 backdates three months from the primary date,
9 when we start passing petitions, collecting
10 petitions, dealing with objections and stuff. So
11 I mean, I think it's a very real problem, and
12 then it certainly would be compounded by
13 obviously reapportionment. And what I began to--
14 what, what I began to say and didn't really
15 finish my thought on is that in moving people
16 around election districts, with the technology
17 that we have, which believe it or not, is still
18 very limited it actually is a painstaking, hand
19 process to move people from one district to the
20 next. And then it takes re-rechecking and, and
21 in doing so we were able to fix some things with
22 911. We found some people's addresses weren't
23 right and this sort of thing.

24 But to understand the undertaking of, of

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2 moving people from one district to another, and
3 then obviously to be undertaking that with a
4 reapportionment and then combining it with a
5 presidential primary, an early local primary and
6 the general election it would be daunting.

7 ASSEMBLY MEMBER MCENENY: Commissioner
8 Faughnan, earlier they testified--it was
9 testified that the county had redistricted
10 itself, and this was vetoed by the executive.

11 MR. FAUGHNAN: Yeah.

12 ASSEMBLY MEMBER MCENENY: What are you
13 doing for this primary coming up? Are you going
14 to use the old lines, the new lines?

15 MR. FAUGHNAN: We, we actually had to
16 create temporary districts to--actually, does--it
17 doesn't affect us right now because we don't have
18 a legislative election this year.

19 ASSEMBLY MEMBER MCENENY: Oh, okay.

20 MR. FAUGHNAN: However, however, we did
21 have a legislator pass away, and so we have a
22 special election. And in that one legislative
23 district, we had to create temporary districts.
24 We had to add I think three extra districts to

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2 recreate that former legislative district that we
3 thought would be going away, and we created
4 election districts around.

5 SENATOR NOZZOLIO: Commissioner, I'd
6 like to come back to the task of having to do
7 this work. The west--the Chairman of the
8 Westchester County Legislature testified last
9 week that he believed this was a huge, unfunded
10 mandate for the county in its ability to have
11 this work done in a very short period of time and
12 it's getting shorter by the minute. What's your
13 estimate of the scope of the job?

14 MR. FAUGHNAN: It, it took us three full
15 time employees approximately three solid months
16 to move people into their new election districts
17 here.

18 SENATOR NOZZOLIO: For the county
19 legislation?

20 MR. FAUGHNAN: No, no, no, just for the
21 entire county, moving them into their new
22 election districts, not, not the legislative
23 districts, which haven't been--

24 SENATOR NOZZOLIO: So then with the new-

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2 -a series of new congressional districts, a
3 series of new Senate districts and Assembly
4 districts at the state level, what type of scope
5 would that be for the county?

6 MR. FAUGHNAN: It would be the same
7 thing all over again. We would do the same thing
8 again when the new districts are created. And,
9 and the other thing, I think, from a cost
10 standpoint, and this goes to back to Chairman
11 Marinich had mentioned about having one
12 congressman for the county, and I understand the
13 difficulties with that. It's, it's like--it's
14 like squeezing a balloon. You know, you, you
15 squeeze it in one spot, and it pops out in the
16 other. And I understand that.

17 but one of the costs that we face in
18 elections is the cost of printing ballots, and
19 every additional sort of cut into our county of a
20 senator, of an assemblyman or a congressman
21 creates more ballot styles that we have to then
22 create and print, and it adds significantly to
23 our costs of elections, in addition to all the
24 additional work of, of, of making sure that

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2 people are in the right districts and that sort
3 of thing.

4 SENATOR NOZZOLIO: Thank you very much
5 for those insights.

6 MR. FAUGHNAN: Thank you.

7 SENATOR NOZZOLIO: Assemblyman Oaks?

8 ASSEMBLY MEMBER OAKS: Yes thank you
9 very much for some of your comments, especially
10 about the structure of--and the problems with
11 some of the redistricting proposals and I guess
12 I'd just like to echo something said earlier
13 about we as the task force are carrying out the
14 law as it is today but as we sit here, I think
15 some of us have different perspectives or would
16 support something or would maybe have a change.
17 And I know the governor's proposal, which you
18 listed out some of the, the problems with that, I
19 think it's not a big surprise that it inserts the
20 governor more as the process of independence, and
21 I think Senator Nozzolio alluded to in this case,
22 that would then have one party having more
23 influence in the process. If you had a
24 Republican governor at the time of redistricting,

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2 the Republicans would have more influence in
3 determining who the people are under the
4 governor's determination.

5 Some of us have other proposals. For
6 instance, I actually took the governor's
7 proposal, lessened his influence, still included
8 him, but made then, also, a super majority, which
9 in other words, Republicans and Democrats would
10 have to agree to who went on the, the task force.
11 So I think you were right to list a number of the
12 concerns. But I would, again, suggest there are
13 views and varying views on this committee,
14 perhaps, of what this whole process should look
15 like. But today and going forward in the
16 foreseeable future, we're doing what's required
17 of us, and perspectives such as yours are greatly
18 appreciated. So thank you.

19 MR. FAUGHNAN: Thank you.

20 SENATOR NOZZOLIO: Commissioner, one
21 last question. In terms of primary date and the
22 timing what would you recommend for an
23 appropriate primary date?

24 MR. FAUGHNAN: I believe it has to be at

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2 least 30 days earlier than it currently is. And
3 I guess I'm not so convinced by the thought that
4 people go on vacation, and therefore we can't
5 hold a primary in that timeframe. People go on
6 vacation year round.

7 SENATOR NOZZOLIO: So that the September
8 primary could easily be an August primary in
9 your--let me ask this question another way. That
10 when, in order to do your job, assuming there is
11 a June primary, when would you have to have
12 ideally the lines for the Congress and state
13 legislature established?

14 MR. FAUGHNAN: [Laughter] Well, I would
15 say at least in October, November of the year
16 before, honestly, because I, I think otherwise,
17 you are pressing up against the rest of the
18 process. And like I said, the process--I mean,
19 to, to the voters, the process begins on primary
20 day. To the candidates, the process begins three
21 months earlier. To the Board of Elections, it
22 starts about five months earlier.

