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PUBLIC HEARING

before

ASSEMBLY STATE GOVERNMENT COMMITTEE

on

Possible Revision of New Jersey's Procedure for
Creating Congressional and Legislative Districts

August 21, 1986
Room 334
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Richard A. Zimmer, Chairman
Assemblywoman Marion Crecco, Vice Chairperson
Assemblyman Robert J. Martin
Assemblyman Joseph L. Bocchini, Jr.

ALSO PRESENT:

Donald S. Margeson
Office of Legislative Services
Aide, Assembly State Government Committee

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New Jersey State Legislature
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August 11, 1986

NOTICE OF PUBLIC HEARING

The Assembly State Government Committee will hold a public hearing on Thursday, August 21, 1986 at 10:00 A.M. in Room 334 in the State House Annex, Trenton.

The purpose of the hearing will be to receive testimony concerning possible revision of the State's procedure for creating Congressional and Legislative districts, including the establishment of standards to be used in the evaluation of proposed redistricting plans. While the hearing is not intended to serve as a forum for the review of particular legislative proposals, the attention of interested parties is drawn to the following bills: A-526 (Shusted), ACR11 (Brown), ACR50 (Schuber), ACR80 (Doyle), ACR105 (Franks, Pelly) and SCR70 (Lipman).

Anyone wishing to testify at the hearing should contact Donald Margeson, Aide to the Committee, at (609) 292-9106.

TABLE OF CONTENTS

	<u>Page</u>
Assemblyman Robert D. Franks District 22	3
David Wells Associate Director of the Political Department of the International Ladies Garment Workers Union	13
Ernest C. Reock, Jr., Director Bureau of Government Research Rutgers University	31
Lani Guinier, Esq. Assistant Counsel NAACP Legal Defense and Educational Fund	57
Thomas B. Hofeller, Director Republican National Committee Redistricting Division	65
Marie Curtis Legislative Vice President League of Women Voters of New Jersey	79
Joseph F. Shanahan, President Hunterdon County Citizens and Taxpayers Association, Inc.	83
Joseph Bristol Steering Committee New Jersey Common Cause	86
Ed McCool New Jersey Common Cause	87

TABLE OF CONTENTS (continued)

	<u>Page</u>
APPENDIX	
Bills: A-526, ACR-11, ACR-50, ACR-80, ACR-105, and SCR-70	1x
Cartoon: The Supreme Court Ruling on Gerrymandering, Tom Toles, <u>The Buffalo News</u>	33x
LSC 116 2317-2, General Assembly of the State of Ohio Submitted by David Wells	34x
Summary of the Bills Prepared by Ernest C. Reock, Jr.	44x
"Congressional Redistricting for New Jersey," submitted by C. A. Haverly Executive Director TAXPAC	48x

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ASSEMBLYMAN RICHARD A. ZIMMER (Chairman): Good morning. Welcome to this hearing of the Assembly State Government Committee on congressional and legislative redistricting. This is a vital issue that the State has not confronted in a direct way as far as the process is concerned. I am hopeful that the information we gather here will lead us to adopt some guidelines and standards to improve the process, and improve the product of State redistricting.

At the outset, I would like to make it clear that we are not here to redraw the congressional or legislative map this year, or next year, or even before the end of the decade. We are here to improve the process by which the maps are drawn. I think the process, particularly of Congressional district mapmaking, is a terribly flawed one. One indication of that is that the Legislature has been unable to do the job to the satisfaction of the Federal courts for the decade of the 1970s, and now for the decade of the '80s, and for these two decades we have had to live in Congressional districts that are not drawn by any elected officials, but rather by unelected judges.

I would like to illustrate some of the problems that I hope we can address as we go through the hearing, by referring to the maps of the current Congressional districts and the prior Congressional districts.

Now, this is a map that we have lived with since the court ordered the new plan and ruled the legislative plan unconstitutional. The district in which we are currently sitting -- Trenton -- includes parts of five counties, as I count them. None of them-- No county, in its entirety, stretches all the way to the coast. The reason they don't stretch to the coast is because you need this little strand of land to connect the northern part and the southern part of the Third District, which may not be continuous at high tide. This plan, for the first time in many years, cuts

municipalities, splits municipalities. Harrison and Kearny are divided between two different districts. There is hardly a county that is not split, and it is hard to find a coherent community of interest in any of these districts.

The map that this replaced was drawn by a Legislature. This is the map with the famous fishhook, which starts in Elizabeth, runs through suburban Union County into Middlesex County, out of Middlesex County into Monmouth, and ends up in Marlboro Township. This district, it is generally perceived, was created to elect a specific person to Congress. That, unfortunately for him, was a failure, but the constituents in this district had to live with this misshapen unit. It was their challenge to make themselves heard in a coherent way. It is the famous "Flying Duck" district -- the Fifth District -- which goes across the northern border of the State, dramatically loops down in Central Morris County to pick up a big swath of Morris County and, not coincidentally, an incumbent Congressman, to put him in the same district with another incumbent Congresswoman.

The rest of the State is riddled with the same sorts of abominations. I think it is important to point out that this map was not thrown out by the U.S. Supreme Court because of the misshapen districts, or even because of the partisan intent. In fact, it was a clear adjournment, but only because the population deviation, which was what I consider a minuscule .7%, the difference between the largest district and the smallest district-- That was too large for the Supreme Court.

As we came out of the decision, the Karcher against Daggett decision that ruled this plan unconstitutional, we were really left with a minimal number of criteria. One was that the population deviation had to be as close to zero as possible. Another was that districts had to be contiguous, and that is in the boundary sense of the word, in that they had to be-- Every part had to be attached to some other part of the

same district. Also, there was a constitutional prohibition against strong districts discriminating against minorities, blacks particularly.

That is it. Those are the only constraints we had, and even in light of the recent Supreme Court decision dealing with the Indiana adjournment, which said that in some cases partisan gerrymandering can be unconstitutional, there is no real clear criteria as to what that constitutes because the Indiana map, which was, in effect, a gerrymander -- a Republican gerrymander -- was "constitutional."

That means that we can create a map such as this in the State of New Jersey and be perfectly constitutional under all the Federal guidelines, and not violate any applicable State guidelines. Now, this is a map of the Congressional district which runs from High Point to Cape May. It goes through 12 counties, through dozens of municipalities. It is right on the money as far as population goes. It's contiguous. The population is there. It is legal. That is what we are here to discuss, whether there should be more criteria; whether the people who draw the maps should be different people; and, whether we can improve the process that has resulted in what I believe is a disservice over the years to the people who live in this State.

The first witness I would like to call is Assemblyman Bob Franks, who has been very deeply involved in this issue for several years, and has authored one of the resolutions we are considering.

A S S E M B L Y M A N R O B E R T D. F R A N K S: Good morning. The current system of congressional redistricting is the greatest singular blot on the integrity of the electoral process in the State of New Jersey. While many will talk today of the various outrageously gerrymandered maps that have been adopted by the State Legislature over the years, it is important to remember that the maps themselves are only the

symptoms of the problem. The current process of map drawing is, in fact, the central problem.

As a strong proponent of the Legislative Branch of government, our respective houses -- the Assembly and the Senate -- are often the sources for creative solutions to complex public problems, but in this instance, regrettably, we are the problem. Each time a plan is put on the floor for a vote, we are asked to choose between loyalty to our party and the integrity of our system of representative government. That choice, often with mutually exclusive answers, is one that we should refuse to make.

While it is difficult for the Legislature to give up its role in this important process, New Jersey's experience during the first half of the 1980s was characterized by bipartisan wrangling, lawsuits, a United States Supreme Court decision declaring this Legislature's 1982 redistricting plan unconstitutional, and consequently resulted in a United States Federal Court determining New Jersey's congressional map.

Thus, 1986, just four years before the 1990 census, with one house of this Legislature under the control of the Republican party, and the other house under the control of the Democratic party, offers us an appropriate and opportune time to address some of the major issues encountered under the current redistricting procedures, and to establish a competent redistricting process that will satisfy both the political parties, as well as the public interest.

We must get off the treadmill of creating more and more partisan maps which serve only the selective political fortunes of the few, while undermining the credibility of the process with the voters and resulting in the needless division of counties and municipalities. This unwelcome and divisive situation has existed in New Jersey for too long. Now is our time to stop it.

For these reasons, I am proposing the creation of a new 10-member bipartisan commission composed of Republicans and Democrats, including four members to be appointed by the State Supreme Court, as well as members appointed by the Chairmen of the State's two major political parties. My bill -- ACR-105 -- is based on several key procedural features designed to ensure equity and fairness.

These include: First, provision for the appointment of persons not affiliated with either political party. It will thereby allow for representation by the largest voter block in New Jersey heretofore shut out of the redistricting process.

Second, it contains strong mechanisms for public input by requiring public hearings and open meetings throughout the State of New Jersey, at convenient times and locations, in an effort to adopt the most equitable and reasonable plan by giving the political parties and the people of the State of New Jersey an opportunity to submit plans directly to this commission.

Next, it defines specific criteria, addressing the need pointed to by Chairman Zimmer to limit the fragmentation of counties and, therefore, to limit the amount of gerrymandering. Further, it provides for the establishment of strict certification requirements where a certain majority of both partisan appointees, as well as court appointees, will need to adopt any congressional or legislative map.

Mr. Chairman, since our State Constitution and Federal Constitution mandate redistricting every 10 years, we are condemned to the inevitable results of partisan politics until we change this process. Gerrymandering and partisanship can be avoided. More importantly, the interest of the citizens of New Jersey can be advanced by adopting a mechanism that balances the power of those with the greatest stake in the redistricting process.

What I would call for today, Mr. Chairman, in your Committee's deliberations on this issue in the future, is that as you create the hierarchy of constituencies with an interest in redistricting and reapportionment, you must put the public's interest first on the list. Heretofore, it has been lost.

Governor Kean, this year in his State of the State Message in January, endorsed my proposal specifically, but I think he was pointing to this very obvious need that we have witnessed, given the number of court actions about redistricting in the past six years. He stated that boundaries should be drawn based on sound public policy considerations to protect the public's right to fair representation from the whims and caprices of partisan politics.

Mr. Chairman, I think you have focused once again on an extremely appropriate and important topic, one long overdue for reform. And damn, let me reiterate that we are absolutely condemned to repeat the horrendous track record of redistricting in New Jersey until we change the process which yields these maps.

Thank you.

ASSEMBLYMAN ZIMMER: You're welcome. I would like to ask you a few questions. Could you go into more detail about the criteria that you would establish to eliminate or minimize gerrymandering?

ASSEMBLYMAN FRANKS: I would be delighted. Mr. Chairman, the principal way, in my judgment, that gerrymandering can be limited through the Constitution, through the criteria provided for under my bill -- or any bill, for that matter, that is considered by the Committee -- would be to limit the number of fragments into which counties can be divided in a congressional map.

You pointed to one district -- Congressional district -- currently containing parts of five different counties. The fishhook district, formerly represented by Congressman Rinaldo,

under the 1982 plan was parts -- not wholes, but parts -- of seven counties. When there are only 21 counties in New Jersey, to have parts of five and parts of seven making up one Congressional district-- That is where the flexibility enters the picture to gerrymander because you can reach almost absolute population equality, yet carve New Jersey into the most bizarre shapes and forms one has ever witnessed. By limiting the number of county fragments, by requiring that the whole of counties be placed in a given Congressional district, you would limit the potential for gerrymandering.

My bill provides that mathematically one can ascertain the minimum possible number of fragments that the map can be carved into. My bill provides that the ultimate map adopted by the commission can contain no more than 20% in addition to that number of fragments. So what it would provide is room to shoot, I guess, by the purists who would say any room to negotiate, any room to fragment further is bad. I might agree in a purist doctrinaire sense, but would only point to the fact that with no constraints on county fragments, we end up with districts being made up of parts of five and parts of seven counties throughout the State.

So, by limiting the number of fragments, requiring the whole of counties, which are an exceptionally strong level of government in New Jersey, and are a political identification tag that people are aware of and know of-- I think that is an extremely important thing.

ASSEMBLYMAN ZIMMER: Within the leeway that is given in your proposed constitutional amendment, what considerations do you envision would apply? In other words, in choosing amongst the several maps that might have the permissible number of fragments, what do you think would be appropriate for the commission to consider?

ASSEMBLYMAN FRANKS: The court -- the United States Supreme Court -- has obviously set forth criteria, given the

number of maps that fell within the 20% window of fragments that the map could ultimately contain. An issue such as minority voting strength not being diluted through the adoption of a congressional map is obviously one that is extremely important to us as members of the State Legislature, and has already been spoken to repeatedly by the United States Supreme Court. So, any map that met the criteria established under my bill that would have the effect of diluting minority voting strength, would not, in my judgment, be the most reasonable, nor the most desirable for the State of New Jersey.

It would be very difficult for me to go beyond the outlines of court decisions unless we could have a number of competing proposals where I guess everybody would have the opportunity to talk about the pros and cons of the various maps. I think we would have to be guided first and foremost by what the courts have said about the nature of Congressional districts.

ASSEMBLYMAN ZIMMER: Would it be appropriate for the commission to take into consideration the residency of the incumbents and try to preserve as many incumbents as possible within those guidelines you set?

ASSEMBLYMAN FRANKS: Personally, Mr. Chairman, I think that is an appropriate subject for discussion. I am not saying that therefore it ought drive the process which chooses the appropriate map, but I think it is an appropriate topic for consideration. I say so because as the Supreme Court said in the Indiana case, "There are political motivations in this process." You can't make it a nonpartisan process. All one can hope to do is to put the various interests -- the Republican party, the Democratic party, and the unaffiliated voters of the State of New Jersey -- on a level playing field, and give them what amounts to a veto power over whatever map it will be that will ultimately be chosen. But, you can't divorce entirely partisan political considerations from the mapmaking.

That is why I am not in favor of writing a computer formula sending it through the demographic tapes of the Census Bureau and having them draw the maps. I don't think it can be devoid of politics, and I don't think it is necessarily evil that there be some political considerations, as long as the field is level, as long as each party coming to the table sits there with a strong enough hand so as to be able to help direct the deliberations of the commission and veto a map that does an absolutely unjust disservice to their interests.

ASSEMBLYMAN ZIMMER: With each party having a veto, the end of the game on a level playing field might be zero, zero. Have you considered what would happen-- Have you considered the likelihood of a deadlock? Our bipartisan redistricting commission for the legislative districts has deadlocked both times they have tried to draw maps. What would you foresee as the likely outcome in that event?

ASSEMBLYMAN FRANKS: Let me first take issue with the fact that that would be as likely under my proposal as it has been under the Legislative Apportionment Commission we have operated with since the 1947 Constitution. The appointment process that allows the Supreme Court to appoint four members of the commission under my own bill, establishes virtually a hierarchy of partisanship, whereas it is to be expected that the State Party Chairmen of both the Republican and Democratic parties will go and turn to perhaps the very most zealous partisans as part of their role in the appointment process.

The Supreme Court is to appoint people with a political affiliation who have never run for public office and who have never run for party office, not even county committee. So, there will be a hierarchy of party commitment. Hopefully we can find Republicans and Democrats who, by virtue of the criteria provided for under my bill, have never run for office and are part of no political organization or machine. Moreover, the option is open to the Supreme Court to appoint

unaffiliated voters, who, in and among themselves, could be tie-breakers if there was a deadlock between the Republicans and the Democrats on the commission.

So, by virtue of the fact that you have the infusion of independents deliberating on the commission, and secondarily, that we have really established a hierarchy of partisan commitment from among the partisan appointees, it is less likely, in my judgment, that they will deadlock. I can't absolutely say that there is no likelihood whatsoever that there would be a deadlock and, if there were, that those 10 people would sit around that table and be fully aware that another Federal court would step in to fill that void. I think that is something we all seek to try to avoid. That happened in the Republicans' favor in the last court decision, but I, for one, am not willing to risk that again as a partisan. Moreover, for the protection of the integrity of our electoral process, I think we ought to work toward creating a commission in which those types of deadlocks are less likely, by providing sufficient criteria and constraints on the mapmakers themselves.

ASSEMBLYMAN ZIMMER: Who would appoint the independents?

ASSEMBLYMAN FRANKS: Those would come from the Supreme Court appointments.

ASSEMBLYMAN ZIMMER: Initially, before the--

ASSEMBLYMAN FRANKS: Mr. Chairman, let me say first, reading the admonition of the Committee Aide and the Chairman on the role of this particular hearing process, you are going to have to give me a little moment, perhaps, when asking specifics about--

ASSEMBLYMAN ZIMMER: All right. I won't press you.