23 SENATOR NOZZOLIO: with the petition
24 process beginning at least three months six

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2 weeks, eight weeks earlier, at least a couple
3 months earlier. We also have another
4 requirement, a very significant one, where there
5 is an independent review of the congress and
6 state legislative districts, and it's because of
7 the requirements of the national voting rights
8 act that requires a preclearance process, as you
9 well know. So you're saying at least 60 days
10 before the petition process begins, you need to
11 have--is, is that appropriate?

12 MR. FAUGHNAN: I, I think that's
13 correct, yeah.

14 SENATOR NOZZOLIO: And if the petition
15 process began in March for a June primary, then
16 obviously working backwards, you'd have to have
17 it by the 1st of the year.

18 MR. FAUGHNAN: At least. And, and like
19 I said, I mean, we found that the moving around
20 of voters within just election districts took us
21 three solid months of three people. Yeah, two to
22 three months. But I mean, it was a significant
23 effort for Board of Elections that has six full
24 time staff.

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2 SENATOR NOZZOLIO: Well, and, and again,
3 the cost to the county are, are also staring it
4 in the face.

5 MR. FAUGHNAN: And, and the thing is,
6 it's not--like I said, you know, to the voters,
7 this process begins when they go to the polls,
8 but the reality is before that, in addition to
9 doing whatever we're going to have to do to get
10 people in the correct congressional, assembly or
11 senate districts we're in the process of training
12 inspectors and updating our training materials,
13 and testing inspectors and testing machines and
14 doing all the federally-required testing that we
15 have to do quarterly in addition to the ones that
16 come up with, with each election.

17 So I mean, it's, it's, it's not just
18 that we can allocate people to that particular
19 task. We have other tasks that are going on
20 year-round that I don't think are readily
21 apparent, but they're, they're clearly happening.
22 And I think any, any, any, anyone in the
23 elections business will tell you that.

24 SENATOR NOZZOLIO: Thank you very much,

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2 Commissioner.

3 MR. FAUGHNAN: Thank you.

4 SENATOR NOZZOLIO: Donald Barber,
5 Supervisor, the Town of Caroline. Donald Barber?
6 Dale Weston, Tioga County Legislator.

7 MR. DALE WESTON, TIOGA COUNTY

8 LEGISLATOR: Start? [Clears throat] Members of
9 the legislature, thank you very much for
10 permitting me to speak. My name is Dale Weston.
11 I am chairperson of the Tioga County Legislature.
12 I would like to speak to you with regard to
13 redistricting and ask you to take my point of
14 view into consideration when you are deliberating
15 on this issue.

16 I believe it would be in the best
17 interest of Tioga County that the county be
18 represented by one elected member of each
19 respective legislative body when drawing state
20 legislative and congressional district
21 boundaries. [Clears throat] My position is
22 predicated on the following points. The current
23 system for redistricting has been in place for
24 many years, and although it may have some

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2 weaknesses overall, it has served our county very
3 well.

4 Currently, our district includes parts
5 of Tioga, Broome and Chemung Counties. Retaining
6 this structure is important to us because the
7 residents of these counties not only have
8 contiguous boundaries; they share many common
9 ideals, cultures and workplaces. And finally,
10 redistricting is a constitutional responsibility
11 of the legislature, and I feel that it should
12 remain that way. Thank you.

13 ASSEMBLY MEMBER MCENENY: Thank you very
14 much.

15 MR. WESTON: Thank you.

16 ASSEMBLY MEMBER MCENENY: I appreciate
17 it. Go to Warren Brown of Cornell University.
18 Warren Brown? Okay. All right. Move on to Joan
19 M. Park, President, the League of Women Voters,
20 Broome and Tioga Counties.

21 MS. JANE PARK, PRESIDENT, LEAGUE OF
22 WOMEN VOTERS-BROOME: Good morning, members and
23 staff of LATFOR. My name is Jane Park, actually.
24 [Laughter] I am a resident of the Town of Owego,

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2 but I am here as President of the League of Women
3 Voters of Broome and Tioga Counties. The League
4 is a nonpartisan organization which encourages
5 informed and active involvement in government and
6 influences public policy through education and
7 advocacy. We are also members of a state-wide
8 coalition dedicated to reforming New York's
9 redistricting process, Reshape New York, which
10 consists of 35 organizations, including civic
11 groups, issue advocacy groups, unions and
12 business organizations.

13 Over the past year, Leagues in more than
14 35 localities, including ours, have organized
15 community forums educating the public on the
16 issues surrounding redistricting. Partly as a
17 result of this effort, Leagues around the state
18 became active and influential players in local
19 redistricting efforts. The League was involved
20 in creating independent redistricting commissions
21 for county redistricting efforts in several
22 counties, and we've heard mention of Suffolk,
23 Ulster and Tompkins. And Broome County we worked
24 with the bipartisan commission.

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2 In addition, League members have been
3 asked to sit on these newly-formed commissions
4 because of the non-partisan commitment of the
5 League. The Suffolk County Redistricting
6 Commission and its associated legislation have
7 become models used by others around the state to
8 create new procedures and independent
9 commissions.

10 While we appreciate the opportunity that
11 today's hearing provides to comment on the
12 redistricting process, we believe that New
13 Yorkers have already spoken loud and clear on the
14 drawing of district lines. The public wants and
15 independent commission, not LATFOR, to draw state
16 legislative and congressional district boundaries
17 according to fair and objective criteria, while
18 allowing for public input into the process. An
19 independent commission drawing impartial district
20 lines would maintain the legislature's ability to
21 give input on the plan and ultimately pass
22 legislation in accordance with the state
23 constitution.

24 Voters across all parties believe an

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2 independent body should draw the lines. The
3 governor has proposed legislation to form and
4 independent commission. 61 of 62 senators, and
5 123 of the 150 assembly members have either
6 signed onto his legislation or legislation
7 proposed in their respective houses, or otherwise
8 publically supported reforming the redistricting
9 process.

10 We believe that the redistricting
11 process under the new independent commission
12 should be transparent in all respects, both
13 through multiple public hearings throughout the
14 state, and by using technology to have citizens
15 participate at all stages of the process. All
16 data on which the commission relies should be
17 available to the public, both written and
18 electronically, including all draft and proposed
19 final maps of districts, criteria used to
20 generate each draft and proposed final map of
21 districts, software used to generate each draft,
22 and final proposed map of districts, all proposed
23 plans.

24 In all of its 90-plus years of history,

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2 the League has stood for fair and equitable
3 representation for the people of our state. We
4 believe that the overriding concern in drawing
5 new districts is to provide all New York
6 residents fair representation in Congress and the
7 Legislature. To do otherwise discourages
8 participation in the political process and
9 increases voter cynicism. A key element of
10 reforming the redistrict process is limiting the
11 allowable population difference between districts
12 that in the past has created districts that vary
13 widely in population size, thereby favoring one
14 region over another.

15 The current redistricting process has
16 also historically protected incumbents, including
17 carving incumbents' competitors' homes out of
18 districts. This has discouraged competition in
19 our electoral system. In the 2010 election, New
20 York State had one of the lowest rates of voter
21 participation in the nation coming in at 47th
22 among the states. This is no surprise. Why
23 should people vote if they face no real choice in
24 candidates?

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2 The League believes that it is
3 imperative that an independent redistricting
4 process be adopted so that people, not partisan
5 interests, are protected. Ignoring the public
6 will and continuing with LATFOR proceedings, the
7 only legally mandated process at this time, will
8 end in Governor Cuomo vetoing the lines it draws,
9 making this process a waste of time. Legislators
10 should return to Albany during a special
11 legislative session to end partisan
12 gerrymandering and enact redistricting reform by
13 handing the power of the pen to an independent
14 commission to draw impartial legislative and
15 congressional lines.

16 New Yorkers can't wait another ten years
17 for reform. Thank you.

18 ASSEMBLY MEMBER MCENENY: Thank you very
19 much for your testimony, which is pretty much the
20 same that the League has been expressing at all
21 of the hearings that we're having across the
22 state.

23 MS. PARK: I know. Uh huh. - - be
24 consistent and persistent.

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2 ASSEMBLY MEMBER MCENENY: The
3 legislation that the League supports, is that the
4 governor's, that's creating this independent
5 body?

6 MS. PARK: Yeah, the bill that's
7 currently in the Senate and Assemblies.

8 ASSEMBLY MEMBER MCENENY: And I think
9 we've mentioned there are some flaws in that
10 bill--

11 MS. PARK: You've raised issues about
12 that. Um hm.

13 ASSEMBLY MEMBER MCENENY: The 1% is, is
14 unreasonable. So were it to pass would these
15 hearings be useful hearings? Have these hearings
16 been useful to the League, to Citizen's Union, to
17 some of the others? The testimony of people
18 coming in here, talking about the shape of
19 districts, whether they want one legislator or
20 two, whether they want to keep the community
21 together, is this a useful function in the minds
22 of the League?

23 MS. PARK: I think the public hearings
24 serve a useful function, yes.

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2 ASSEMBLY MEMBER MCENENY: Yes, thank
3 you. The issue of timing--

4 MS. PARK: Yes, I was--yes.

5 ASSEMBLY MEMBER MCENENY: If, if the law
6 had passed, we'd be in a different position.

7 MS. PARK: I know.

8 ASSEMBLY MEMBER MCENENY: But there's a
9 lot of laws that didn't pass, or only passed one
10 house, or if they came back, would have to--have
11 to be changed.

12 MS. PARK: Right.

13 ASSEMBLY MEMBER MCENENY: Is it the
14 responsible thing to just move ahead with the
15 law?

16 MS. PARK: I was talking with people
17 yesterday who are more into all of the
18 intricacies.

19 ASSEMBLY MEMBER MCENENY: Yeah.

20 MS. PARK: The, the existing proposed
21 legislation has room in it for condensing the
22 timetable, but they--it might have to be revised.
23 But the sense is that it could be revised and
24 still be accomplished if there's a special

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2 legislative session, either late this summer or
3 early in the fall.

4 ASSEMBLY MEMBER MCENENY: Well, you've
5 seen the, the legislation that the governor has.

6 MS. PARK: Yes.

7 ASSEMBLY MEMBER MCENENY: In which
8 anyone who ever worked for the legislature in the
9 last five years could not serve on that
10 commission, 50% of which would be appointed by
11 the governor.

12 MS. PARK: 50? I thought there were to
13 be 11 on that group.

14 ASSEMBLY MEMBER MCENENY: Well, just
15 going with the, the previous testimony. Is it
16 11?

17 MS. PARK: I believe that in addition to
18 the eight appointed by the governor and the
19 legislators, there are three additional people
20 appointed.

21 ASSEMBLY MEMBER MCENENY: You're right,
22 and I misspoke. With the governor having a role
23 in it, I'm assuming he would appoint his own
24 individuals that he felt were of a like mind.

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2 What are the qualities--

3 MS. PARK: That's to the nominations
4 pool I'm talking. Are you talking about the
5 nominations pool?

6 ASSEMBLY MEMBER MCENENY: Well, I
7 wonder--I know who can't serve on it.

8 MS. PARK: Um hm.

9 ASSEMBLY MEMBER MCENENY: So if you were
10 a PhD in demographics, but you had served for
11 three months as an intern in the--in the Senate,
12 you could not be on that committee. What are the
13 qualifications for the people who can be on the
14 committee?

15 MS. PARK: What are they now?

16 ASSEMBLY MEMBER MCENENY: Would they,
17 for example be--

18 MS. PARK: No, I don't know any details
19 on that.

20 ASSEMBLY MEMBER MCENENY: Could be a
21 major donor to the governor's campaign? Would
22 that be legal?

23 MS. PARK: I don't think that's covered
24 in the, the law as proposed. The donors.

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2 ASSEMBLY MEMBER MCENENY: I would--I
3 would suggest that were that legislation to be
4 taken as a, a real possibility, that the
5 strictness that, to my point of view, goes to an
6 extreme, if you worked in the mail room four-and-
7 a-half years ago, it doesn't matter. You can't
8 possibly be there if you have a connection with
9 the legislature. When you go over to the
10 alternative, there are no qualifications. We
11 don't even know if those people need an eighth
12 grade education, or if they've ever traveled
13 outside one county in New York State. It, it
14 seems uneven.