ASSEMBLYMAN FRANKS: I am familiar with my proposal certainly, but I didn't think this was a hearing at which to discuss the very specific elements.

ASSEMBLYMAN ZIMMER: I'm asking you such specific questions because I think-- My personal opinion is that of all the proposals, yours is the closest to the direction we ought to be pursuing.

ASSEMBLYMAN FRANKS: In that case I feel compelled to answer, Mr. Chairman.

ASSEMBLYMAN ZIMMER: You can understand what I am driving at. Somebody who is registered neither Democrat nor Republican is not necessarily-- It would be extremely unusual to find a person of that sort who would be absolutely dispassionate.

ASSEMBLYMAN FRANKS: Unaffiliated voters are not necessarily non-biased.

ASSEMBLYMAN ZIMMER: That's right; I think you're correct, we should look at the broad outlines of proposed reforms. Let me ask you this way: Do you agree we should seek to appoint the independent members of the commission in such a way that they will not be independent in name and affiliation only?

ASSEMBLYMAN FRANKS: Mr. Chairman, yes, I would like to, but the means by which one could do that-- Would you exempt from the commission an independent who had been moved to make a \$25, or a \$100, or a \$1000 contribution to the President of the United States or the unsuccessful candidate for Governor of New Jersey? Would we--

ASSEMBLYMAN ZIMMER: My personal view is not--

ASSEMBLYMAN FRANKS: (continuing) -- penalize people for exhibiting their First Amendment rights? I wouldn't think we would want to do that, and it would become very difficult to establish a criteria under which you could evaluate the true independent nature of a nonaffiliated voter.

ASSEMBLYMAN ZIMMER: I agree with you that we shouldn't prohibit people of that sort from serving because it is not a very valid indication of bias in any event. I wanted

to explore the issue of the composition because you can have a bipartisan commission, or even a bipartisan commission with nonpartisan members that will still abuse whatever discretion it is given. I think this is an issue, or a possibility, that we have to confront as we discuss the details of the proposed legislation, including yours.

I want to commend you, though, for focusing on the two important elements here. One is the identity of the people who draw the map, and the other is binding them down for mischief when they do draw it.

Marion, do you have any questions?

ASSEMBLYWOMAN CRECCO: No. My questions have been answered, truthfully. But I also want to commend you because this is in favor of all of the people of New Jersey, not just certain groups of people. I understand it, and I commend you for being so fair to the State.

ASSEMBLYMAN FRANKS: Thank you, Assemblywoman. Mr. Chairman, let me point out, in a bipartisan spirit because I think what we are talking about today will, hopefully, very equally affect both political parties, I am delighted to have as the co-prime sponsor of this bill during this session Assemblyman Frank Pelly of Middlesex County. Assemblyman Pelly has stood up on a number of occasions, sometimes when it wasn't necessarily consistent with the interests of the hierarchy of his own political party, calling for a level playing field, and asked to be a co-sponsor of this bill when we were in the minority, before your predecessor, Mr. Chairman, ever thought that this subject was appropriate for this Committee's jurisdiction.

When Mr. Pelly asked me this term if he could again be a co-sponsor, I asked him if he would serve as co-prime sponsor, so there is now a Republican and a Democrat co-prime sponsor of this particular initiative.

Thank you, Mr. Chairman.

ASSEMBLYMAN ZIMMER: Thank you very much. Mr. Franks, would you like to sit with the Committee for the rest of the hearing?

ASSEMBLYMAN FRANKS: Mr. Chairman, I would just as soon sit back here because I have another appointment.

ASSEMBLYMAN ZIMMER: David Wells, please.

D A V I D W E L L S: Thank you, Mr. Chairman. My name is David Wells. I am the Associate Director of the Political Department of the International Ladies Garment Workers Union. I have also been -- after the 1970 and 1980 censuses -- the Redistricting Advisor to the National AFL-CIO.

But I am appearing here today in neither of those capacities. I am appearing primarily as an individual who has been involved in redistricting since back in the 1950s. I have been a plaintiff in a Supreme Court case in my own State of New York. I have had a number of articles on redistricting published. In the last 25 or 30 years, I would say that redistricting has become sort of a hobby of mine, so I am quite interested in it, and I was very pleased to find out that you were holding this hearing here today.

Reference was made by the previous speaker to the recent Supreme Court decision coming out of the State of Indiana, and it is impossible to say anything at this point about redistricting without reference to that decision. So, let me start off by giving you a few observations about what that decision said and what it means.

Last fall, before the decision came down, when the case was about to be heard, I wrote a couple of articles in which I didn't make specific predictions about what would happen in that case, but I made two general assumptions. I said, first of all, that no matter which way the case was decided -- the gerrymandering case in Indiana -- it would constitute a political judicial earthquake. The second thing I said was that because of the crisscross partisan political

lines that the case brought with it, with the Indiana Democratic party being allied with the national Republican party, and the Indiana Republican party being allied with the California Democratic party, that no matter which way the decision came down, there would be Democrats and Republicans cheering, and Democrats and Republicans hissing.

Neither of my predictions -- which I thought were quite safe at the time -- came true, at least not in the way that I had envisioned. I think the Bandemer decision was a political earthquake, but, unfortunately, it registered only about a one on the political Richter scale. Instead of having Democrats and Republicans cheering and hissing the decision, there were Democrats and Republicans of all stripes totally confused, so that they didn't know whether to hiss or cheer because the decision itself was so confusing.

As a matter of fact, the decision engendered very confusing headlines across the country. I saw the headline on the story from one newspaper which said, "Supreme Court Outlaws Gerrymandering," and on another newspaper in another part of the country which said, "Supreme Court Refuses to Outlaw Gerrymandering."

The decision is quite easy to misinterpret. The last several decisions on redistricting have been quite easy to misinterpret, including the one that emanated in this State and was decided in 1983 -- the Karcher versus Daggett decision. When that decision came down, most observers, certainly most people who read about it in the press, said, "The Supreme Court has said that no Congressional district that has a deviation of more than .69% would be permissible." A careful reading indicated that that was not at all what the Supreme Court said.

What the Supreme Court said in that decision was that any deviation from exact population equality had to be justified, no matter how small it was, and that a deviation, even if it was well above that .69% level, if it was properly justified, would be allowed.

I think the most important thing which the recent Indiana decision did was to resolve the question which had been an open question for many, many decades, the question of whether or not the whole issue of cause and political gerrymandering was justiciable, whether the courts could touch it. The vote on this particular issue was pretty clear. It was a six to three vote of the Supreme Court, saying, "Yes, the issue is justiciable." I think probably in the long run that aspect of this decision will prove to be the most important one. But of course, as Lord Kanes (phonetic spelling) once said, "In the long run we'll all be dead." So, what does it mean in the short run?

Actually, the decision really failed to provide any substantial guidelines. It made a stab at some, but it really didn't provide any firm ones. Thus, I would view the Indiana decision as being not analogous to the one-man/one-vote decision as far as populations of districts are concerned, the Reynolds versus Sims decision, but really as being more analogous to the Baker versus Carr decision, which opened up that issue to judicial intervention.

There was really no majority on the court. There were really three separate blocks on the court. There was a block of two, Stevens and Powell, who said: "The issue is justiciable in Indiana; the Indiana redistricting should be thrown out." There was a block of four, Justices White, Blackmun, Brennan, and Marshall, who said, "Yes, the issue is justiciable, but Indiana did not produce an unconstitutional gerrymander." And finally, there were the other three, Chief Justice Burger and Justices O'Connor and Rehnquist, who said, "The issue is not justiciable and, of course, Indiana didn't do anything wrong."

So really, we have no majority opinion, and the issue is still very much up for grabs. We clearly have not heard the last word from the Supreme Court on this issue. A number of

things were left open. One of the most important things was the degree to which one party must victimize the other to warrant court intervention.

Some things do appear clearly, however. First of all, it was made quite clear by the court that in order to prove unconstitutional gerrymandering, a plaintiff must prove both intent and effect; must prove that the party doing the gerrymandering intended it to be a gerrymander and that it was successful in its attempt to gerrymander. The court said that evidence gathered in one or two elections would not suffice to prove discriminatory effect. You had to have a greater demonstration of partisan gerrymandering than simply one election. However, they apparently did say that you could project -- you could use projections of election results into the future.

They also said that the simple fact that the number of votes that a party receives -- a party's candidate receives, and the number of seats it receives-- If there is a disparity between those two figures, a disproportion, as the court said, that, in itself, will not be accepted as a reason for declaring a districting law unconstitutional.

Finally, they said you could not use individual districts to prove unconstitutional gerrymandering. You would have to deal with statewide results and statewide effects.

Now, another thing that is not clear from the Bandemer decision is whether or not it applies to Congressional districting. Clearly, it applies to state legislative districting. This is more than an academic question because, as you probably know, the rules which the court has established with regard to population variations differ between state legislative districting and Congressional districting. The population standards for Congressional districting are much stricter than the population standards for state legislative districting, and it may well be, regarding gerrymandering also,

that the court will eventually say that the rules have to be tighter for state legislative districting.

All in all, it seemed to me in looking back at the Indiana case, that the Indiana case was a rather weak case. I personally think the districting in Indiana should have been overturned, but, nevertheless, the evidence presented was rather weak. If the congressional redistricting from this State had been brought before the court in this form, we might have gotten a more interesting result. It is also interesting to note that there is a California case coming before the Supreme Court in the near future, in which the gerrymandering was apparently considerably more severe than it was in Indiana, and it will be interesting to see how the court reacts to that case. Also, the political shoes are on the other feet in California.

In general, it is really quite hard to predict how the Supreme Court will move on this issue because this is not a polarized issue. If it ever was, it no longer is. Back 20 to 30 years ago, when population disparities first came before the court, the issue was polarized politically and ideologically because the elimination of numerical disparities, in almost every state, benefited Democrats and hurt Republicans, benefited liberals and hurt conservatives. Movement by the courts against gerrymandering now would have no such result because there are states where Democrats gerrymander and there are states where Republicans gerrymander. There are states where Democrats are the victims and there are states where Republicans are the victims. That is equally true of liberal versus conservative dialogue.

Even on the court-- It is difficult to predict which way the court will move because we can't know now the future direction of the court. This issue, as I said, does not have a clear liberal versus conservative orientation, so you can't say, "Well, there will be more conservative members of the

court in the future; therefore, it will move in that direction." I don't think we can assume that there is a conservative position on this issue and, furthermore, even if we assume there is, and even if we assume that President Reagan's future appointments will be conservatives, we may have no further vacancies in the course of the current presidential term, and maybe the next president will appoint future Supreme Court justices. So we really can't predict which way the court will move on this issue.

In dealing with districting, the courts can only define what is unfair. It is really up to legislative bodies, such as your own, to define what is fair and to set standards for districting. And, of course, a state may set standards higher than those required by the Federal courts.

What we are talking about here today, of course, is the issue of gerrymandering. Gerrymandering, it seems to me, is more today than ever before a kind of political Russian roulette, for the reasons I indicated a moment ago. In some cases the Democrats do it; in some cases the Republicans do it. Victims can be on either side.

I think it is particularly appropriate that you are considering this issue today in 1986 because we are still four years -- five years away from the next redistricting. No one in the State of New Jersey, at this point, can be sure which political party will control the governorship or the Legislature in 1991. So, it seems to me that this is a perfect time to take action on this issue, since the party which will benefit, and the party which will be hurt can in no way be foretold at this point.

I would hope that you will take action against gerrymandering, and I am going to suggest some ways that it can be done. But, I hope that you will take action against it, because as far as I can see, gerrymandering is a process which takes political decision-making out of the hands of the

electorate, where it belongs, and places it in the hands of the people who draw the legislative and congressional boundary lines.

Gerrymandering also, in addition to being a partisan tool for Democrats and for Republicans, is also a tool collectively for Democrats and Republicans in terms of incumbent gerrymanders. Even in states where there is neither a Republican gerrymander nor a Democratic gerrymander, we will almost invariably find a gerrymander arrived at by the two parties together to safeguard the seats of incumbents. As a matter of fact, I recently saw an interesting study which showed that in one of the western states, I believe it was the State of Washington, before the last redistricting, the incumbent Congressman in the election prior to the last redistricting, received something like -- received an average of something like 55% of the vote. After the redistricting, the incumbent Congressmen of both parties, figured collectively, got in excess of 70% of the vote. So, clearly, there is a temptation for incumbents to draw boundary lines in a way which will safeguard their seats, in addition to safeguarding their parties.

I have always viewed gerrymandering as simply another variant of the same basic evil that engendered the disparities in population which were eliminated by the court 25 years ago. Both of them are efforts to stack the cards politically to predetermine election results. Both of them are efforts to freeze the status quo of one particular time for a whole 10-year period. And, as I indicated, they victimize both Democrats in Republican districts and Republicans in Democratic districts. They make the voters -- at least in the general election -- pawns in the hands of the party leaders. They also discourage competent would-be challengers in districts which the State has set aside for the opposite party.

In the deepest sense, gerrymandering prevents the political system from performing what I consider its most basic function; that is, the transformation of public opinion into public policy.

Now, there has been a marked upsurge in gerrymandering in every state of the union -- almost every state -- in the last 25 years. It happened after the one-man/one-vote decisions because as the forces in control in each state realized they could no longer achieve partisan advantage by stacking district populations, they turned to this alternative form of stacking election results -- partisan gerrymandering.

It is also interesting to note that at the same time there has been this great increase in partisan gerrymandering in the last quarter century, there have also been some hopeful developments from the point of view of those of us who would like to see gerrymandering eliminated. In the State of Colorado, for example, by initiative and referendum, a system of congressional and state legislative redistricting was adopted which I think could serve as a model for the whole country. In the State of Montana, and also in the State of Hawaii at the congressional level, commissions were established. In the State of Iowa, by mutual agreement, the parties agreed not to gerrymander Congressional district lines, and they weren't gerrymandered. Of course, there are many states where at the state level action has been taken to make the process far less partisan than it was.

Now, let me take just a few more moments to tell you what I would recommend as an approach to gerrymandering. It has always seemed to me that there are two ways in which gerrymandering can be approached by those who would like to see it eliminated. I call them the "who approach" and the "how approach." The who approach says, "Let's change the identity of the people who draw the lines, and take the partisan motivations away. We'll make a nonpartisan commission or a

bipartisan commission, and such a commission, presumably, will not engage in partisan gerrymandering."

The other approach, the how approach, says, "It doesn't really matter very much who draws the lines as long as you have carefully crafted rules which prevent partisan gerrymandering."

Now, let me say at the start that I am an advocate of the latter approach, the how approach. However, I do not oppose the concept of a redistricting commission. I don't oppose it because I think it is a step in the right direction, and I think it can correct some of the abuses. But, I don't think it is really the true solution. I think it presents certain inherent problems. First of all, a truly nonpartisan commission is almost impossible to come by because someone has to appoint the members of a nonpartisan commission. And, if you go further and further back to the antecedents of the appointee, you will find some partisanly elected official making the appointment.

So, if you can't have a truly nonpartisan commission, you fall back on a bipartisan commission. A bipartisan commission is fine, except in one regard. It generally does eliminate partisan gerrymanders, but it does nothing to eliminate what I have called "bipartisan gerrymanders." As a matter of fact, by its very nature, a bipartisan commission almost promotes bipartisan gerrymandering.

Also, at the congressional level, it is still an open question as to whether a state legislature can delegate the power to draw district lines to a commission. Now I know it has already been done in the State of Montana and in the State of Hawaii, but those actions in those two states have not yet been challenged in Federal courts. Perhaps they never will be, but I think it is an open question as to whether or not you can have a commission to draw your Congressional district lines. At the State level, of course you can.

I think that a far better approach is what I call the how approach, the adoption of explicit, enforceable guidelines, ground rules, or standards, to govern the way district boundaries are drawn. This approach recognizes that the basic problem in districting is discretion in the hands of the people who draw the lines. Rather than attempting to change the identity of the people, it attempts to limit that discretion, or eliminate it, by establishing carefully crafted rules. It provides a rational and clearly spelled out procedure to determine the placement of district lines. This approach has been used in a few states, most notably, as I indicated, in Colorado.

Now, what should such standards be? First of all, it is important that they not be vague or general. They have to be explicit and spelled out, or else they will become meaningless. For example, in my own State of New York, our state constitution has said, for 90 years, that districts have to be compact and contiguous, and yet in the State of New York you will find some of the most grossly non-compact districts in the country, and several non-contiguous districts. That is because the language in our state constitution was not clear and not explicit. It did not define the concept of contiguity or the concept of compactness. They have to be defined carefully if they are to have any effect.

I think the standards should be simple and there should be as few standards as possible. They should be stated in clear, simple language, so they are not subject to misinterpretation. I think it is very important that they be applied in a specifically established order, because if you set four or five standards, and you say, "Here are the standards, now go and adhere to these standards," inevitably the standards will come into conflict with one another. Then, if the people who are drawing the boundary lines are free to pick and choose

among the standards, you have defeated the purpose of standards. There have to be basic standards in a specified order.

Now, what would I have those standards be? I would advocate only four main standards: One is the concept of contiguity. A district should be a single chunk of territory. I think that is inherent in the very concept of the word "district." Now, generally where you run into problems with contiguity is where water is involved. Mr. Chairman, you indicated a district that is probably non-contiguous at high tide. We have, in New York, several districts that are separated by bodies of water, and it is true in many other parts of the country where you have water barriers. Therefore, I would say that areas cannot be put in the same district if they are separated by a body of water, unless that body of water is bridged by a bridge or tunnel; in other words, the two areas of a district are connected in some way. It should not be necessary to leave the district to go from one part of it to another part of it. That is the concept of contiguity.

Secondly, population equality. In general, the rules have been set down for us by the Federal courts, but basically what I would advocate with regard to population equality is that where there is no justification for a deviation from equality, then the populations of all districts have to be exactly equal. Where there is some justification based on the other guidelines, then the populations can vary up to a certain specified minimum. In the case of Congressional districts, I think that minimum has to be quite low. I would personally go for a 1% limit.

Also, in no event, even with justification, could the populations vary by more than this set limit. I think to require absolute exact equality, without allowing for minor deviations for rational other factors, actually facilitates gerrymandering because it permits any arrangement to be

justified by saying, "Well, we have to do this to create districts of equal population." We saw that a lot after the 1980 census in many, many states of the union.

My third standard would be the minimization of the division of counties, towns, and cities. I would agree with the previous speaker's remarks as to why that is important. It is not important because county lines are sacred, or city lines are sacred, but because county and city and town lines provide a rational, convenient framework for districting arrangements, and they are relatively permanent. They are not easily changed.

To permit districting without reference to that preexisting framework would be inconsistent with the purpose of guidelines. The political structure is already based on counties, towns, and cities and, therefore, district lines should, to the greatest extent possible, follow those lines.

Finally, the fourth standard I would lay down is the standard of compactness. This is perhaps the single most important, and yet the single most difficult one to apply. It is difficult because it is difficult to define what compactness means, and it is difficult to gauge compactness. Yet, there are several methods that have been proposed. Some of those methods are based on complex geometrical formulas. I personally prefer the approach which gauges the degree of compactness in the plan as a whole statewide on the basis of which plan produces the shortest total length of boundary lines. The most compact plan will produce the shortest total length of boundary lines.

Also, I would measure -- not only as far as compactness goes, but as far as all of the standards go -- plans not against some theoretical possibility, but against alternatively offered plans. I would say that the plan which adheres most closely to the standards should be the plan that is adopted.

I would set a limit for challenges to a plan based on the guidelines. It should not be an unreasonably short time limit, nor should it be too long. I don't think you should say that anybody who wants to challenge the law has to bring a case within a week. You should allow reasonable time to study a plan and bring a challenge, I would say perhaps several months. There should also be a cutoff date beyond which no challenges will be permitted, because if you have the possibility of a districting being overturned at any time during its 10-year life span, you make for political instability. I don't think that is to be desired.

Let me say in conclusion that a lot of people criticize my approach, and the approach of people who agree with me on this issue, those of us who would like to see gerrymandering eliminated from the political process in this country. Many people say, "Well, you are just simply trying to take the politics out of politics, and that can't be done." I say quite the opposite. I say that the advocates of this approach actually have more faith in the political system than those who would try to fix everything in advance and those who would try to predetermine election results by determining where the boundary lines should be placed.

I think the great game of politics in America is too important for its results to be predetermined by a few people. The great game of politics should have neutral lines or, as was stated previously, a level playing field, to make sure that the game is played fairly, not played with rules which favor some players over others during the course of the game.

Thank you.

ASSEMBLYMAN ZIMMER: Thank you very much. I want to thank you for your eloquent presentation and summary of the Bandemer case, which is as comprehensible as any that I have been able to find.

You may have seen an editorial cartoon that recently appeared trying to explain this case. It is shaped in the form of a gerrymander. The caption is, "The Supreme Court Ruling on Gerrymandering." It starts out saying, "Gerrymandering is unconstitutional in some cases, even when districts meet one-person/one-vote requirements; however, to prove it you must show lasting effect, unless the effect isn't too egregious, because some gerrymandering is okay, always has been. What do you want us to do about it? After all, politics is politics, unless it really gets out of hand, which it didn't this time, but it could have and, while a minority of us think we should stay out of it altogether, the rest of us wish you luck in applying this ruling."

What we are here to do is to try to apply that ruling. The follow-up decisions clarifying the Indiana case will not be coming, I don't think, in enough time for them to be of much use to us. So, I am very glad that you were able to help us on it. I am asking that that editorial cartoon be appended to the record of this hearing so that the public can understand what the case was about.

For the benefit of those in attendance, I have worked with Mr. Wells over the years. When I was Chairman of Common Cause I first encountered him and he was pressing for this idea well before its time. I think its time is coming.

I would like to ask you whether -- after all your years of effort -- there is any state you can point to as the model which New Jersey should look at in terms of anti-gerrymandering precautions. You mentioned Colorado. I recently spoke to a Colorado legislator who said that there was a lot of leeway in the redistricting process, and the results weren't much different from other states.

MR. WELLS: Well, I would point to Colorado as the closest approach to what I would say is the best system. I think there are flaws in the language in Colorado. I said a

moment ago that I think the redistricting guidelines have to be stated very clearly and precisely. I think part of the problem in Colorado is that the standards were perhaps not stated as clearly as they might have been. I think the standards adopted in Colorado are excellent standards. They were adopted by initiative and referendum back in 1974. I had a hand in it at the time. Perhaps we should have worded it a little bit more clearly because I have also spoken to some people out there, who tell me that the system is far better than what they had before, but there is still some room for improvement.

But, I think the Colorado system is the closest that I could point to at this time to what I would like to see adopted.

ASSEMBLYMAN ZIMMER: Have you devised a model plan yourself?

MR. WELLS: Yes, I have. I was Chairman of an organization in New York State called the New York State Committee for Fair Representation. We presented a plan to our state legislature -- it was introduced there -- and that encompasses the system which I think is quite a good system, about the best I can devise.

ASSEMBLYMAN ZIMMER: Could you provide us with a copy of that?

MR. WELLS: I would be glad to.

ASSEMBLYMAN ZIMMER: Are you familiar with a bill which was recently introduced in the Ohio General Assembly by a number of legislators -- the first one's name is Ney -- which seems to be along the lines of your suggestions? It provides for, essentially, a beauty contest, where the criteria is set out in a very firm-- First, you must be within the minimum population deviation, and there are other overriding criteria. Then, within those criteria, the map with the fewest segments of counties and municipalities wins. If there is a tie in the number of segments, then the map of the most compact districts wins, the Secretary of State being really administrative in his duties in this regard. Have you read this legislation?

MR. WELLS: Yes, I am familiar with the Ohio proposal. As a matter of fact, I was somewhat involved in it, and I testified before a committee such as this in Ohio last fall. I also had an interesting experience at that point. The bill in Ohio was introduced by several Republican legislators, and I had a Democratic State Senator accuse me of being a traitor to my party, since I am a Democrat and I was testifying in favor of a Republican proposal.

But, be that as it may, I think the Ohio proposal is a rather good one. I have some minor differences with it. I think that basically it is moving in the right direction. I would have some differences with the way in which they calculate compactness. I would prefer the method that I outlined to the method that is in the Ohio plan. However, I think the Ohio approach is a good one and they are moving in the right direction.

ASSEMBLYMAN ZIMMER: Thank you. I would like to have the Ohio plan. It's only a bill, but I would like to have it included in the transcript, too.

I have no other questions. Bob?

ASSEMBLYMAN MARTIN: Just one question. In looking at the differences of redistricting in terms of the legislatives as opposed to the congressionals, is there any deviation in the method that you would propose, recognizing whatever differences there may be between those two levels of government?

MR. WELLS: The only difference I would set forth between the congressional and the State legislative plans is one that the Supreme Court has already indicated you must have, and that is a considerably stricter population deviation standard. As I indicated before, I think the maximum deviation from the statewide average at the congressional level should be, at most, 1%. But at the level of the State Legislature, it can be considerably wider than that. In some states the Supreme Court has allowed deviations approaching 10%. I think

the standards have to be stricter at the State level, but as far as the other rules are concerned, and all the anti-gerrymandering standards, I think I would apply them in the same way at the State level as at the congressional level.

ASSEMBLYMAN MARTIN: With respect to that commission you talked about as not being your choice between the who as opposed to the how, would you incorporate a who commission, or would you just strictly stay with the how process?

MR. WELLS: Well, as I said, I am not opposed to the concept of a commission. I think it is a step in the right direction.

ASSEMBLYMAN MARTIN: Well, what I'm saying is, in applying the how, would you prefer that that be done by a commission apart from politicians, or would you leave it in the hands--

MR. WELLS: Well, I think it is very difficult to really get away from politicians in this process because somewhere in the antecedents of a commission you are bound to run up against some elected politicians.

ASSEMBLYMAN MARTIN: I understand that, but I am just talking now about your methodology. Would you like to see that it be done directly by the Legislature, or would you prefer that it be done one or two steps removed, recognizing the antecedents of that commission?

MR. WELLS: Let me answer that in this way: If the standards which I have outlined were adopted, then I would say, sure, leave it with the Legislature because there is nothing the Legislature can do that a commission couldn't do. However, if you are going to adopt no standards, or standards which are weaker than those I have outlined, in that case I would say, yes, go to a commission because it would offer some degree of protection.

ASSEMBLYMAN ZIMMER: Marion?

ASSEMBLYWOMAN CRECCO: Should the standards be absolute so that if anyone doesn't meet those standards--

MR. WELLS: Well, the standards really can't be absolute because, as I indicated before, at some point you are going to run into a situation where one standard conflicts with another. You could say, for example, "You may not divide counties," but districts have to be equal within 1%. In trying to do that you will find that you absolutely have to divide certain counties.

So, while I stated-- The way I said it perhaps sounded absolute, but they are actually relative standards. For example, in applying the standard that you can't divide counties, I would not word it that way because it is impossible. I would say, "You divide as few counties as possible to conform with all the other standards" -- and towns and cities.

ASSEMBLYMAN ZIMMER: Joe?

ASSEMBLYMAN BOCCHINI: No, thank you.

ASSEMBLYMAN ZIMMER: Thank you very much, Mr. Wells. As we go through this process and actually develop legislation that we will be voting on in this Committee, I would very much like to have your input as far as the technical aspects and the drafting of it are concerned. I hope when you leave you will take with you copies of the bills that are under consideration and give us your specific input.

MR. WELLS: Mr. Chairman, I would be very glad to.

ASSEMBLYMAN ZIMMER: Thank you. Is Lani Guinier here, from the NAACP Legal Defense Fund? (no response) I will call then Ernest Reock.

E R N E S T C. R E O C K, J R.: Good morning, Mr. Chairman and members of the Committee. I think I should start off by apologizing for not having a prepared statement for you. I have only had time since I learned of the hearing to do an outline, which I will use for my remarks. I did prepare a little summary of the bills that are before you for my own use, and Mr. Margeson has copies of that, when I get to that point.

My name is Ernest C. Reock. I am Director of the Rutgers University Bureau of Government Research and Chairman of the Department of Government Services at Rutgers.

I think I should probably start off by just mentioning a few things from my own experience dealing with legislative districting and apportionment which might be of some interest to you. I have been working in the field of legislative apportionment, off and on really, since I joined the Bureau of Government Research as a junior staff member in 1950. I was consultant to the New Jersey Constitutional Convention of 1966, which wrote the present constitutional provisions on reapportionment. More recently I was staff to Dean Donald Stokes of the Woodrow Wilson School in Princeton, who was the eleventh member of the State Apportionment Commission in 1981 which drew the present State legislative districts.

Finally, in the early '80s, I prepared several Congressional districting plans for New Jersey. As a somewhat related aspect of my work, I compile and publish for the University the New Jersey Legislative District Data Book each year. You may be familiar with that publication.

What I would like to do is first review and comment on the provisions of the bills that are before you -- there were six that were mentioned in the announcement of the hearing -- comment on some of the aspects of those in terms of procedure and their general framework, and then go into some of the criteria and standards that are suggested, and others that might be considered in the future.

In looking at these six bills before you, obviously, taking them as a group, they cover both State legislative apportionment, or districting, and Congressional districts, and they have a variety of objectives. So far as the State legislative districts are concerned, one of the objectives of at least some of the bills is to update the constitutional language we have in New Jersey. Secondly, there are some

changes proposed in the pattern of representation of the State Legislature. Third, they propose some changes in districting procedures for the State Legislature. Fourth, they specify districting criteria, and fifth, they specify districting standards. I make the distinction between the terms criteria and standards, criteria being an identification of the things you are looking for in a plan, and standards being the level of performance you are looking for in terms of meeting those criteria.

For Congressional districts, the bills propose changes in the procedure -- the districting procedure. They specify districting criteria and they specify districting standards. If you would please hand out those outlines, Mr. Margeson, I will refer to this table on the bills covering-- I will wait until the outlines get to you.

Obviously, I couldn't cover every detail of those bills in a table of this sort, but I tried to pick out the things that seemed to me to be significant. The first two pages -- the two white pages -- deal with the provisions affecting legislative districts, and the blue pages -- Pages 3 and 4 -- deal with Congressional districts. They deal with bills A-526, ACR-11 and SCR-70 -- which, as far as I can see, are identical -- ACR-50, ACR-80, and ACR-105, which is Mr. Franks' bill, which you spoke about earlier this morning.

In terms of the impact on State legislative districts, the first thing we run into, of course, is that in two of these bills, or the combination of ACR-11 and SCR-70, and ACR-105, they do update the constitutional language. I think this is a very desirable thing. We have gone almost 20 years now with language in our State Constitution which does not reflect the way we elect the Legislature and, really, it becomes very embarrassing when trying to tell people in other states, and even trying to tell people in this State, "Go ahead and read the Constitution, but don't believe it because that is not the way we do it."

We elect the Legislature on the basis of a court decision made back in the late 1960s, and the constitutional language has never caught up. So I think we have some constitutional housecleaning to do to bring that language up to date. That is approached in these bills.

Secondly, there is a change in the pattern of representation which is proposed in the ACR-11/SCR-70 package. There are two changes in the pattern of representation which I take some notice of. One is, it would change the pattern of turns in the Senate during the decade from two years, four years, four years, to four years, four years, two years. You obviously can't split four-year terms into a 10-year decade, so some pattern of this sort is necessary. Frankly, I do not see the reason -- any substantial reason -- for making this change, and I would suggest before any positive action is taken on these bills, that you look carefully into the question as to what effect it would have on the term of the State Senators who are up for election in 1987. I think if the amendment is enacted, it obviously cannot go on the ballot this year. It would have to go on the ballot next year, and that might very well cast a cloud over those terms of the Senators elected, presumably, for four years in 1987.

The other change I think is probably a more fundamental one; that is, it would require two Assembly districts to be drawn within each Senate district. So, we would go from the present system of having two members of the Assembly elected in every district, to having 80 single-member Assembly districts. One of the problems with this is that if you are trying to achieve the same degree of population equality that we now have, it would be very difficult, I think, to draw 80 single-member Assembly districts without splitting municipalities.

One of the general principles, I think, that we have to keep in mind is that any districting plan is a collection of

compromises. There are various things you are trying to do in a plan of districts, and there is no perfect plan of districts. You give on one criterion in order to gain on another criterion. If you want to keep a particular level of equality of population, then you may have to give in some other direction; for example, breaking municipal lines. If you go to more districts, each one being smaller than the districts now, the chances are you will have to break up many more municipalities. If this two single-member districts within each Senate district is used, using a 10% population variance between the largest and smallest districts, every district would have to be roughly between 89,000 population and 98,000 population, and that becomes a rather narrow range for the districter to actually work within. So, I think I would be cautious about going for something of this sort.

A fourth thing that these plans do so far as State legislative districts are concerned is, one of them -- ACR-105 -- changes the districting procedure for the State Legislature. In fact, it creates a single legislative districting and Congressional districting commission which would handle both of those tasks. My first question, so far as the State legislative districts are concerned, is, why change? We have had a State apportionment commission which has operated, I think, reasonably successfully since the late 1960s. I think it has done a reasonably good job. So, there is a question in my mind, why change for State purposes?