15 MS. PARK: Are there standards set for
16 the LATFOR members who are not legislators?

17 ASSEMBLY MEMBER MCENENY: Well, at least
18 four of them have to be elected by the people.

19 MS. PARK: No, I meant the ones that
20 are--yeah, right.

21 ASSEMBLY MEMBER MCENENY: That's a
22 pretty strong standard for two-thirds of them.
23 After that it's, it's private citizens.

24 MS. PARK: Yeah, with--not questioning

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2 their credentials. I'm just saying, have--have
3 there been formal standards established for
4 those?

5 ASSEMBLY MEMBER MCENENY: You've got
6 minimum standards for two-thirds of LATFOR. They
7 have to be elected by the people in either a
8 Senate or an Assembly district. I don't know
9 what the standards are for the governor's people,
10 his three appointments, for example.

11 MS. PARK: Well--

12 ASSEMBLY MEMBER MCENENY: Do they need
13 more than an eighth grade education? I would
14 think that if the League is to support this
15 legislation, they should point out some of its
16 low standards that are apparently there by
17 default and correct that.

18 MS. PARK: I'll take that under
19 advisement. Thank you.

20 ASSEMBLY MEMBER MCENENY: I'm, I'm a
21 sponsor of that bill. So is the Speaker, but
22 realistically, were that bill to ever take on
23 life, and it's getting awfully late for that.

24 MS. PARK: It is getting late.

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2 ASSEMBLY MEMBER MCENENY: I, I would
3 think there would have to be an element of
4 fairness for the alternative, that there would be
5 equally strict limits on who could be appointed.
6 Thank you.

7 SENATOR NOZZOLIO: I have a couple of
8 questions. Are you submitting for the record,
9 any of the any proposed legislative lines for
10 congressional or state legislative districts?

11 MS. PARK: No, we are not. I am not.

12 SENATOR NOZZOLIO: Is the League of
13 Broome and Tioga Counties anticipating that you
14 will be submitting any lines for congressional or
15 legislative districts?

16 MS. PARK: No.

17 SENATOR NOZZOLIO: Did the League--how,
18 how many years have you been a member or a leader
19 in the, the League in the region?

20 MS. PARK: Ten.

21 SENATOR NOZZOLIO: A decade?

22 MS. PARK: Yeah.

23 SENATOR NOZZOLIO: Thank you for your
24 service and interest. Is there in this position

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2 that the League is taking now regarding change in
3 the, the redistricting process, did the League
4 advocate for this during the last redistricting
5 process of 2002?

6 MS. PARK: My League--I'm not sure
7 about--I'm not sure.

8 SENATOR NOZZOLIO: Not sure.

9 MS. PARK: I could check on that and get
10 back to you.

11 SENATOR NOZZOLIO: Let me ask you some
12 questions about--and I hope you had the
13 opportunity to hear the Elections Commissioner.

14 MS. PARK: I did.

15 SENATOR NOZZOLIO: That it's a
16 monumental task, and I know the League is very
17 concerned about the integrity of elections.

18 MS. PARK: Right.

19 SENATOR NOZZOLIO: The ability to inform
20 constituents of particular polling places and
21 the, in everything that the League has done to
22 try to enhance voter participation. What are
23 your views of those comments of the commissioner
24 regarding the timeframe necessary to make sure

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2 that everything in Broome County is resolves in
3 an orderly fashion?

4 MS. PARK: I think it has to be factored
5 into the county's planning on how they're going
6 to fund and support the work of the Board of
7 Elections.

8 SENATOR NOZZOLIO: What I'm concerned
9 about is how the Commissioner told us loudly and
10 clearly that unless these lines are established
11 by the end of the year--

12 MS. PARK: Right.

13 SENATOR NOZZOLIO: At the--at the
14 latest, that with the new primary, with the
15 presidential primary, with an updated legislative
16 primary date that there's going to be enormous
17 chaos and cost associated with that chaos at the
18 Broome County Board of Elections. Did that not
19 concern you?

20 MS. PARK: It concerns me, but it
21 concerns me more that we would have to wait
22 another ten years to fix this if we don't do
23 something now. And the information I have is
24 that if we were to be able to have the special

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2 legislative session, and it--and arrive at some
3 legislation, that there would be still time to
4 deal with that process as outlines in the
5 proposed bills.

6 SENATOR NOZZOLIO: And I wish to echo a
7 concern that Assemblyman McEneny indicated about
8 timing. That we are legislators that are trying
9 to establish, and citizen members that are trying
10 to establish public input and to get the process
11 going. We are, we are exist--we are dealing with
12 the laws that exist and then I know that you want
13 the law to be a different way but we have no
14 choice but to pursue--

15 MS. PARK: I understand that, and--

16 SENATOR NOZZOLIO: And that we hope that
17 during this time--

18 MS. PARK: I appreciate your position.

19 SENATOR NOZZOLIO: That the League will
20 certainly take our invitation as members of
21 LATFOR to share with us communities of interest
22 things that you would like to see in the
23 redistricting of Congress and state legislative
24 lines, regardless of who does that in your view.

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2 Eventually completes those lines. So thank you
3 very much for your testimony.

4 MS. PARK: Thank you. Thank you very
5 much. Best wishes.

6 SENATOR NOZZOLIO: It was very nice of
7 you to be here today. Monica Arias Miranda
8 [phonetic]. Fanny Vileria [phonetic]?
9 Councilwoman Lea Webb. As Councilwoman Webb is
10 coming to the podium, I just would like--
11 Assemblyman McEneny reminded us for the record,
12 Monica Miranda has submitted testimony to us on
13 a--to the LATFOR committee on a couple of
14 occasions. Her written testimony is always
15 helpful, and most welcome. So with that
16 Councilwoman Webb thank you for the use of your
17 chambers.

18 MS. LEA WEBB, COUNCILWOMAN, CITY OF
19 BINGHAMTON: Yeah, it's a little different
20 sitting on this side.

21 SENATOR NOZZOLIO: I'm sorry?

22 MS. WEBB: It's a little different
23 sitting on this side. I'll be on your side later
24 on this evening. [Laughter] well, welcome to

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2 Binghamton, and thank you for the efforts that
3 your committee is doing in going across the state
4 with garnering committee input on this very
5 important issue. So today, I'll be speaking on
6 behalf of the committee that I represent here on
7 the city council, and the broader community work
8 that I do as a community organizer with Citizen
9 Action of New York in this area.

10 I just want to draw your attention to
11 some of the elements of the current district
12 maps, which I feel are good and, and important to
13 protect, as well as some things that I feel may
14 need to be changed. So to the members of LATFOR,
15 I'm under the assumption that you'll be drawing
16 the maps for the Assembly and Senate and Congress
17 this year. I know it is possible that a special
18 session of the legislature could create a new
19 independent commission to do this work, and if
20 they do, I hope that you will support that.
21 Since separating the legislators from the process
22 of creating their own districts can only improve
23 our citizens' confidence in our government.

24 But if the law remains as it is today, I

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2 hope you will consider the following points when
3 you make the maps for 2012 and beyond. First,
4 something positive. With the current districts,
5 we feel that it must be contained in the new
6 maps, the City of Binghamton is not split, as
7 some other cities of Upstate New York are and at
8 any of the legislature levels. We must keep that
9 intact in the Assembly, Senate and Congress. I
10 cannot stress this enough. No city the size of
11 Binghamton deserves to be split in the maps for
12 any level of state or federal legislative office.

13 Secondly I would also like to see the
14 valuable trait of the current assembly map
15 continued. It properly connects the City of
16 Binghamton with the closest communities of shared
17 interest, the Town of Union and Vestal, which is
18 the current 126thDistrict. And third there is
19 something, I guess, unnecessary unfair about the
20 current Senate map and some of the previous
21 speakers have spoken to this, for the southern
22 tier. It divides the nearby communities of
23 shared interest. Binghamton and Ithaca are in
24 separate districts. And Ithaca is especially

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2 divided. Three senate districts take a portion
3 of Tompkins County.

4 I feel that these communities should be
5 united and at the very least, the university
6 centers of Binghamton and Ithaca should be
7 linked. A senate district that included, for
8 example, Tompkins, Broome and the eastern half of
9 Tioga, would fulfill the population requirements
10 and would unite these areas of shared community
11 interest, both economic and academic.

12 And lastly, I would like to advocate for
13 keeping the 22nd Congressional District as it is.
14 Similar to my previous statement, it currently
15 unifies the academic interests in the area as
16 well as manufacturing interests, and so I would
17 advocate keeping the district as it is.

18 SENATOR NOZZOLIO: Thank you, very much.
19 I was listening to you pull together districts,
20 and you had mentioned the eastern half of Tioga.

21 ASSEMBLY MEMBER MCENENY: Um hm.

22 SENATOR NOZZOLIO: Does that mean you
23 advocate cutting Tioga?

24 MS. WEBB: If we--if you--if you have to

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2 keep with the population requirement, if you had
3 to split the county just to make some level of
4 consistency, that would be my recommendation.

5 SENATOR NOZZOLIO: It's my understanding
6 the population of Tioga is almost less than half
7 the size of Tompkins.

8 MS. WEBB: Um hm.

9 SENATOR NOZZOLIO: Is that not correct?

10 MS. WEBB: I believe so, but I think
11 with bringing those--how the current Senate
12 district is constructed, you, you're having
13 Tompkins County split. My--the basis for--

14 SENATOR NOZZOLIO: [interposing] I guess
15 my point--and I apologize for interrupting. I
16 don't want you to have to go too far afield. My
17 point is that you support Tompkins County being
18 one district together as one county, but you want
19 to cut Tioga County in half. Isn't that
20 inconsistent?

21 MS. WEBB: Well, my, my point being that
22 they have shared interest. The academic centers
23 as well as their economic interests are similar.
24 And I believe--like, no one, from my knowledge

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2 and on my--identifies, say, like, Waverly, you
3 know? You want to keep the areas of common
4 interest, both academic and economic, in the same
5 area. That's the reason for my - - .

6 SENATOR NOZZOLIO: [interposing] Thank
7 you very much for your testimony. Any members of
8 the panel have any questions?

9 ASSEMBLY MEMBER MCENENY: Thank you.

10 SENATOR NOZZOLIO: Thank you very much
11 for the use of your chamber, and I hope you're--
12 you enjoy the other perspective of--on the other
13 side of the table for--

14 MS. WEBB: I like it. It's nice.

15 [Laughter]

16 SENATOR NOZZOLIO: Thank you very much.

17 MS. WEBB: Just for today.

18 SENATOR NOZZOLIO: Just for today.

19 Thank you very much.

20 MS. WEBB: Thank you.

21 SENATOR NOZZOLIO: Cecil Lawrence.

22 ASSEMBLY MEMBER MCENENY: Cecile.

23 SENATOR NOZZOLIO: I'm sorry. Cecile

24 Lawrence. Good morning, Ms. Lawrence. I

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2 apologize for mispronouncing your first name. My
3 eyes are not--I should've had my glasses on.
4 Thank you very much. Welcome, and could you, for
5 the record, indicate who you are and where you're
6 from?

7 MS. CECILE LAWRENCE: My name is Cecile
8 Lawrence, and I live in the Village of
9 Appalachian, in the Town of Owego, in the County
10 of Tioga which is in the eastern part of Tioga
11 County, which would be affected by Congress--by
12 Councilwoman Webb's suggestion. Almost
13 everything that I have heard so far validates my
14 own comments. None of this problem of inadequate
15 or unrepresentative representation would happen
16 if we had proportional representation.

17 I should also interject here that I am a
18 member of the Green Party of New York and I ran
19 for US Senate on the Green Party Line last year,
20 so as to facilitate the Green Party getting back
21 on the ballot, which it did. If we had five
22 member districts, it would be impossible for
23 either party to shut out the other by redrawing
24 lines and parties like the Green Party of New

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2 York could win a few seats, and there'd be no
3 reason to raise the spectrum of splitting the
4 vote.