But, going beyond that, I think that the commission, which is proposed in Mr. Franks' bill -- ACR-105 -- is virtually unworkable because it has multiple restrictions on the membership. This I am sure he intended as the strength of the bill, but I think there are so many restrictions on the characteristics of the members of this commission, that I have great doubts, frankly, that it could ever come into being, at least not come into being in the way in which it was intended.

If we look at these restrictions on the membership, eight of the ten members must be affiliated with a party. I hope I have all these details correct, but as I read it, eight of the ten members must be affiliated with a party. That means they must have voted in four out of the last five primary elections for a particular party. They may not have voted in that fifth election for another party. No more than five may be affiliated with any party. In addition, the membership of the commission must represent geographic diversity, racial diversity, and ethnic diversity.

Now, it seems to me that it is conceivable that that sort of spread of characteristics could be achieved if you had a single appointing authority, if you had one officer appointing all of these members of the commission. But the problem is, you have a very fragmented appointing authority. One member is to be appointed by the President of the Senate; one member by the Speaker of the General Assembly; one member by the minority leader of the Senate; one member by the minority leader of the General Assembly; two members by each of the State party chairmen -- and incidentally, those two members would rotate as chairman of the commission; each one would serve as chairman for one meeting, and then the other one would be the chairman, and I am not sure who would be the chairman between the meetings -- and the remaining four members would be appointed by a majority of the Supreme Court. However, none of those four may ever have run for a political or party office, but at least one of them must be affiliated with a party.

We have a tremendous collection here of restrictions on who may be on the commission and how they are appointed. The first appointing authority to appoint a member to this commission would have free rein to appoint a person of any characteristics, but the last person in line might be looking -- I don't know -- for a black Hungarian from South Jersey, if you want to play games of that sort. I can't see how this

commission could ever come into being with all the characteristics which are described in this bill.

A second problem -- and this has already been referred to -- is, it's a 10-member commission and there is no way to break a tie in the voting. Now, this may be fine. Maybe the chances of having a tie are not as great as under the present system, but there has to be some way to do it or there would be no action at all. Then, I am not sure just where we would go from there if the responsibility was taken away from the Legislature and handed to a commission, which might very well wind up in a deadlock. It seems to me that a five to five deadlock is not the most expectable type of situation because there are voting restrictions. The majority, to achieve any sort of decision on a plan in this commission-- You would have to have at least six votes, but that majority must include at least three of the Supreme Court's appointees and at least one other party-affiliated member from each party.

So, not only do you have all the restrictions on creating the commission, you have, in my mind, tremendous restrictions on who on this commission can come together, coalesce in terms of forming a majority. So, in my opinion, it is doubtful if the commission could ever come into being with all of the characteristics which are intended, and just as doubtful that it could ever achieve a majority. I think the tendency might very well be to fragment into minorities which could never come together to make a final decision.

So much for my comments on ACR-105 in terms of the structure of the commission. Turning to the blue pages relative to the bills before you in terms of districting procedures, first of all, it is highly desirable that some new mechanism be established to avoid the kind of turmoil we have had in the period from 1981 through 1984. I think it is best to take that responsibility out of the hands of the Legislature. I think this was successful for legislative

districts and it could work for Congressional districts, so I would opt for the who approach that Mr. Wells has mentioned to you. Not only the who approach, really I would opt for both a who and a how approach. But certainly, I think it would be desirable to have a commission do the job.

Now, there are four different possibilities -- listed there on Page 3 -- in the bills before you. The first one is a Congressional districting commission of nine former judges. This is what A-526 suggests. I see nothing particularly wrong with that. It seems to me that that might very well work, although the comments that have been made about the Supreme Court decision in the Indiana case make me wonder a little bit whether nine judges could get together on a districting plan. I think they probably could. I was being facetious on that.

The second proposal is the one in ACR-50, and that is for a congressional redistricting commission composed of the majority and minority leaders of each house, four members in other words, plus a fifth member who they mutually agree upon. Again, I think that probably could work, and there is a backstop version there in the bill if they can't agree on a fifth member. I think, however, I would be cautious on that approach because I think the problem would be that those people, majority and minority leaders, would have so many other responsibilities that that may very well interfere with the districting process. We might wind up with a situation where trade-offs on legislative matters would be made in relation to districting, and districting trade-offs would be made in terms of other legislative matters. So, I would be lukewarm to that proposal.

The third proposal is the one in ACR-80 by Mr. Doyle. That proposes a Congressional districting commission which would have the same structure as the present State apportionment commission, with five members appointed by each State party chairman, and the eleventh member appointed by the

Chief Justice of the Supreme Court, if there is a deadlock. I think that would work reasonably well, and of all of the proposals which are in the bills before you, I would lean toward that now.

Then, of course, the fourth proposal is the one I talked about earlier in ACR-105, the 10-member commission which is listed there.

Turning from the area of districting procedures and the broad pattern of representation to the subjects of districting criteria and standards, I think it is desirable to take a positive approach to these and, where possible, to write them into either constitutional language or statutory language. One thing I think we have to keep in mind as we go through the discussion of criteria and standards is, what is the purpose of having districts in the first place? It seems to me that the major purpose of having Congressional districts, or having legislative districts, is to provide representation for groups of people living in a geographic area of the State who would be submerged in an at-large election, and whose interests would not be represented if we elected all of our representatives at large. That was the way we elected them up until the mid-19th century, as a matter of fact. Then the feeling began to be felt that people within states should have a chance to have direct representation, so we began to break up states into Congressional districts.

The first thing I have listed on these handout sheets is one that is very common across the country, and that is the question of contiguous territory. I consider that to be an absolute requirement. I think that really I am saying very much the same thing that Mr. Wells said. If districts are not required to be formed of contiguous territory, there is not much justification for having districts. And the only real problems we run into are where we have bodies of water intervening among the land areas in a part of the State.

Mr. Wells suggested that there had to be some communication between detached sections of a district if there were water intervening. I don't think that would always necessarily work. I can envision places in New Jersey, particularly in the Barnegat Bay area, all the way down along the coast, where there just is no communication across areas of water. I know of townships, for example, which have detached areas, some land out on a barrier island. Down at Long Beach Island, Island Beach, they have some land out there, but the bulk of their territory is on the mainland, and there is no bridge directly across that body of water. You have to go around to get to it. As long as you are going to try to keep units of government together, municipalities and counties, a rule such as he suggested, I think, will not work very well in all cases.

I would suggest that if the detached land areas can be joined by a straight line which is the shortest distance between-- If the detached areas can be joined by a straight line which is the shortest distance to any other land area, then they should be considered as contiguous, even though there is water in-between. The sort of situation you want to try to avoid-- New York State, for some reason, seems to have been the pioneer in evading the contiguous requirement. For example, I remember one court case in New York bearing on a joining of Staten Island with Rockland County, because a court earlier had said, "If there is navigable water in-between these detached areas, then it can be considered contiguous." And some legislature came along, attached Staten Island to Rockland County, and made a legislative district out of it. The court, following precedent, upheld that for a few years.

Now, Staten Island, if it is so small that it has to be joined with some other area in order to form an acceptable district, obviously it should be joined with Brooklyn, or possibly Manhattan, but not Rockland County. The straight line

rule for the shortest distance, I think, might be able to approach that and take care of it.

In general, I would not consider any sort of specific rule on contiguity would have to be written into law or statute. I think the problems occur so infrequently, the degree of contiguousness is usually so obvious, that, in fact, whether you have it or you don't-- It can probably be left to the courts.

The second districting criterion, obviously, is the equal population standard. I think that is essential for equal population, and the bills you have before you do not get very precise in terms of standards. They use the language "as nearly equal as practicable." That's fine, but it doesn't really say very much.

For State legislative districting, I think now we generally accept a 10% maximum variation -- from the largest district to the smallest district -- as acceptable. The New Jersey legislative districts that you now represent have a variation of 7.7%; that's using the 1980 population. And actually, the Legislature has endorsed a 10% rule for drawing city ward boundaries. The largest ward may not exceed the population of the smallest ward by more than 10% of the size of the average ward. And I think there are Supreme Court decisions which generally accept 10% as the outside limit for legislative districts, at least they will endorse up to that point.

For a Congressional district, the courts obviously have gone much further in demanding virtually equal populations. In my opinion, they have gone much too far in this direction, since this forces many other criteria of districting to be sacrificed. I think, really, that statistical equality has been an easy crutch for the courts to fall back on, and that is the tendency of courts, to fall back on an easy statistical measure if they can find something of

that sort, rather than to go into a more sophisticated compromise situation where many factors are considered. It gives an impression of precision which really doesn't exist. The census has errors. The data that are used-- We have to use the most recent census. Those data are old when we first start using them. The 1980 census was out of date by the time your first districts went into effect. And, they become progressively more obsolete as you go through the decade, so by the end of the decade, that census figure is very obsolete.

So far as Congressional districts are concerned, there are greater inaccuracies introduced by the distribution of seats among the states than there are among the Congressional districts within a state. So, that impression of precision which we get from precisely equal populations really just isn't there.

I think more flexibility should be permitted, but the question is, will the courts be able to back off their demands for absolute equality, and how can the Legislature encourage them to do so? I think you may be able to encourage some backing off if you specify other criteria which have measurable standards; if you can give the courts something to justify more flexibility in terms of equality of population.

The New Jersey Congressional districts, at least according to the court case -- Daggett versus Kimmelman -- have a variation from high to low not of 10%, but of five one thousandths of one percent. That is the difference in our districts here in New Jersey. As a matter of fact, the court may not have gotten quite as much equality in the Congressional districts as they thought. My understanding is that some errors have been found in those calculations and that they have a little bit more variation, but I have not tracked down the details of that.

If you compare New Jersey Congressional districts with districts in other states, of the 43 states which have

Congressional districts -- the 43 other states -- six states have only one representative, but of the 43 other states besides New Jersey which have Congressional districts, only two have a tighter degree of equality, a lower variation from high district to low district. Apparently, other states can have greater variation, and perhaps we can, too, if a process is established, first of all, which leads to compromise between the parties so that there is not a head-to-head political battle over the districts; and secondly, if there are measurable standards for other criteria.

In terms of what is a reasonable population equality standard for New Jersey, I think 10% is fine for the legislative districts. I think Mr. Wells said 1% for Congressional districts. I was not as optimistic on what the court would suggest. I wrote down here one-half of one percent. I think within one-half of one percent we could put together reasonable New Jersey Congressional districts.

Another criterion which is mentioned in some of the legislation before you is convenient territory. I think that is a very nebulous term. It is listed in all of the Congressional district bills -- A-526, ACR-50, ACR-105-- No, it's not in ACR-105. I think it is a nebulous term, and probably should be scrapped. It doesn't really have a very precise meaning at all. It can be whatever the courts say it is.

Compact territory, however, I think is more measurable. It's a common criterion around the country. The problem is, there is not much agreement in standards. As Mr. Wells said, there is not much agreement in terms of how you measure it, but it does make sense as a criterion. If the purpose of districts is to guarantee representation to groups of people living in geographic areas within the State, then if we permit the districts to wander all over the map to pick up

isolated groups of people, we are really subverting the whole idea of districts. There is no point in having districts at all.

What standards can we apply to measure compactness? There is one that I have been using for quite a number of years. This I call "the degree of compactness," and it is found by taking the area of the district and dividing it by the area of the smallest circle you can draw around the district, the smallest possible circumscribing circle. It is based really on the idea that the most compact figure you can look at on a piece of paper is a circle. You get more area within a given circumference when you have a circle than any other figure you can draw on a piece of paper. So, if you measure the area of a district in relation to the area of the smallest circle you can draw around it, then you can get some measure of how compact it is.

A number of years ago I analyzed 90 Congressional districts in a number of different states, and found there was only one below 20% when you measured it this way. So, we do have some data on which we can estimate whether this is reasonable or not. I analyzed 252 legislative districts at that time, and I found none of them below 20%. So, 20% might be a reasonable floor. However, coming back to the idea that a districting plan is a set of compromises, the tighter you make the requirement for population equality, the less you can demand in terms of compactness because you do have to let the districts wander a bit around the State in order to get your populations within whatever limit you are trying to make them fit. In order to do that, you may very well have to sacrifice some of the compactness.

In the last Congressional district plan I did -- I guess it was back about 1983 -- when I was trying to do the most objective job I could, I had a minimum compactness of 26% on the worst district, and an average of 36%. So, in the area

of between 20% and 35%, I think we might be able to set a standard that would be reasonable. On all of these standards, we have to remember that they become a package that has to fit together. I would suggest that if you come up, let's say, with a Committee proposal, in terms of a constitutional amendment or a statute, that before you go very far with it you have someone try to apply this, try to make it work in New Jersey, because you may very well pick a standard out of the hat which doesn't work with the other standards you are using for some other criteria.

ASSEMBLYMAN ZIMMER: Professor Reock, does your Bureau-- Could your Bureau do that for us?

PROFESSOR REOCK: Well, we would be happy to try it, yeah.

ASSEMBLYMAN ZIMMER: There would be no financial problems involved?

PROFESSOR REOCK: No, no. We will State finance it.

ASSEMBLYMAN ZIMMER: Well, that doesn't mean there would be no financial problems involved.

PROFESSOR REOCK: I think we could work something like that in.

ASSEMBLYMAN ZIMMER: All right, thank you.

PROFESSOR REOCK: Another way of measuring compactness of a territory is basically the one that Mr. Wells mentioned, although the version that I picked out is actually out of ACR-147 from 1978, and was-- This is a paraphrase, I think, of what was in there. It said the aggregate length of the boundaries of all districts shall not exceed the shortest possible aggregate length by more than 5%. That approach, I think, would not work very well. First of all, I think it is impossible to find what the shortest possible aggregate length of a district is. In any case, if you use length of boundary-- This is an approach that I think is worth exploring further. It is an intriguing approach. I have a feeling it

was devised by someone who comes from the Midwest, however, where most of your political subdivisions are drawn with straight lines. They are drawn based on the old section approach, and if you want to measure the boundary of a legislative district out there, it's fine. You just take a ruler and measure it. But to measure the length of a district boundary in New Jersey, where we generally use rivers and streams, and things of this sort, it can become a far more complicated process, and the accuracy of it will vary tremendously depending on the scale of the map you use to do this. We just don't have ready data to do this. It might have possibilities, and I would like to go into it further, because the approach that I suggested first, the use of the degree of compactness based on the circle, does well in identifying and possibly eliminating the long thin district, such as the one that stretched from High Point to Cape May. It doesn't really do a very good job of, let's say, the fishhook district, which goes sort of around in a circle by itself and comes out with a reasonable degree of compactness by that measure. But the aggregate length of boundary, if we could devise something there, that might supplement the degree of compactness based on the (indiscernible).

A further criterion that has been mentioned and which I think is worth using, or trying to apply, is adherence to county and municipal boundaries. Widely given lip service, it is desirable as a check on gerrymanders and it is desirable for public understandability.

I would suggest a rule, and I think this will work in New Jersey under most population requirements, at least the ones I have suggested, that no municipality be divided unless it has more than one, I'll use the term "representative ratio of population." You may hear that term as you go into this subject further. A representative ratio is the figure you get by taking the total population of the State and dividing it by

the total number of districts you are trying to draw. For your legislative districts, it is around 182,000 people. So, this rule would say no municipality could be divided unless it had more than 182,000 population. No municipality could be divided for Congressional districts unless it had more than about, I think it's 526,000 population.

You can do it for municipalities. I don't think you can do it with counties as an absolute rule. Really, I don't have any mathematical background for that right now. It is based just on my experience in trying to draw districts. We have only 21 counties, and to try to draw 14 Congressional districts with 21 counties, without splitting up even some of the smaller counties, is very, very difficult, I think impossible, unless you allow a big variation in population.

ACR-105 has an interesting requirement that county fragments may not exceed 20% more than the minimum possible number of the fragments. For Congressional districts, if you take that representative ratio -- 500 and 20 some thousand -- and divide it into all the counties of New Jersey, you will find that the minimum number of fragments for Congressional districts is 25 in New Jersey. There are only four counties which are larger than a Congressional district. Those could be split into two fragments; the others would all have to be in single fragments. I don't think you can draw Congressional districts very well with that. As a matter of fact, the present Congressional districts are a long way from that standard. Because the population is so small and we squeeze them so close together, their fragments amount to 92% more than the minimum, not the 20% which is in that bill right now. We have much more leeway in terms of population variation in legislative districts. Remember, we can go up to 10%, and the average is 7.7% now. The number of fragments on your legislative districts is 29% more than the minimum number that is permissible. So, both your legislative districts and the

Congressional districts, right now, would fail by the rule which is in ACR-105.

I think those are the major criteria and standards which should be given serious consideration for possible writing into a statute or a constitutional amendment. There are other possible criteria. I will go through them fairly quickly. I think they should be considered, probably not in terms of formal language, but anyone who is drawing districts, I think, should keep them in mind. Many of them really tie in with the purpose of districts; that is, to represent groups within the State.

One is the geographical integrity of sub-communities, or communities within New Jersey. Now, the most obvious of these, and one in which we did try to take this into account with the Congressional district plans that I drew up back in 1982 and 1983, was the existence of black communities, the existence of Hispanic communities -- clearly defined minority communities in the State. The rule I applied at that time was that if adjacent municipalities had majorities of either black or Spanish-language inhabitants, those adjacent municipalities presumably formed a community, a minority community, which should be kept together within a district. In other words, the district line should not go through them and throw some of them in one Congressional district and some in the other Congressional district. That is one criterion that I think any person doing districting should keep in mind. While black and Hispanic persons are the more obvious minority groups, I think it is a desirable principle to try to follow, or criterion to try to follow, for any other groups which are clearly identifiable on a geographic basis within the State.

Another one is the continuity of the districts, the stability of the districts. In the last three elections I have been represented by three different members of Congress, and all three of them are still in Congress. The people around me

don't know who represents them now, even though they get the mail periodically. People keep saying, you know, "Who is our Congressman? Is it so and so, is it so and so, or is it so and so?" because there has been a steady parade going through the area.

I think anyone drawing districts should try to keep the new districts as close to the old districts as possible. I think there is a lot to be gained in terms of the understandability of the whole representative system and the relationship of the citizens to their government.

Another one is political balance. Basically, the overall election results should reflect, to some degree, the popular vote for the candidates of each party. The quicky way of measuring that is to add up all the votes and say, "We have 52% of the votes. What percentage of the seats did we get?" That is a fairly superficial way of doing it, and yet it does give you some idea of how this works.

This is off a bit on a tangent, but there has been some criticism of the legislative districts we have now because, by some measures, they seem to favor Democratic candidates. I just wanted to say that any-- (laughter) There may be a difference of opinion on that. Statewide, though, there seems to be some bias in that direction. That is a bias that any set of districts in New Jersey will have, primarily because Democratic areas statewide tend to have a lower voter registration and a lower voter turnout, a very substantially lower registration and turnout. So, I think I would defy anyone to draw a set of districts in New Jersey which did not have that sort of bias. But, political balance, the overall result measured against the overall vote, should be within reason.

And, the last one I will mention is the use of natural or artificial landmarks as boundary lines. If you go into your election district statutes, where we tell the county board of

elections to divide municipalities up into election districts, you will find that that is mentioned there as a desirable characteristic of election districts. It is possible to use some obvious landmark as a boundary line -- a river, a brook, a bay, the Turnpike, the Parkway, a railroad track, something so that people can orient themselves out there in the real world, and say, "Yes, I am in this district because there is the railroad. He is in that district because he is on the other side of the railroad," something of this sort, if it can be done. I put it way down on the priority list, but it is something which would be desirable to keep in mind if we could do it.

I know I have rambled all over the place on this. I hope it has been of some help to you. Thank you.

ASSEMBLYMAN ZIMMER: Professor, it has been of tremendous help to us. I have a lot of questions; I know the other members of the Committee will probably have questions, too. But, we have a scheduling problem here. Let me try something out on the members of the Committee and inform the audience.

Senator Gormley has been patiently waiting for well over an hour to testify on behalf of Pat Schuber's senatorial courtesy legislation. We are not yet halfway through the list of witnesses on legislative and congressional redistricting, and I don't want to cut anyone off. The reason we are holding this on a non-legislative day is so that people who have a lot to contribute can do so without leaving any important elements out of their presentations.

Here is what I would propose. We take a break from the hearing at this point to hear Assemblyman Schuber's bill; then we resume with the questioning of Professor Reock, after which we will hear from individuals who are under time pressure. I understand Lani Guinier has to be leaving pretty soon to go on to Philadelphia. If there is anyone else who is

under a tremendous time constraint and who is here to discuss redistricting, please get in touch with the staff. If not, after we hear from Lani Guinier we will go to the rest of the legislative agenda, and will then resume with the legislative and congressional redistricting hearing until it is over.

I know that is an imposition on many of you who came at 10, but the corresponding sacrifice which we on the Committee will make is that we won't have lunch. I hope it will come out roughly even in terms of inconvenience.

ASSEMBLYMAN BOCCHINI: Richard, my legislative office never received an agenda on the fact that we would be here for a public hearing.

ASSEMBLYMAN ZIMMER: Don?

MR. MARGESON: To the best of my knowledge, they were all sent out to the members of the Committee.

ASSEMBLYMAN BOCCHINI: To the best of my knowledge-- I have my legislative aide here, the gentleman who runs my office, and he is very good at putting my files together for hearings and public meetings with agendas. Now, I don't know what could have happened. We received notice of the fact that there was going to be a public hearing concerning redistricting--

ASSEMBLYMAN ZIMMER: That came out first.

ASSEMBLYMAN BOCCHINI: Correct, but we did not receive this (indicating written material).

ASSEMBLYMAN ZIMMER: I'm sorry if you didn't receive it, Joe. It was the responsibility of staff, and they usually do a good job. I hope you will be in a position to review these intelligently.

All right. I will declare the public hearing suspended for the moment, and ask Senator Gormley to speak.

(RECESS)

AFTER RECESS:

ASSEMBLYMAN ZIMMER: Professor, you discuss the four, four, two cycle versus the two, four, four cycle. Is there any other state in the United States that has that kind of a system?

PROFESSOR REOCK: I am not sure, but I would think so.

ASSEMBLYMAN ZIMMER: Did you think it up? Was it your idea?

PROFESSOR REOCK: No, no, I can't take the credit for it.

ASSEMBLYMAN ZIMMER: What is your opinion of dealing with this issue by having staggered elections of Senators so the Senators would all run for four-year terms?

PROFESSOR REOCK: I think that would make some sense.

ASSEMBLYMAN ZIMMER: On the point of single-member districts, you said that what would be sacrificed would be either population or the integrity of municipal boundaries. On the other side of that, I think the Supreme Court has pointed out that at-large districts tend to disadvantage minorities and, as an at-large Assemblyman, I can tell you that it is tougher to represent 190,000 people than it is to represent 95,000 people. What are your thoughts on that?

PROFESSOR REOCK: I have nothing against single-member districts. I think my tendency would be in that direction. It is just that you have to recognize that something else would have to give, either your adherence to municipal boundaries, or your compactness, or your population equality, possibly all of them.

ASSEMBLYMAN ZIMMER: If we had single-member districts in New Jersey, do you think we would increase minority representation in the Legislature?

PROFESSOR REOCK: Probably. I think we would.

ASSEMBLYMAN ZIMMER: You discussed the degree of compactness and how it is measured. There is another measure

of degree of compactness that I have heard described, which would be the ratio of the smallest polygon that can circumscribe a district to the size of the district. What you would accomplish that way is -- as it is described to me -- you would avoid the distortions caused by districts which are not compact because of geographical factors you cannot control, or population densities that you cannot control. Have you addressed that? Have you ever considered that issue, and is it an acceptable criterion?

PROFESSOR REOCK: I think it would be very difficult to define just how the polygon is to be drawn. In taking an irregular district, you can draw quite a number of different shapes around it, I think, and form a polygon, and I don't think it is that precise.

ASSEMBLYMAN ZIMMER: I don't think you are allowed to use acute angles. I won't get in over my head, so I'll go on to the next question. You said that the idea of using the minimum number of county fragments as a criterion would be nearly impossible because you would only be able to split four counties to have a perfect--

PROFESSOR REOCK: I think it is quite possible to use that as a standard, but not at the level which is proposed in ACR-105. ACR-105 says not more than 20% more than the minimum number of fragments.

ASSEMBLYMAN ZIMMER: Assuming that you have a de minimis population standard, 1% or way under 1%, for Congressional districts, the minimum number of fragments would be a larger number, would it not, than you had indicated, because in order to get that kind of population, you would have to split districts--

PROFESSOR REOCK: You mean split counties?

ASSEMBLYMAN ZIMMER: Yes, you would have to split counties. The minimum number of fragments would be a larger minimum than if you had a greater population deviation.

PROFESSOR REOCK: No, no, the minimum number of fragments is found by dividing the population of each county by the population of an ideal Congressional district.

ASSEMBLYMAN ZIMMER: But, that's not even a theoretical minimum because you cannot draw a map, any map, regardless of how bizarre it looks, with as many-- How many fragments did you say?

PROFESSOR REOCK: I said 25.

ASSEMBLYMAN ZIMMER: With 25 fragments, because the counties that are contiguous to each other don't add up to an entire district.

PROFESSOR REOCK: Okay, then it may even be higher than that.

ASSEMBLYMAN ZIMMER: Well, the fact that it is higher than that gives you more leeway, which means that it may be possible to use that as a criterion.

PROFESSOR REOCK: I don't think 20% comes anywhere-- I think 20% is far too tight for a Congressional district plan.

ASSEMBLYMAN ZIMMER: Professor, could I suggest that you go back to Rutgers and fiddle around with this, because I am quite interested in seeing what the practical, in fact, would be. And, if it doesn't work, I think we ought to know now.

PROFESSOR REOCK: I think the idea will work, but not at that level.

ASSEMBLYMAN ZIMMER: You said that we should keep the new districts as close as possible to the old districts. Well, doesn't that make us the slaves to somebody else's gerrymandering?

PROFESSOR REOCK: Yes, that is the price you pay. I think it is a reasonable price.

ASSEMBLYMAN ZIMMER: Well, wouldn't it be best to go cold turkey, to follow the county lines, have a wrenching change in one cycle, and then since we would always be adhering

as closely as possible to county lines, you would have real coherence. Although you might be represented by a different Congressman from decade to decade, you and everyone else in your county would be represented by the same Congressman all the time, or almost all of the time.

PROFESSOR REOCK: That is a reasonable approach, to say we want to wipe it out and get good districts. But then from then on, change them as little as possible. All right, I would buy that.

ASSEMBLYMAN ZIMMER: Because I saw the map that you submitted in this redistricting cycle, in which you tried to make a district for every incumbent. I know you did it with every objective interest in mind to keep the districts reasonable. You had to pull and stretch a bit to make them come out right. I think it may not be worse than the map we are living with now, but it certainly wasn't close to the ideal.

PROFESSOR REOCK: That gets to another possible criterion that has been mentioned, which I didn't put in my presentation, and that is the residence of the incumbent representatives. Should that be considered in drawing a new plan of districts? I think it depends-- I would sort of take a backwards approach to that; that is, I have seen in some proposed constitutional language, or statutory language, a requirement that no consideration shall be given to the residence of incumbents. I think that is a naive and almost impossible sort of statement to follow. You can't rule things out of people's minds when they are drawing districts. Whether you should make a positive effort in terms of keeping incumbents alone in their districts, I think, depends on who you are and where you sit when you are trying to draw districts.

If you are, presumably and hopefully, a neutral person trying to draw objective districts, then it is almost mandatory that you keep each representative alone in a district because no matter how many disclaimers you enter that you are trying to

do an objective job, if you wind up with two incumbents in one of your new districts, no one is going to believe you. I think, conversely, if you are a partisan district drawer, you are going to try to maximize the situations in which incumbents of the other party wind up in the same district.

So, it is something that is always there. There is no point in putting any language in the Constitution saying, "Don't consider it," because everybody will consider it.

ASSEMBLYMAN ZIMMER: Thank you. Are there any further questions? Marion?

ASSEMBLYWOMAN CRECCO: No, thank you. I will be interested in your reports.

ASSEMBLYMAN MARTIN: A couple of questions, maybe one. It would be helpful for me if I understood a little bit the methodology in the way you draw up districts. In the back of my mind I have a feeling it is sophisticated computers. I don't know that if you plug in all the information about population you can push a button and get the most compact ones in the State of New Jersey, or how easy it is to start factoring in -- I assume that this has to be done with computers -- these different criteria, whether it is subjective, whether you can get, you know, that kind of information.

PROFESSOR REOCK: That is one way of factoring in or out whatever criteria you want to define. You can go to computer approaches. I think they are pretty sophisticated now. I would suggest that you get someone to talk to you who is knowledgeable, you know, someone who has had experience doing that. I have not had experience with computer districting programs.

ASSEMBLYMAN MARTIN: You have not used computers?

PROFESSOR REOCK: Not to actually do the districting, no. Everything I have done has been done by hand.

ASSEMBLYMAN MARTIN: You and I should get together.

PROFESSOR REOCK: I use the computer to tally up what I have done to make sure that all the figures come out right and the totals are correct.

ASSEMBLYMAN MARTIN: But the lines have not been drawn.

PROFESSOR REOCK: But the actual drawing of the lines has all been done by hand.

ASSEMBLYMAN MARTIN: Do you foresee that in the future, with the criteria we are talking about, that it could be done?

PROFESSOR REOCK: I think it can be done, yeah. I think it would be useful to your Committee to have someone who is very knowledgeable on that show you what can be done.

ASSEMBLYMAN MARTIN: A related question: You talked about criteria, and we talked about some of the obvious ones, such as population, compactness, contiguity. When you get down to some of the other ones you talked about that you might recognize as desirable, such as recognizable boundaries like the Turnpike and possibly the questions of incumbency or recognition of certain ethnic and minority groups-- How far can you go down without the first two or three falling apart? It seems to me that you would never be able to get down to a level where you could put the boundary along the Turnpike without starting to really screw up all the higher priorities.

PROFESSOR REOCK: That's right. You have to put things in a priority order. You have to set standards for at least your top priority criteria to the extent you can, and then work within the leeway that those standards give you. If you say I want every district to be -- I don't want any districts to be more than 1% different from any other districts, all right, you have a certain amount of room for maneuvering there, and then you can go down to the next criteria and try to meet that.

Let's say your compactness was, we don't want any district to be less compact than 20% on this circle approach.

If you meet the first two, then you can give some consideration to others, and it becomes a matter of balancing all of these criteria.

ASSEMBLYMAN MARTIN: Assuming that population is the number one criterion, which it has to be by the Constitution, would you put not breaking a municipality in second place, or how would you--

PROFESSOR REOCK: No, I would put contiguous territory at the top of the list as an absolute. Then I would start to get into variable criteria. Population would be the first one of those, the top one of those. Compactness would be another one. Adherence to county and municipal boundaries would be another one. When you got down into representing communities, I would say-- When I did the Congressional districts last time, when I proposed that plan, I did use that as an absolute criterion, that where we had an identifiable black community and an identifiable Spanish-speaking community, they would be kept together, and I worked around those two requirements. But beyond that, from there on down, it becomes much more subjective. How do you define other communities? How do you define political representativeness, and so on down the line?

There are a few criteria where you can be very absolute or precise in measuring, and then you begin to get into subjective criteria, which you have to balance in your own mind.

ASSEMBLYMAN ZIMMER: Thank you very much.

PROFESSOR REOCK: Okay. Thank you.

ASSEMBLYMAN ZIMMER: Lani Guinier?

L A N I G U I N I E R: Thank you very much for accommodating my scheduling commitments.

ASSEMBLYMAN ZIMMER: I thank you for joining us.

MS. GUINIER: My name is Lani Guinier, and I am Assistant Counsel with the NAACP Legal Defense and Educational Fund. I litigate almost exclusively in the voting rights area,

and I am responsible for our voting docket nationwide. I have had substantial responsibility for litigating two of the most significant statewide reapportionment cases, interpreting Section 2 of the Voting Rights Act as it was amended by Congress in 1982. Those two cases were Major versus Treen, which is reported at 574 F. Supp. 375. That was a three-judge court case in Louisiana, and it has been dubbed the "Donald Duck Congressional Gerrymandering Case." The other case, where I was one of two trial counsels, and also the counsel of record in the Supreme Court, was the case Thornburg versus Gingles, which affirmed the three-judge district court decision in Gingles versus Edmisten, which is reported at 590 F. Supp. 345. The Supreme Court decision is reported at 54 LW 4877. It was decided June 24, 1986. Both of these three-judge court cases involved successful challenges by black plaintiffs to discriminatory statewide districting plans.

I am co-author with Drew Days of a chapter in a book that was cited by the Supreme Court in the Gingles decision -- "Minority Vote Dilution" -- and from 1977 to 1981, I was Special Assistant to Mr. Days when he was the Assistant Attorney General for Civil Rights in the United States Department of Justice. I submit this testimony on behalf of the NAACP Legal Defense Fund.