5 Proportional representation is a
6 principle of elections in which like-minded
7 groupings, groupings of voters win representation
8 in accordance to their share of the vote.
9 Currently, I don't feel that I'm being
10 represented by those who are in office right now,
11 and many people who are in the Libertarian Party
12 or in the Green Party, they feel likewise.
13 Winning 20% of the vote wins one out of five
14 seats in a legislature. Winning 51% of the vote
15 earns three seats and the right to decide, but
16 not all seat. Proportional representation
17 contrasts with winner-take-all elections in which
18 winning 49% of the vote is not enough to earn any
19 representation.

20 Proportional representation is a modern
21 democracy. Most modern democracies in the world
22 today use some form of proportional
23 representation to elect their local and national
24 legislatures. And we, in this country and this

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2 state, ought to be doing the same. The time has
3 come to replace the old-fashioned, two-party,
4 winner-take-all politics that characterizes US
5 politics, and proportional representation
6 provides a modern, all-inclusive method of doing
7 it.

8 The, the US and India are amongst the
9 last hold-outs of the old, ancient, British
10 system of first past the post, winner-take-all
11 elections. We need a much-needed national debate
12 about our own switch over to a proportional
13 election system. The time is now, and the place
14 to begin is in New York State. The way--the
15 bipartisan way of thinking is passé. We have a
16 diverse state, diverse in terms of ethnicity,
17 race, economy and geography. What is truly the
18 method of modern democracy is the election of
19 councils and legislatures by the percentage of
20 the popular vote. A change which requires--yes,
21 requires a change in the Constitution of New York
22 State.

23 Surely if New York State can change its
24 constitution to allow table gaming as appears to

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2 be in the cards, New York State can change its
3 constitution to allow proportional
4 representation, which is a much more important
5 and crucial issue. Proportional representation
6 is a way out of the morass--is a way out of the
7 morass of our current political culture. Thank
8 you for allowing me to speak here today.

9 ASSEMBLY MEMBER MCENENY: Thank you very
10 much and only in recent years have I looked
11 seriously at a parliamentary form of government
12 and was in, in Israel with a delegation with my
13 wife in December, and somebody said the problem
14 with your system is that you create losers. The
15 one with the 49% is a loser for a full four-year
16 term in some cases, or less in others, and the
17 one who's the winner is the winner forever. The
18 proportional representation works out in a
19 parliamentary system, provided that you don't
20 have residency because what happens is the
21 parties dominate, rather than an individual.
22 You're not going to have a cult of personality.
23 People go in there, and they vote for that party.
24 At the end of it, they take whatever the size of

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2 the body and divide it up according to the
3 overall vote, which means that the idea that if
4 you live in Albany, Jack McEneny is going to
5 represent you, or if downtown Albany, it's going
6 to be Ron Canestrari, and there's their office,
7 and they live there. That might not work out.
8 If you--you'll be assigned a constituency. You
9 can run in a constituency, but you don't have to
10 live there. As it is now, technically, you don't
11 have to live there to run for Congress.

12 What you're talking about would be a
13 radical difference from the way we have
14 heretofore and presently do business. It would
15 be a constitutional requirement. I think you've
16 got a ways to go to convince people because
17 they're very unfamiliar with that system, but it
18 does guarantee a voice for the person who is in a
19 party where they feel they're not getting the
20 services or recognition that they need, and they--
21 -their voices sometimes should completely out in
22 debate or a Senate or Assembly floor because
23 there's not one person that belongs to that
24 party.

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2 It's, it's a very interesting concept.
3 It's certainly worth a look, but I think that's
4 for a, a full-blown constitutional convention - -
5 .

6 MS. LAWRENCE: [interposing] And I'm
7 sure you, you are concerned also by the
8 decreasing numbers of people who are voting, and
9 I think a lot of it has to do with people not
10 feeling that their voices are being heard.

11 ASSEMBLY MEMBER MCENENY: Especially in
12 New York State because of that low-voting turnout
13 just this last fall. That's not uniform
14 throughout the state. Some areas vote much more
15 than others.

16 SENATOR NOZZOLIO: Thank you very much.
17 Any other questions, members of the panel?

18 ASSEMBLY MEMBER MCENENY: Thank you.

19 SENATOR NOZZOLIO: Thank you very much.

20 MS. LAWRENCE: Thank you.

21 SENATOR NOZZOLIO: Wanda Campbell.

22 MS. WANDA CAMPBELL, CITIZEN ACTION NEW
23 YORK: Good morning. My name is Wanda Mead-
24 Campbell, and I'm a volunteer with Citizen Action

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2 of New York, and I'd like to thank you for the
3 opportunity to comment on redistricting. I was
4 hoping that my comments would be in front of an
5 independent redistricting commission, as was
6 promised by many of our state legislators.
7 Unfortunately, that is not the case. An
8 independent redistricting committee is important
9 to help restore confidence in government by
10 taking some of the politics out of the process.

11 However, given the reality of the
12 current situation, I advocate drawing districts
13 more in line with how communities relate and
14 function together, irrespective of political
15 interests. I would like to comment on our local
16 assembly district, 126, currently represented by
17 Assemblywoman Lupardo. I feel this district is
18 practical as drawn. It represents both the urban
19 and suburban core of Broome County, thus matching
20 like communities with similar needs. Placing
21 rural communities together in one district and
22 the city and suburban communities together as is
23 now drawn works well. The current 126th District
24 made up of Binghamton, Vestal and the Town of

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2 Union makes sense, and I urge you to keep it that
3 way. I have heard discussion of dividing parts
4 of the City of Binghamton, which makes no logical
5 sense at all, and I urge you to keep this
6 district as is.

7 In regards to the Senate District, the
8 52nd, it would be advantageous to unite our
9 university centers together in one. I know our
10 current district is lacking in numbers and needs
11 to grow. My suggestion is that we look at
12 putting Tioga, Broome and Tomkins Counties
13 together in one district, and placing Chenango,
14 Delaware and other rural counties in another
15 district. In addition to our Senate District--in
16 addition, our Senate District should mirror our
17 congressional district so more can be done in the
18 context of advocacy at the state and federal
19 levels, particularly for our universities in both
20 Ithaca and Binghamton.

21 If this district was slightly too large,
22 I would suggest putting Western Tioga with
23 Elmira, rather than Ithaca with Elmira, since
24 that reflects the way these communities now

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2 relate. I would like to advocate keeping the
3 22nd Congressional District as it is. Our
4 current congressman has brought the District
5 together in a functional manner. For the most
6 part, we are communities bordering Pennsylvania.
7 This district unites universities through the
8 area as well as major manufacturing interests,
9 and I would advocate keeping the District as is.

10 Thank you for your attention.

11 SENATOR NOZZOLIO: Ms. Campbell, thank
12 you very much. Before you leave, could you
13 explain for the record--you mentioned your
14 involvement with an organization. Would you
15 state for the record what that organization is
16 and what it does?

17 MS. CAMPBELL: I'm a volunteer with
18 Citizen Action of New York.

19 SENATOR NOZZOLIO: And could you explain
20 for the record what is Citizen Action of New
21 York?

22 MS. CAMPBELL: it's a community
23 grassroots organization, and my role usually is
24 in speaking on healthcare issues.

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2 SENATOR NOZZOLIO: And it, is it my--is
3 my understanding correct that Citizen Action is
4 an organization that is focusing on progressive
5 legislative measures?

6 MS. CAMPBELL: well, it depends on your
7 definition of progressive. We are--I'm out there
8 defending social security, Medicare and Medicaid.
9 I never thought of it as progressive, and I guess
10 it has moved into that category, but yeah. If
11 people's needs are progressive, that's what we
12 advocate.

13 SENATOR NOZZOLIO: It--I noticed you
14 believe that Tompkins, as did Councilwoman Webb,
15 indicate that they believe Tompkins and Broome
16 County should be put together.

17 MS. CAMPBELL: bas--bas--basically all
18 the--

19 SENATOR NOZZOLIO: In all districts--in
20 congressional districts you indicated it--and I
21 was confused.

22 MS. CAMPBELL: It already is.

23 SENATOR NOZZOLIO: For which districts
24 did you believe those two counties should be put

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2 together, and which district--

3 MS. CAMPBELL: They already are. Parts
4 of it are already united in the Congressional
5 22nd District. Not all. We know it's split up.
6 We're advocating that it be also in the
7 Senatorial District, basically because of the two
8 leading universities in the area have a lot in
9 common and have a lot in common for the economies
10 of those regions.

11 SENATOR NOZZOLIO: Thank you very much.
12 Dan Battisti.

13 MR. PAUL BATTISTI, ATTORNEY, BATTISTI,
14 GARTENMAN AND THANE, P.C.: Good morning. How is
15 everybody? It's Paul Battisti, P-A-U-L. Good
16 morning. First and foremost, I want to welcome
17 everybody here to Binghamton. It's a great city.
18 If you've never been here before, I hope you
19 enjoy it. I also want to thank each and every
20 one of you for holding this public hearing today.

21 Again, my name's Paul Battisti. I'm an
22 attorney here in Binghamton with the firm
23 Battisti, Gartenman and Thayne, and I've also,
24 for the last five years, been Chairman of the

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2 Broome County Independence Party. And I first
3 want to start by saying that I'm very impressed
4 with this task force, this commitment to holding
5 public hearings across the state of New York.

6 ASSEMBLY MEMBER MCENENY: [interposing]
7 Paul, before you continue, we have a card here
8 that says Dan Battisti, attorney. I don't know
9 if you wrote that or someone else did. Is, is
10 there--you're the only Battisti in the room?

11 MR. BATTISTI: Yeah, I just filled it
12 out when I came through the--came through the
13 door.

14 ASSEMBLY MEMBER MCENENY: Okay. Well,
15 then it's Paul.

16 SENATOR NOZZOLIO: We apologize.

17 MR. BATTISTI: If a Dan shows up, I'd
18 love to meet him. Yeah.

19 [Laughter]

20 SENATOR NOZZOLIO: And Paul, for the
21 record, Paul--Mr. Battisti, for the record, could
22 you please indicate your--the--I think you said
23 you were an attorney. Are you in private
24 practice?

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2 MR. BATTISTI: Yes, with the firm
3 Battisti, Gartenman and Thayne. We specialize in
4 state and federal criminal defense.

5 SENATOR NOZZOLIO: And that is located
6 in--

7 MR. BATTISTI: Binghamton, New York.

8 SENATOR NOZZOLIO: Thank you very much.

9 MR. BATTISTI: Yes. Again, just
10 starting from the top, I want to say and stress
11 that I'm very impressed with this task force and
12 its commitment to holding public hearings across
13 the State of New York to ensure that many voices
14 from different regions are heard during this
15 redistricting process. We all realize the tight
16 timeframe you're under, and especially since we
17 hear the primaries are being moved in June of
18 2012--up till June.

19 Therefore, under this tight timeframe,
20 the task--the task force, in my opinion, must do
21 four things. One, they must conclude this round
22 of hearings. Two, they must draft district lines
23 for entire state legislature. Three, they must
24 then hold another round of hearings, and four,

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2 they must then make changes to all district
3 lines, all before necessary votes on the proposed
4 redistricting plan are heard this February.

5 Thank you very much for starting process
6 early because you have a lot of important work to
7 accomplish in a very short period of time. My
8 most important request to you as members of the
9 task force is to do your best to assure that we
10 have competitive districts for the state
11 legislative and congressional seats after
12 redistricting. Before coming here today, I did
13 some research online, and I noticed online that
14 at various hearings, various questions were asked
15 about the size of the state senate. I doubt
16 there are many people in New York that believe it
17 should remain at 62, based upon the past.

18 Obviously the state, in my opinion,
19 would be better served having 63 senators so that
20 we will not run into problems with ties in the
21 future surrounding votes for leadership. New
22 York's population, based upon my research, has
23 increased over the last ten years, and I
24 understand that the number of senators can be

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2 increased when the population of New York
3 increases by the census as well.

4 I wish to strongly state that I prefer
5 that the current state law be followed and that
6 this task force perform the drafting of the
7 district lines this election cycle. I strongly
8 support a bipartisan redistricting, and it is
9 clear that this specific task force is premised
10 upon a bipartisan redistricting, as there is
11 equal representation from the two major parties.