The United States ranks next to last among all Western democracies in terms of the level of political participation by all of our citizens. This is a national problem we are confronting, and it is especially severe with regard to the participation rates of blacks and other minorities.

In 1982, Congress determined that the time was long overdue to bring blacks and other minorities into the political mainstream, and the Congress passed a results test under something called Section 2 of the Voting Rights Act. The essence of Section 2 is whether plaintiffs can establish -- plaintiffs meaning voters who are bringing a case challenging a

redistricting plan -- that a certain electoral law, practice, or structure interacts with social and historical conditions to cause an inequality in opportunities enjoyed by black or white voters to elect their preferred representatives.

What this translates into in terms of the standards that the Legislature of New Jersey is considering for both congressional and legislative reapportionment, is whether the Legislature, whether the State, or whether a commission you establish has drafted and enacted a plan that recognizes and protects minority voting strength. This is a very important statement by the Congress, which was reaffirmed by the Supreme Court just this June, that basically establishes a three-part test for assessing whether a redistricting plan meets this standard.

The three-part test is: One, if there is a geographically concentrated collection of minority voters which is large enough to be a majority if you have single-member districts. That is the first standard. How many people live within this district? Is it enough, if you have single-member districts, for those people, if they are members of a minority group, to be a majority of a single-member district?

The second aspect of the three-part test is whether these minority voters are politically cohesive. Do they tend to vote along racial lines? Do they tend to support the same candidates?

The third part of this test is whether there is comparable voting along racial lines by white voters, or those voters who are in -- right now -- the majority of the particular district. That is, if you have a black candidate running against a white candidate, can you establish that blacks in the district tend to vote for the black candidate and whites in the district tend to vote for the white candidate?

If you can establish these three aspects, that is, a large enough concentration of black voters that they could be a

majority in a single-member district, political cohesiveness among the minority community, and racial block voting, then you have basically established the essence of a successful challenge to a redistricting plan that does not recognize minority voting strength. And, one of the surest ways not to recognize minority voting strength is to continue with at-large elections.

I would propose that the Legislature of New Jersey promulgate specific standards to protect minority voting strength, not just to avoid diluting minority voting strength, but to recognize the voting potential of black and Hispanic voters. The only way the rate of political participation in this country is going to increase is if people have a sense that their votes count. That certainly was one of the important principles behind the Supreme Court's original decision to get into the political thicket and establish the one-person/one-vote principle, and the court, as I mentioned in the Thornburg versus Gingles case, has continued that concern and extended it to bringing minority voters into the political mainstream, as well.

The standards I would propose include: The avoidance of packing, cracking, and stacking minority voters. Packing means that you put too many voters into one district so that you are overconcentrating their electoral strength. Cracking means that you fracture a cohesive minority community in a way that you split it and fragment it into different districts in which it doesn't have the potential of electing representatives of its choice. And I interpret stacking to mean that you put a cohesive minority into a larger white community, where the odds are stacked against them in terms of being able to elect representatives of their choice. This would be putting them in an at-large district or, even if you were to change it to a single-member district, putting the minority community into a district where the only way they could elect representatives of

their choice would be to coalesce with other non-minority interests, where those interests were antagonistic to such a coalition. What I mean is, you have to recognize communities of interest and, if you are going to recognize the strength of the minority community, you have to make sure that you are putting that community in a district where, if they are going to form coalitions with white voters, those voters will be sympathetic to the interests of the minority community.

On the same day that the Supreme Court decided the Gingles case, it also decided a case called Davis versus Bandemer, which could be interpreted by future courts as establishing an addition to the rights of black and Hispanic voters to single-member districts in which they are a majority, an additional right of protecting their voting strength even where they can only be a significant influence. That is, if the black community is 35% or 40% of a district now and you are proposing to change that district so that they will only be 20% of the district, if the black community can show that there was intentional discrimination, or that there was intentional neglect of the interests of the black community, that may also be actionable under the new standards that the Supreme Court has announced.

To summarize, although proportional representation for minority voters is not the constitutional or the statutory standard, anything less than proportional representation, in my opinion, may be subject to extended and ultimately successful litigation for minority voters. What this means is that any standards for Congressional, as well as legislative redistricting, must include a race-conscious effort to recognize minority voting strength.

Thank you very much.

ASSEMBLYMAN ZIMMER: Thank you. Could you apply these principles to New Jersey? Are you at all familiar with the New Jersey Congressional or legislative districts?

MS. GUINIER: I am somewhat familiar with them only by virtue of reading some of the recent proposals that you are considering to change those districts. For example, that the Assembly districts are nested within the senatorial districts.

ASSEMBLYMAN ZIMMER: They're not nested; they are the senatorial districts. That is what I want to discuss with you. These are the legislative districts (indicating map). Each district is represented by one Senator and two Assemblymen.

MS. GUINIER: Right.

ASSEMBLYMAN ZIMMER: Are you familiar enough with the geographic distribution of minorities in New Jersey to draw conclusions as to what single-member districts -- let's just say for the purpose of discussion splitting each Senate district into two Assembly districts -- would do for black and Hispanic representation?

MS. GUINIER: I am not familiar enough with the geography or the demography of the State of New Jersey, but I would be happy to look at it and--

ASSEMBLYMAN ZIMMER: I would like to see that.

MS. GUINIER: (continuing) --make some comments. I would say that if the Legislature is considering eliminating the at-large district for the Assembly and is considering splitting the Senate districts to make single-member districts, that it might just go the next step in order to recognize some of the other redistricting criteria that the previous witness testified to in terms of recognizing municipal boundaries and establishing contiguous and compact districts, and that it just allow the Assembly districts to start fresh and draw 80 equal-population Assembly districts across the State that are not necessarily tied to the location of the senatorial districts.

This is one of the arguments that the State of North Carolina made in the Thornburg versus Gingles case, that they did not want to break up the senatorial districts to make

smaller state house districts because that would not recognize the integrity of county boundaries, and that each of the senatorial districts was a bundle of whole counties and, therefore, the Assembly districts -- in North Carolina they call them the house districts -- were also at large to the same extent as the senatorial districts. That defense was not considered sufficient to rebut plaintiff showing dilution of minority voting strength.

ASSEMBLYMAN ZIMMER: When you do analyze the New Jersey geography and demography, I would like you to consider the following hypothesis; namely, that adherence to municipal lines and compactness will, at least in the State of New Jersey, result in a maximization of black and Hispanic representation because of the population patterns. That has been my feeling about the impact of these criteria, but I would like you to analyze that conclusion to see whether you agree with it. Bob?

ASSEMBLYMAN MARTIN: I'm not quite clear. Based upon the most recent cases, are you saying that the court is looking at this that there has to be proof of intent -- I don't think there is -- but they would look at the results without having to get to the issue of intent?

MS. GUINIER: That is exactly right. I only mentioned the issue of intent as an additional possible process for challenging a redistricting plan that diluted minority voting strength in what are called "influence districts." In other words, the results test, according to the Supreme Court, primarily applies to those areas where you can show a sufficient population concentration -- that there would be a majority of a theoretical single-member district. And the intent test is still available as another test where the minority population would not be a majority of the theoretical district, but might just be a significant influence -- might have a significant influence within the district, but that influence had been denigrated or reduced in some arbitrary way.

So, I am just suggesting that when you are recognizing minority voting strength, that you not just look at those areas where blacks or Hispanics, both singly and together, make up a majority of a potential single-member district, but also where they are a significant influence within an existing district.

ASSEMBLYMAN MARTIN: The packing, cracking, and stacking that you referred to has always been what gerrymandering is all about, except it has usually been employed simply on a political basis, one party versus the other, as opposed to the racial or ethnic issue which you bring in. You pretty much agree with that, right?

MS. GUINIER: No, I would not agree with that for this reason. That may--

ASSEMBLYMAN MARTIN: I always thought that was what gerrymandering was. You did a lot of packing, cracking, and stacking in order to diminish a party's political clout as best you could if they were in the minority.

MS. GUINIER: (continuing) --be the traditional evolution of the terms; I am not disagreeing with that. But I would suggest that in many areas where minorities have not been a part of the political process, that some of these traditional notions of how to redistrict have ignored the concerns of minorities in a way that could be considered "benign neglect," or could go beyond that to preserve certain political incumbencies or certain partisan concerns that are directly antagonistic to the interests of the minority community.

So, I would agree with you in terms of the traditional notion of what those words mean, but they certainly have been applied -- I am not suggesting by the State of New Jersey; I'm simply not familiar with what this State has done-- But, certainly in Louisiana, in one of the cases I handled, the legislature drew a district that literally looked as if they had drawn Donald Duck over the area of New Orleans in order to fragment every concentration of black voters in the city.

There were even two little feet coming out across the Mississippi River.

ASSEMBLYMAN MARTIN: You might take a look at some of our designs.

ASSEMBLYMAN ZIMMER: Thank you very much. I'll look forward to hearing from you on your analysis.

MS. GUINIER: May I get your staff to provide me some of the demographic and geographic information I would need?

ASSEMBLYMAN ZIMMER: Sure. You should look up Professor Reock, who spoke before you, because he is the one who generates it all.

MS. GUINIER: Okay, great.

ASSEMBLYMAN ZIMMER: He's got in his hand what we use.

MS. GUINIER: Thank you very much.

ASSEMBLYMAN ZIMMER: You're welcome. This ends this installment of the hearing. We will now consider legislation, and then resume the hearing when we are finished. This portion will not be as long as it appears on the agenda because some bills are probably going to be held, and others can be dealt with quickly.

(RECESS)

AFTER RECESS:

ASSEMBLYMAN ZIMMER: The hearing on redistricting is resumed. May we please have Tom Hofeller from the Republican National Committee? For the record, both national political committees were invited to testify.

T H O M A S B. H O F E L L E R: Thank you, Mr. Chairman. I can say that I am not coming here advocating any bill one way or the other, but really to discuss, primarily, criteria that

can be used to limit gerrymandering, and to give you the benefit of whatever experience we have had throughout the nation.

I might start by saying my name is Thomas B. Hofeller. I am the Director of Computer Services at the Republican National Committee, and serve as the Chairman of the Republican National Committee's Redistricting Working Committee, which carries the load on redistricting in-between the major periods when redistricting takes place.

I don't really have much to say on your proposal for the composition of your commission, vis-a-vis either the legislative or Congressional districts, except to say that my experience has been that where you appoint a commission, which is essentially a creature of the Legislature, where a majority of the members come out of the Legislature, you oftentimes end up with a commission which is unable to function. It just polarizes under the Democratic side and the Republican side, and nothing happens. If you have a tie-breaker, depending on how that tie-breaker is chosen, that person has his own political persuasion, and one side rises up and slaughters the other.

If you look at the experience, for instance, in Illinois, where they have essentially a legislative-based commission, that was exactly the way it happened. I don't think the resultant bill which came into being for the legislature was better. In fact, it was probably worse than what might have come out of legislative compromise.

In terms of Congressional districts, I think the same would apply, although you might say it is a little bit easier to be statesmanlike about Congressional districts than your own districts. But, of course, that depends on who in the Legislature wants to go to Congress.

There is a lot of difficulty in studying criteria. We have had an experience in California -- and I brought some maps

here to demonstrate, which I will get out in a minute -- where the legislature has acted on what sounded to be a very nice set of criteria. It would avoid splitting counties; it would avoid splitting cities; it would equalize population; it would respect community of interest; and, it would be contiguous. The bill indeed does look good on paper from all of those aspects. Very few cities are split, very few counties are split. But I will bring you some examples here of the results of that bill, which kind of graphically show-- I will have to turn them first one way and then the other (referring to maps). This is Congressional District No. 42. It is truly creative. I think I saw something on one of your maps that was nearly as good as this one was. An interesting thing is that the folks who live on the ships that are in this harbor are in that district up there, too. It doesn't split cities, though, or towns -- the equivalent out there. That is a Republican district, incidentally.

We have another one here which was drawn by the late Philip Burton for his brother, and the pieces are connected by water. So, this is San Francisco; this is Marin County -- which you have probably heard notorious things about; and, this is Vallejo. That was changed back because his brother resigned from Congress.

I think I have one more in here, which is a good Democratic district. This is Congressional District No. 26, along the (indiscernible). You can guess what public interest there is in that particular district.

Now, that is the face of some pretty well-known criteria. So, what is the problem here? The problem is, you have to really get down and admit what it is you are trying to limit and stop, how you are going to do it, and how you are going to keep one side from running over the other.

I would like to propose for you a list of criteria which you may wish to consider in the New Jersey context. They certainly would help to limit some of the abuses.

I think, number one -- and you heard this from a previous witness -- you have to consider the issue of racial and ethnic minorities right from the start. One of your former witnesses said that if you have a majority, or a large -- well, I think it was a majority of minority members -- in one city that adjoins another city that has a majority of minority members, those two cities should be put together in a district. I don't think this is going to go far enough, in terms of the Federal law now, to solve the problem. I think you are going to have to map out the concentrations of the minorities that are protected under Section 2 and, where those minorities are large enough to constitute either a majority of the voters in a district or a potential majority of the voters in a district, you need to form them into one district.

If the same is true that there is a significant minority group that would constitute a large plurality, they also have to be looked at. That would have to supersede any desire to keep towns whole, or counties whole, or something like that. You can make a very good point that once you have essentially a compact minority neighborhood, that the interests of those citizens supersede their interests as citizens in a county. Besides that, you will probably get a lot of lawsuits which you will lose if you don't do it.

The other criterion which you absolutely have to comply with is population equality. With all due respect to those who think it is ridiculous to redistrict Congressional districts down to almost nothing in terms of deviation -- and I agree with them in principle -- the operational standard from one end of the country right now to the other is zero. So you see states now adopting plans where they have minus one, minus one, zero, zero, plus one -- deviations like that. If you don't do that, you are just, again, asking for litigation. Whereas a court-adopted plan might get away with some deviations, why take the chance on it? Why not just bite the

bullet and divide the towns if necessary, and bring those districts down to zero?

I drew several plans in New Jersey last time around to find out what could be done and, in my experience in trying to draw congressional plans, the requirement to keep towns whole, and at the same time be required to go as low as you could in population, just produced grotesque looking districts that just didn't make sense in terms of compactness. So, I think you have to consider that.

Then I think you can get into qualitative criteria. For instance, you could say something like this: "To the fullest extent possible, all district boundaries could be drawn along existing county, town, and election district boundaries." Did I use the right term there, election district? (affirmative response) Okay. We use precinct in other places. The greatest deference should be given to keeping counties divided among the least number of districts, and the second greatest deference to keeping towns divided among the least number of districts. When district boundaries divide a town into two or more portions, election district boundaries shall be followed when at all possible. So, that is sort of a statement of intent.

Then, you can absolutely limit, particularly in the congressional sense, but also in the legislative sense, the number of divided counties or towns by again looking at fragments. There was a discussion before about fragments. When a fragment is a portion of a county or town which is not as big as the whole district, you could say that no town or county could contain more than two portions -- two district portions in it, period.

You could also say that no boundary between adjoining towns, or adjoining counties, could have two districts crossing it. So, you could only have one district crossing the boundary between two adjoining towns or two adjoining counties. That

would keep districts from running side by side over the same county line or town line, and would protect integrity.

A further limitation you could put into place is that the total number of allowable county fragments in any bill could not exceed the number of districts -- just flat out. That would allow you to do the amount of population adjustment you needed and no more. The same could be said for split towns. The number of split towns could not exceed the total number of districts in the bill.

I think in terms of the census next time around, it would probably be possible to have an absolute imperative against splitting election districts. As far as contiguity is concerned, I think you can go into endless arguments about water crossings and things like that. In reality, I don't think it becomes too much of a problem. All you need to say is that you have to have contiguity, which means you can draw a single line around the whole district. It won't ever touch itself; it won't ever cross over itself. So, you don't have contiguity -- as in this one plan in San Francisco Bay -- with one part of the district coming down to a point against another end of the district coming up to a point. So that wouldn't be allowed.

All this is great. I could probably draw 20 plans for New Jersey which would comply with all of these, but unless you address the subject of compactness, you are really not going to get anywhere and you are going to leave lots of wiggle room for gerrymandering.

So, I am going to propose a little different way of measuring compactness. If I may go over to the easel here-- The real problem you are facing here in terms of political gerrymanders is not the shape of the district per se, but you are really facing the problem of drawing districts which by-pass significant numbers of people who could go into the same district. So for instance, as an example, if you look at

the map of New Jersey, if you draw a Congressional district that would wrap around this section here, or you draw a district down here, you are not concerned about the irregularity of this line -- the coastline, the county line, or anything like that. You are concerned if you have a district such as this one, where it is actually obvious that they have reached out to maybe find somebody's home, maybe a contributor, or, in this case, to get the movie studios, or, in this case, this guy lives in this district here, and in the long run it by-passed significant numbers of people. That is really what weird shaped districts are drawn for in the sense of the gerrymander.