12 I oppose changing the process in the
13 middle of the game to an independent
14 redistricting commission as proposed by Governor
15 Andrew Cuomo. While, while I am not opposed to
16 the concept of independent redistricting, Cuomo's
17 bill, in my opinion, is flawed. I believe that
18 the independent commission can only be
19 implemented by a constitutional amendment since
20 the procedures for redistricting are clearly
21 spelled out in the state constitution, and the
22 procedures mandated by that state constitution
23 can only be changed by an amendment voted on
24 twice by the state legislature and then by us,

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2 the people of the State of New York by
3 referendum.

4 I also believe that the proposed Cuomo
5 independent commission is flawed, and that the
6 composition of the nominating committee and the
7 commission are very favorable to the Democratic
8 Party and unfavorable to the Republican Party,
9 especially when we compare it to this specific
10 task force, which is truly, in my opinion, fair
11 and bipartisan.

12 Finally, the independent commission that
13 was passed by the State Senate back in March,
14 which includes, includes--excuse me--the
15 necessary constitutional amendment is much fairer
16 to both major parties in this composition. Once
17 again, the state government is under tight time
18 constraints to complete redistricting over the
19 next six months, and we certainly don't have time
20 to reinvent the process right now with a new,
21 independent commission. Again, I want to thank
22 each and every one of you for your time, and I
23 wish you the best of luck with the task that you
24 set out on, the task of redistricting. Thank

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2 you.

3 SENATOR NOZZOLIO: Thank you very much
4 for your insights and perspective as an attorney.
5 Questions?

6 SENATOR DILAN: Yes.

7 SENATOR NOZZOLIO: Senator Dilan.

8 SENATOR DILAN: you talk about the size
9 of the Senate, and you indicated that in your
10 opinion, you believe that it should be increased
11 to 63 because of ties in the past. I don't know
12 if we've had any ties in the past, but that
13 notwithstanding, what are you basing the 63 on?
14 Say, any particular formula?

15 MR. BATTISTI: You know, myself--I'm
16 sorry.

17 SENATOR DILAN: [interposing] Before
18 you answer that, you also said that you believe
19 that we should follow the procedures that are
20 indicated in the State Constitution with respect
21 to this panel, right?

22 MR. BATTISTI: Correct.

23 SENATOR DILAN: So if there's a formula
24 in the State Constitution, you should--you also

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2 believe that we should follow that formula?

3 MR. BATTISTI: If there is a formula, as
4 it relates to the State Constitution regarding
5 the number of senators for the State of New York,
6 then I think it's something that definitely
7 should be taken into consideration. Any time--

8 SENATOR DILAN: [interposing]
9 Consideration, or we should follow it?

10 MR. BATTISTI: Well, I think it should
11 be taken into consideration. However--

12 SENATOR DILAN: [interposing] And, and
13 when we do procedures, we should then follow the
14 procedures that are there for the basis for, for
15 this panel, but only consider in terms of the
16 senate size?

17 MR. BATTISTI: No, no, not at all.

18 SENATOR DILAN: Is that what I'm hearing
19 you say?

20 MR. BATTISTI: No, what I'm saying is we
21 have a constitution. And I think we all can go
22 back to third grade, fourth grade, and we talk
23 about separation of powers where each branch is
24 delegated with certain rights. We've got the

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2 executive branch, the legislative branch and the
3 judicial branch. If we have a law, we must
4 follow it. However, if we want to modify that
5 law, change that law, we must go about it the
6 lawful way, and the lawful way--

7 SENATOR DILAN: [interposing] Yeah, I
8 understand that part. I, I, I was referring to
9 the size of the senate because I thought I heard
10 two different things when you said that there's a
11 procedure in the State Constitution that this
12 panel should be the one drawing the lines. I
13 believe that's what you said. Then we should
14 follow that procedure according to the
15 Constitution. So therefore, it would only go to
16 reason that if there is a formula within the
17 Constitution, that we also follow what's in the
18 Constitution.

19 MR. BATTISTI: If there's a law, yes.
20 We must follow it.

21 SENATOR DILAN: Thank you.

22 MR. BATTISTI: Any other questions from
23 anybody?

24 SENATOR NOZZOLIO: Hear--hearing none,

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2 we just want to thank you very much for your
3 insights and comments. Appreciate it very much.

4 SENATOR DILAN: Thank you, though.

5 MR. BATTISTI: Okay. Thank you.

6 SENATOR DILAN: Thank you very much.

7 SENATOR NOZZOLIO: That concludes the
8 number of individuals who asked to testify. Let
9 me read the ones that did not answer when called.
10 Warren Brown, Monica Miranda, Fanny Vileria and
11 Don Barber. With that on behalf of the LATFOR
12 task force, Assemblyman McEneny and I wish to
13 thank all of the participants in today's hearing.
14 A video record of this hearing will be made--will
15 be made available on the LATFOR web site. that
16 we appreciate the diversity of discussion, and
17 that all who are interested in this process are
18 encouraged to submit plans and further comment
19 and testimony through the LATFOR web site in
20 order for us to have as complete a picture as
21 possible.

22 We want to thank the City of Binghamton,
23 and the--particularly the City Council for the
24 use of their facility, and that with that

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2 appreciate this hearing and the members of the
3 panel for their participation. Assemblyman?

4 ASSEMBLY MEMBER MCENENY: Likewise, we
5 thank the City of Binghamton and the people from
6 this area for participating. We know that some
7 of the people who were not here today, but names
8 were here, have already submitted proposals, and
9 we encourage other people throughout this process
10 particularly at this early stage of the first 12
11 hearings, to send in proposed maps, suggestions,
12 whether it's on one house or the other, or all
13 three, whether it's on your area or the entire
14 state. Thank you.

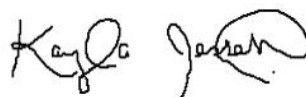
15 SENATOR NOZZOLIO: Any other members of
16 the task force wish to make a comment? Hearing
17 none, the meeting's adjourned.

18 [Music]

19 (The public hearing concluded at 12:14
20 p.m.)

C E R T I F I C A T E

I, Kayla Jessen, do hereby certify that the foregoing typewritten transcription, consisting of pages number 1 to 110, inclusive, is a true record prepared by me and completed from materials provided to me.



Kayla Jessen, Transcriptionist

August 31, 2011 _____ Date