ASSEMBLYMAN MARTIN: That has no basis on municipal boundary lines, right?

MR. HOFELLER: No, as a matter of fact, it doesn't. This whole district was drawn -- except for this portion right here-- This is all in the City of Los Angeles. This is beautiful downtown Burbank right here. It divides Burbank in half. It takes a portion of Los Angeles. So, it isn't a city-limiting thing. But, I could show you other districts-- The other one I showed you was mostly following city boundary lines.

What you might propose here is a standard which is workable technologically, which says, given any district, you draw around that district the smallest polygon that you can draw. It is as if I would cut out this figure with wood and I would put a rubber band around it, and the rubber band would shrink to the smallest size. So, that would be a more regularly shaped rendition of that district. Then you measure simply the number of people in the district. You measure the number of people who were by-passed, and you use that as a ratio rather than any strict geographic ratio. So, that really gives you a measure of how much playing around is really taking place in that district.

Now, that can be done in the context of your 1991 redistricting, rather than '81, because there are going to be data bases available from the Census Bureau which will allow that kind of criteria to be done. You don't have to build the data bases to do that. So, if you adopted a ratio, again, such as something like 1.15 to 1, or 1.2 to 1, that would give you some sort of a workable standard that you could play with.

Now, what I would suggest in the context of that is you maybe go back, Professor, and maybe you can do some research on New Jersey districts that you feel are acceptable and see what those ratios come out to be. But, unless you tackle that compactness problem, you are not going to solve the gerrymander as long as the folks who are drawing the lines want to do it.

A couple more things here. You might wish to put into your legislation a statement about intent to gerrymander. So, in following the Bandemer decision you might say that districts shouldn't be drawn in such a way to try to minimize the potential ability of the two major political parties to get their candidates elected. You might also want to make a statement -- this is again your decision -- on incumbency. I don't happen to feel that protecting incumbents per se is a bad thing, as long as the incumbencies are not standing in the way of the criteria I stated before, or something similar to that. You might say that incumbents shall not be arbitrarily placed in the same district.

Another thing you might want to consider is whether or not you want to direct jurisdiction over political gerrymandering to the State courts, or you want to try to leave it in the Federal court system. So you might want to direct your State courts, if that is proper to be done, that they should have jurisdiction. Well, that is your decision.

Those are some of the thoughts I bring to bear on the process. I have moved through it rather quickly. If you have any questions, I would be glad to discuss them.

ASSEMBLYMAN ZIMMER: Yes, I have a couple. I would like to ask you the same question I asked Mr. Wells. Is there one state that you would be able to point to, or even a bill you would be able to point to, as closest to your ideal concept of an anti-gerrymandering law?

MR. HOFELLER: No, not really. I don't really think I can say I have a favorite. I think in some states there is less of a tradition of it. The states where you find the most abuse are typically the states that are more urban than rural because it is just easier operationally to gerrymander. But you could go off-- For instance, you could look at some of the things that Ohio is looking at. They are looking at a lot of new legislation, and they have had legislation in the past.

ASSEMBLYMAN ZIMMER: Does that have any prospect of passing?

MR. HOFELLER: I can't really say. It is hard to say whether they will pass it or not. It depends very much on who gets selected to do the job. It depends a lot on the tradition of the legislature. Very frankly, in many situations it would depend on whether one party could gain a significant enough added advantage over the other party by blatant gerrymandering to make taking the heat worth it. So, all of these conditions come to bear.

ASSEMBLYMAN ZIMMER: I was concerned about the actual statutory or constitutional language. There is nothing that we should use as the basis for the start of our work?

MR. HOFELLER: I am not familiar with the actual statutory language in any of the states, really, to say that. I think that once you-- You are going to have to look to the Federal statutes for the racial question. I think you just have to bite the bullet and go complete one/person, one/vote for Congressional districts, and you have the 10% leeway on population. I think the other ones have really not been developed to that extent.

ASSEMBLYMAN ZIMMER: It may have been before you arrived that I discussed the Ohio bill sponsored by Assemblyman Ney with David Wells. That is basically a cookbook kind of proposal where there will be criteria that are so strict that there will be absolutely no discretion. The Secretary of State has a contest, and whoever adheres to the criteria most closely wins. Do you believe that that is doable?

MR. HOFELLER: It would scare me an awful lot. I went over to Ohio after they had their Congressional districts overturned due to too large a population deviation. It took us one day to bring them down to plus or minus 16 people. So, what you're saying with a law like that is, whoever has the cleaverest, brightest redistricting technician, combined with the fastest and biggest computer, gets to gerrymander the other person.

ASSEMBLYMAN ZIMMER: But, can't some of the criteria protect against-- That is, it would be a very limited gerrymander, because you would be proscribed from doing the worst kinds of damage to your opponents.

MR. HOFELLER: Well, I think if the criteria are strict enough, you can certainly limit it a great deal. You won't limit it entirely. The real question of public policy in that is, do you want the one individual in the State who is best prepared to draw the plan or just by chance hits the most qualifying scheme to be the one who decides how the State will be redistricted? I am not entirely sure that all of you in the Legislature weren't elected in some way to do that.

ASSEMBLYMAN ZIMMER: We don't do it very well.

MR. HOFELLER: If you have the same strict limiting criteria applying to you, that may limit it. Maybe the answer to that is to let Ohio do it and see what happens..

ASSEMBLYMAN ZIMMER: I have a question. You said that we would have to go from one minority community to another and hook them up. What came to my mind were Camden and Trenton.

Camden is a majority black community. Trenton is up the river here. It's not a majority black, but it is a substantial minority. You would probably wind your way up the Delaware Valley without running out of people before you ended up in Trenton. There are some substantial black communities in Ewing and in municipalities around Camden. Are you telling us that that is the kind of district we will be mandated to draw?

MR. HOFELLER: If community of interest between the people who live in District No. 12 down near District No. 6-- If the same community of interest pertains at the other end of 12, which seems to run up the other end of that valley, you would be hard-pressed to explain why the minority community of interest couldn't be satisfied in running up a lesser distance along the Delaware River. But remember, that would only be in a case where you had a black community or a Hispanic community which was large enough, even when combined, to make either a substantial portion of a district or, more likely, an operational majority.

ASSEMBLYMAN ZIMMER: Professor Reock, are we talking about that many minority voters to make a difference?

PROFESSOR REOCK: I think not, in the area you describe, because I think you would pick up so many white voters as you went along, you probably would not reach a majority of black voters, even if you tried to link up Trenton, Willingboro, and Camden. Those are the three concentrated--

ASSEMBLYMAN ZIMMER: What percentage -- a ball park figure -- of minority--

PROFESSOR REOCK: If you ran from Trenton down to Camden?

ASSEMBLYMAN ZIMMER: Yeah, through Willingboro and taking in parts of Ewing and whatever else it took.

PROFESSOR REOCK: On a Congressional districting?

ASSEMBLYMAN ZIMMER: Yes.

PROFESSOR REOCK: I would guess about 25%

MR. HOFELLER: I don't think that 25% would call for that kind of a district. Where you would really run into that problem more often might be in legislative districts, which are smaller, where you might say, "Well, okay, we are going to form a district in this town. We are going to form a district in that town." You don't want to break the town boundary, so you miss a district that might be 65% or 70%.

ASSEMBLYMAN ZIMMER: So, it's obvious stuff, rather than really--

MR. HOFELLER: That's right.

ASSEMBLYMAN ZIMMER: Okay.

MR. HOFELLER: It's not hard to recognize either racial gerrymandering or political gerrymandering when you see it. What is hard is to quantify it in such a way that you can prove it in a court of law.

ASSEMBLYMAN ZIMMER: I thought that you and the spokesman for the NAACP Legal Defense Fund were both saying that as far as minority voters go, it isn't just an avoidance of gerrymandering you are looking at, but it is the actual bending over backwards to create minority districts.

MR. HOFELLER: Well, she might feel there is a more affirmative need than I might feel, although I have been involved in a lot of racial gerrymandering cases with MALDEF (Mexican-American Legal Defense Fund) and the NAACP. Again, you're speaking to the fact that you have a neighborhood, a community, with minority members living adjacent to one another, where you could draw a line around it and say, "This is a minority community." If you then find that community fractured up into five pieces among five different districts, it is pretty obvious what is going on there.

ASSEMBLYMAN ZIMMER: Okay. I can understand that. I thought that the mandate was to go well beyond that.

ASSEMBLYMAN MARTIN: I have two questions. When you get into the concern about racial minority zones, the suspect

classifications we are concerned about, other than black and Hispanic communities-- Is New Jersey going to have to be sensitive to other minorities that either exist or have a potential to increase? For example, I am familiar with the fact that in New Jersey we have an increased amount of Asians from Vietnam and, also, an increased amount of persons from India. I don't know to what extent they already would be large enough to trigger a Congressional district, but they may very well be a factor in a legislative district. Do we have to pay attention to other ethnic minorities?

MR. HOFELLER: I think you have to pay attention to all the minority groups which are protected by the Civil Rights Act.

ASSEMBLYMAN MARTIN: That is really my question. The suspect classification-- I am not familiar with the most recent law. Would those groups be included?

MR. HOFELLER: I believe Asians are included. Again, it is a matter of, are there the specific concentrations? There are all sorts of difficult issues here. If you have an area which would create a district of 40% Hispanic and 30% black, would you then have to combine them together so that there would be an operational majority for the plurality of each?

I am not sure I can answer that question. I think what you have to do is--

ASSEMBLYMAN MARTIN: How about a different question? How about within a Hispanic community in New Jersey, a recognizable location for specific Hispanics? I'm talking about the Cuban population in northern Hudson, as opposed to, let's say, the Puerto Rican community, which, you know, one can tie together as Hispanic, but there is a separate culture. Has that been recognized, any separation within a Hispanic community?

MR. HOFELLER: Well, I think the lady from the NAACP said that those minority groups had to be a block, essentially. So, to the extent that the minority groups start fragmenting themselves off into separate blocks where they want to support different candidates, I am not sure you can deal with that. I think you have to deal with them as they are defined by Section 2. I am not an absolute authority on Section 2. All I can say to you is, when you approach the redistricting process, put this data down on the map and look at it, and I think it will be evident to you all right away where those problems lie. If, for instance, you are going to build a Hispanic district, and one side comes to you and says, "We are willing to take 60% instead of 80%, or 70%, if you will just cut out all the Puerto Ricans, or you will just cut out all the Cubans," that is kind of an inside family fight that maybe the Legislature would have some trouble dealing with. I think there is a limit there.

ASSEMBLYMAN MARTIN: My other question-- I asked about computers earlier. I don't know whether you heard that. You seem to be somewhat familiar with the use of computers with respect to this whole process. Can you visualize a computer where with enough data -- which we have available -- we could come out with formulas by the computer which would be essentially non-biased, prioritized along some of the guidelines you suggested?

MR. HOFELLER: Every time a model has been drawn, or thought up, that a computer would use to redistrict, it has more or less been proven that the starting point, for instance, of where the model begins, will have a great deal of bearing on the districts that turn out. So, I think the answer to your question is, no, I don't believe we could create a model that would be totally unbiased. It is going to carry the bias of the criteria. It is going to carry the bias of the starting point.

You could have a computer draw a number of different plans, and then you might choose the one that you feel is the best out of those. But it is still a little bit difficult. I think that certainly the computer could deal with a criterion such as compactness, where it could give you ratios and things like that.

ASSEMBLYMAN ZIMMER: Any other questions? (negative response) Thank you very much for coming up to share your thoughts with us.

MR. HOFELLER: Okay. Thank you for having me up here.

ASSEMBLYMAN ZIMMER: As the legislation develops I hope you will keep an eye on it and give us your input.

MR. HOFELLER: We are very interested in this because we are trying to prove in a couple of court cases exactly what gerrymandering is. So, that comes in line with the criteria.

ASSEMBLYMAN ZIMMER: Let's suspend this hearing for a moment now so we can vote on the bill that was pending awaiting Bob Martin's return. I understand you have to leave, Bob.

ASSEMBLYMAN MARTIN: Yes, I do.

ASSEMBLYMAN ZIMMER: In that case we have to hold the Rooney bills until September 8. When we resume the hearing, the next witness will be Marie Curtis.

(RECESS)

AFTER RECESS:

ASSEMBLYMAN ZIMMER: We will now resume the hearing, and the next witness will be Marie Curtis.

M A R I E C U R T I S: Good afternoon. I am Marie Curtis, Legislative Vice President of the League of Women Voters of New Jersey. We are pleased to be here once again discussing a

change in the process by which New Jersey determines its Congressional districts. This may seem like an old refrain. I think that the very first thing I testified on before this Committee, at least three or four years ago, if not more, was this very topic.

As some of you may recall, the League has been advocating a change in the process for more than a decade. In March of 1973, League members throughout New Jersey came to a consensus position recommending that a bipartisan commission be established, charged with the responsibility for redrawing the district lines following each census.

Several proposals for such redistricting bodies have come before this Committee in the past. The League of Women Voters currently strongly supports ACR-105, Assemblyman Franks' proposal, which calls for a 10-member bipartisan commission, but no more than five from any one party. With two unaffiliated members and four appointed by a majority of the Supreme Court, the partisan interests would be well-represented, but not to the point where either party could dictate a plan and impose it arbitrarily on the other.

With a single commission charged with the responsibility to determine legislative and Congressional districts, we would avoid redundancy in operation and should promote a more efficient planning process. Past experience has certainly indicated that a separate commission can operate more efficiently in this area than the legislative body as a whole. In 1980, it was only the Congressional districts that were challenged in the courts. The districts were changed with resultant confusion to the electorate -- I think Professor Reock referred to that, some people having as many as three different district changes in three successive elections -- and at the expense of large legal fees and court costs borne by that same electorate. The legislative districts drawn by a bipartisan commission for the State proved acceptable, however.

Removing the process from the Legislature as a whole also ensures that valuable time would not be lost in the legislative process while deliberation continued on the redistricting proposals. It would isolate the process from any temporary animosities or political line-ups resulting from the normal give and take of the legislative process. The determination of districts is basic in assuring equal representation in government. It should be as free as possible from outside influence or consideration.

As in all areas of public concern, however, the League strongly advocates citizen participation in that process. Again, ACR-105 provides for open meetings and public hearings allowing for citizen input. When citizens are part of the determination process, they are more likely to participate in those district elections that follow.

We would also comment on the timing involved here. The timing consideration is twofold, the timing of the process provided in the proposed resolution and the timing of passage in relation to the next census. It seems to us that both aspects are positive as embodied herein. The deadlines for commission appointment and certification, as well as the three-month consideration periods, are fair and yet allow for an expeditious handling of the process. In relation to the next biennial census, certainly passage by the Legislature in this session with a question on the ballot in either '87 or '88 would allow us to have a new process in place in time to do the job.

The League of Women Voters has always sought to encourage the informed and active participation of all citizens in government. Our advocacy of the one/man-one/vote concept underscores this goal. The proposed ACR-105 is a further step in this direction. We urge the Committee to endorse this measure and bring it to the floor for Assembly action as soon as possible.

Having said that, I have a few other comments to make. Number one, we did look at SCR-70, which is the single-member district proposal from Senator Lipman. The League strongly endorses the single-member district concept, but we have not really looked at that bill so I cannot make any comment for the organization on it today. However, we do feel there would be a stronger identification with the Assembly representative in a single-member district, and possibly with that District Office. If it were centrally located, there might be much easier individual citizen access also to the Assembly representative. So, in general, we favor the concept. No comment on the bill itself.

Again on A-526, we have looked at that and we endorsed it merely because at the time it was the only proposal that we saw coming in that was going to give us a bipartisan commission, hopefully, and move along. At that time, we were not aware of Assemblyman Franks coming in with this also. Assembly Bill 526, however, we see as possibly handing a legislative function over to judiciary or ex-judiciary, since the make-up of that commission would be ex-members of the judiciary.

We also did not mention criteria in our official testimony because, while the League strongly supports additional criteria in addition to one/man-one/vote, as you know, we are a member-directed organization, and our members have not taken any consensus position on that. However, we would strongly endorse all of the things that you heard from the preceding speakers this morning as regards criteria.

We also endorse the concept, however, of a tie-breaker. Since this would be a 10-member commission, we feel there should be some kind of a tie-breaker built in because any time you have an even numbered body there is the possibility of deadlock.

Are there any questions?

ASSEMBLYMAN ZIMMER: I would like to know whether the League is working on a consensus as far as criteria go -- specific criteria -- because it seems that is what we are coming down to, a question of exactly what criteria are going to be used and in what rank?

MS. CURTIS: Okay. We have looked at it, but I would have to get back to you on that. They have not, at this point, put anything on a timetable; however, I could ask for a committee consideration. I do know that compact, contiguous, and no dilution of minority in the minority vote are among the primary criteria that we have looked at, in addition, of course, to one/man-one/vote.

ASSEMBLYMAN ZIMMER: Has the League participated as amicus in any of these lawsuits on gerrymandering?

MS. CURTIS: All the way back to Baker versus Carr.

ASSEMBLYMAN ZIMMER: Including the Indiana case?

MS. CURTIS: No, we were not on the Indiana case.

ASSEMBLYMAN ZIMMER: What about California?

MS. CURTIS: I am not sure about California. I would have to check that out. I know we were involved early on with the very first cases. As I said, we do go back to Baker versus Carr. We were involved in Tennessee. We were part of the group that was instrumental in getting one/man-one/vote judicially mandated, if you will. I personally was involved in reapportionment in Florida two decades ago, so I go back a long way on this one.

ASSEMBLYMAN ZIMMER: I would urge the organization to get active in this round because I think it is every bit as important as the first one.

MS. CURTIS: Okay; very good.

ASSEMBLYMAN ZIMMER: Are there any questions from the Committee? (negative response) Thank you.

MS. CURTIS: Thank you.

ASSEMBLYMAN ZIMMER: Mr. C. A. Haverly?

J O S E P H F. S H A N A H A N: Mr. Haverly had to leave.

ASSEMBLYMAN ZIMMER: Oh, I'm sorry.

MR. SHANAHAN: He asked me to present his plan to you and also to read a short statement. I am Joe Shanahan from the Hunterdon County Citizens and Taxpayers Association, and I'm representing Mr. Haverly from TAXPAC. He states:

"I regret that I could not stay and make my presentation in person. However, much of what I planned to say is contained in the written report I am submitting herewith for the record. This report was the technical part of the brief we submitted when we were a party to the lawsuit in Federal court regarding the redistricting based on the 1980 census.

"The report includes an analysis of this criteria used for redistricting. It also includes newly developed quantitative measures of the various criteria. Also included is a newly developed scientific method of redistricting. This method of redistricting was applied to the 1980 census for New Jersey, and the resulting plan is shown. The plan has small population deviation, is contiguous, has compact districts, and, to a large degree, follows county boundaries where possible. It balances the competing goals. Details are provided.

"In addition to the written proposal, we offer a suggestion as to how to actually select the best possible plan, while minimizing the politics involved. A variety of redistricting plans would be considered. These might be prepared by the political parties, by a commission, or by public interest groups. A group of citizens would be selected at random from jury lists, perhaps one from each county. This group would then consider all the submitted plans and the degree to which they meet the goals of quality compactness, contiguity, and so forth. The group would then select the single best plan."

I might add that Mr. Haverly is an expert on computers and might have answered some of the questions before. I have heard him give a dissertation on how he came to the plan, which I believe is included in there. He divided the county in half, and then went on in various ways. When you hear it, it takes about 15 minutes. I don't think he was going to give it here today, but he could. When you hear it you want it because it has everything that I think would make an objective redistricting plan. As he says, it was included in the case in the Federal court in the 1980 dispute.

I have a short statement myself at this time, if I might presume to read it, which really backs up his statement. I knew he was going to present it, so I knew that you would have it.

Now, my statement is for the Hunterdon County Citizens and Taxpayers Association. I am Joseph Shanahan of Lambertville representing the Hunterdon County Citizens and Taxpayers Association, a nonpartisan group whose main objective is to help promote efficiency and economy in government in order to reduce taxes without impairing necessary services to the public.

As to the charade of redistricting that goes on every 10 years, we deplore the tendency of the elected officials of the State to mimic the Reds by placing party interests over those of the government and the people. After one census, if the Republicans are in charge in the Legislature, they gerrymander the State to their advantage and the Democrats shed crocodile tears. After the next one, if the Democrats are in the majority they do likewise, with similar reactions from the Republicans. It would be laughable if it were not so serious.

We citizens are growing weary of this, and at the last go around in the courts we were able to get our nonpartisan plan -- the Haverly plan -- before the U.S. District Court, where Judge Gibbons commented on it in the opinion of February,

1984, Pages 7 and 8: "The Haverly Plan, while reasonably attractive in other respects, proposes a population variation between the largest and smallest districts of 1.82%." We contend that the above plan, which does not take into consideration the best interests of any incumbents, only those of the citizenry, is the one that should be adopted to guarantee an objective and nonpartisan way of redistricting the State.

Thank you for allowing me to make this statement.

ASSEMBLYMAN ZIMMER: Thank you. I hope you will convey my regrets to Mr. Haverly that we couldn't hear him. I had indicated that those who were going to have to leave should get in touch with us so we would be able to put them on early.

MR. SHANAHAN: He is a very sincere man who has a great interest in this thing and has gone to an awful lot of trouble. I'm sorry, too. But he lives up in a northern county and he just couldn't stay.

ASSEMBLYMAN ZIMMER: Okay. Thank you very much.

MR. SHANAHAN: Thank you.

ASSEMBLYMAN ZIMMER: New Jersey Common Cause, Joe Bristol and Ed McCool.

J O S E P H B R I S T O L: Mr. Chairman, members of the Committee: I'm Joseph Bristol. I am a member of the Steering Committee of New Jersey Common Cause. We wholeheartedly endorse Resolution 105, Assemblymen Franks' and Pelly's resolution.

The scholarly speeches which preceded me, especially David Wells and Professor Reock, leave me almost speechless; however, almost is the operative word here. I only have a couple of personal comments to make. One is, I would prefer that a commission be composed of nine members, three, three, and three, eliminating any possibility of a deadlock; also, making it easier to come to a concerted opinion.

I have been thinking about this matter of ethnic problems in setting up districts, and it occurs to me that single districts, 80 single districts, instead of the current 40 double ones, would make it easier to handle the ethnic problems, and certainly would make it easier for each Assemblyman to keep in touch with the people in his district.

There are some other advantages. I think it would cost less to campaign in a smaller district, and I think it would be a whole lot easier for the constituents to be in contact with their Assemblymen. It seems to me that would be advantageous from a practical point of view. Because the districts would be smaller and there would be more of them, it seems to me it would be easier to have them encompass any special requirements of an ethnic or particular constituency.

Having said that, I think I have covered the subject as far as I am concerned. Have you anything to add (addressing Mr. McCool)?

E D M c C O O L: I just want to point out a couple of things. One of them is that each year we do a candidates' survey. In that survey we ask candidates for the Assembly, and the Senate if they are up at that time, to respond to some suggested positions on issues that we traditionally work on, traditionally because they are so very hard to get implemented. Reapportionment is one of those, and I thought I would like to share with the Committee some statistics to back up what I think their instincts are, but knowing the actual facts would, I think, make you feel more comfortable.

The survey asked the question: New Jersey State legislative districts are drawn by an independent bipartisan commission. Do you favor using the same method to draw up this State's Congressional districts? Ninety-seven percent of the incumbents who responded said yes, and 96% of the challengers said yes.

We asked: Do you support drawing the Congressional districts using clearly defined criteria regarding contiguity and compactness, maintenance of county and municipal boundaries, as well as population? One-hundred percent of the incumbents at the time -- in the '85 election -- said yes, and 84% of the challengers. One of the reasons we are here right now is because some of those incumbents did not repeat. However, when you have 84% of the challengers also agreeing, I think we are safe in saying that politically there is overwhelming support indicated by members of both chambers for some sort of reform in our Congressional district lines, whenever they are asked.

In the past we endorsed and, in fact, worked along with the League and several other groups, Assemblyman Franks working out some type of a commission to do that. We are also reminded that last year there was a bill in the Senate, sponsored initially by Senator Stockman and having 31 other co-sponsors, which, out of a need to see some movement on something, and the absence of movement on Assemblyman Franks' bill, we also agreed would at least be better than the way we are doing it now. That bill also went nowhere.

So, it is an interesting paradox. It is an issue that virtually all representatives indicate unanimous support for -- this need for reform -- and they have some pretty clear agreement on the areas they want to see reformed. Yet, time after time, nothing gets done. This Committee is to be commended for considering this problem before 1989. I think it is the kind of foresight that is needed. Hopefully, we can generate energy behind this political commitment that representatives have indicated.

I would also just like to take this opportunity to share some comments. One of the members of the Common Cause National Governing Board is Professor Andrew Schepard, who was a member of Columbia Law School's faculty. He addressed our

Steering Committee specifically on this topic a little over a year ago, and we made some notes. At the time, he had been asked to take a look at the commission structure as set up in Assemblyman Franks' bill, and I thought that I would like to share with you some of the comments he made. We are not in complete agreement or commitment on all of them, but I think they might reinforce some of the principles that evolved here today as well.

One was a concern about the composition -- as Joe pointed out -- with 10 people and a deadlock. He suggested that if we go with that format of the commission, something be written in expressly prohibiting deadlock; that there shall be no deadlock. Any plan with more than four out of ten people in opposition automatically goes to the State Supreme Court, or an odd member would automatically be chosen by the Chief Justice of the Supreme Court, but that the concept of deadlock be dealt with expressly in the bill, and not left up to the commission to resolve.

He also wondered what the advantage was in having the Supreme Court pick the four members of the commission, in that the Supreme Court would probably need a majority for the appointment, and the plan may come back to them for a decision anyhow. So, there might be another source for picking them.

He suggested that the holding of hearings in different regions of the State -- that those regions be specified. Coming from South Jersey, I know Trenton is often considered South Jersey. I notice in the bill it does say "throughout the State," so perhaps specific geographic centers should be mentioned as a requirement for those hearings.

He suggested that the commission put forth a preliminary plan of its own for public comment, that the hearings not just be about receiving plans from the public, but also an opportunity to respond to what they are preliminarily considering. Also that when they decide on a final plan, that

they list the other alternatives they considered and why they did not choose them -- the areas in which they fell short. The basis for that is that, in effect, the commission then does the fact-finding, and should there be a challenge, you could go right to the Supreme Court and produce a more speedy decision, rather than have to engage in fact-finding initially to find out what the commission's thinking was.

Also, the commission's staff needs should be more specifically outlined, and the mandating of the Governor's and legislators' cooperation with that commission. He suggested the director perhaps should be chosen by a super majority of the votes of the commission.

He basically, and we agreed, reiterated the kind of point that Mr. Wells made earlier in terms of criteria. Essentially, begin to justify what criteria is given what priority at the time they decide to adopt a specific plan.

In closing, I would like to reiterate what Joe said. Traditionally, we had endorsed Senator Lipman's concept of single-member legislative districts on the State level. I am glad to see it being considered again. We expressly support it for the purposes of increasing minority representation. It was pointed out earlier that we do sacrifice something in that. I think the other qualities that might be sacrificed are worth it in terms of increasing minority representation.

Thank you.

ASSEMBLYMAN ZIMMER: One aspect I am surprised you didn't address is open meetings of the redistricting commission.

MR. McCOOL: Oh, right.

ASSEMBLYMAN ZIMMER: ACR-105 provides that the meetings will be open unless six members vote to close them. Do you have an opinion on that?

MR. McCOOL: Right offhand I don't. Obviously, we are behind the concept of open public meetings as much as possible. I would think the only exception should be, you

know, the kinds of exceptions-- Well, there are good arguments on both sides of that question because in some cases discussions -- considering the make-up of the commission -- are more freely exchanged. There is a need to do that kind of airing, but not to make decisions. I presume that this was originally part of the structure that was negotiated at the time it was drawn up, so I wouldn't want to differ with it without checking our own committee.

ASSEMBLYMAN ZIMMER: Well, I-- Yes?

MR. BRISTOL: Are you making a difference here between discussion and passing a general motion?

ASSEMBLYMAN ZIMMER: I'll read the language: "Except in the case of executive sessions, meetings of the New Jersey redistricting commission shall be held at convenient times and locations, and shall be open to members of the general public. Executive sessions of the commission shall be conducted upon written request of at least six members or the vote of at least six members." That does not distinguish between discussion and action.

Any questions, Marion?

ASSEMBLYWOMAN CRECCO: No.

ASSEMBLYMAN ZIMMER: Thank you very much. Oh, one further question. What has the role of National Common Cause been in litigation around the country on gerrymandering?

MR. McCOOL: In the most recent decision-- They filed an amicus in that case.

ASSEMBLYMAN ZIMMER: In California?

MR. McCOOL: No, in Illinois, the most--

ASSEMBLYMAN ZIMMER: Indiana was the most recent decision.

MR. McCOOL: Was it Indiana? Okay.

ASSEMBLYMAN ZIMMER: Do you know whether Common Cause has been active in California?

MR. McCOOL: I don't know. I can check if you want me to.

ASSEMBLYMAN ZIMMER: Okay. Thank you very much.

MR. McCOOL: Okay. Thank you.

ASSEMBLYMAN ZIMMER: Is Herbert Thompson here? (no response) That exhausts the list of those who signed up to speak. Is there anyone else who would like to speak in connection with this hearing? (no response)

I want to thank all of those who came -- especially those who are still here -- for an excellent hearing. Our work will be much easier and much more confident as a result of what we heard today.

This hearing is adjourned.

(HEARING CONCLUDED)

APPENDIX

ASSEMBLY, No. 526

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman SHUSTED

ASSEMBLY, No. 3170

STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1985

By Assemblymen SHUSTED, ROCCO and KERN

AN ACT establishing the New Jersey Congressional Redistricting Commission, supplementing Title 19 of the Revised Statutes and repealing P. L. 1982, c. 1 (C. 19:46-4 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. After each federal census taken in a year ending in zero, the
2 congressional districts shall be established by the New Jersey Con-
3 gressional Redistricting Commission.

1 2. The commission shall consist of nine members, all of whom
2 shall be residents of this State. All of the members shall be former
3 judges who are retired from the Supreme Court, Superior Court,
4 and former county court, juvenile and domestic relations court
5 or county district court of this State or retired from the federal
6 courts. The members of the commission shall be appointed with
7 due consideration to geographic, ethnic, and racial diversity and
8 in the following manner:

9 a. Two members to be appointed by the majority leader of the
10 Senate;

11 b. Two members to be appointed by the minority leader of the
12 Senate;

13 c. Two members to be appointed by the majority leader of the
14 General Assembly;

15 d. Two members to be appointed by the minority leader of the
16 General Assembly; and

17 e. One member to be appointed by the Chief Justice of the
18 Supreme Court of this State who shall be the chairman.

19 Appointments to the commission shall be made on or before
20 November 15 of each year ending in zero and shall be certified by
21 the appointing official or officials to the Secretary of State on or
22 before December 1 of that year. The commission shall act by a
23 majority of the whole number of its members. A vacancy in the
24 commission shall be filled within 15 days in the same manner as
25 the original appointment.

1 3. The commission shall establish congressional districts which
2 are as nearly equal in population as practicable, composed of con-
3 venient contiguous territory and, to the extent consistent with the
4 required population ratio, their boundaries shall be drawn to co-
5 incide with the boundaries of counties and municipalities.

1 4. Except in the case of executive sessions, meetings of the New
2 Jersey Congressional Redistricting Commission shall be held at
3 convenient times and locations and shall be open to members of
4 the general public. Executive sessions of the commission shall be
5 conducted upon written request of at least six members or the vote
6 of at least six members.

1 5. The New Jersey Congressional Redistricting Commission shall
2 hold public hearings throughout the State. The commission shall
3 accept written plans for the establishment of Congressional dis-
4 tricts from members of the general public.

1 6. The commission shall file a preliminary redistricting plan
2 with the Secretary of State no later than 90 days after the certifica-
3 tion of the chairman or the receipt by the Governor of the official
4 federal census figures for New Jersey, whichever is later. The
5 commission shall have 30 days after filing the preliminary plan to
6 make corrections. Any legally qualified voter of this State shall
7 have 30 days from the filing of the preliminary plan to file excep-
8 tions with the Secretary of State. The commission shall have 30
9 days after the exceptions are filed to file a revised redistricting
10 plan with the Secretary of State. If no exceptions are filed within
11 30 days, or if filed and acted upon, the commission's plan shall be
12 final.

1 7. Any legally qualified voter of the State may challenge the
2 districts established by the New Jersey Congressional Redistricting
3 Commission's final plan by filing within 30 days of their establish-
4 ment, a petition for injunctive relief with any Judge of the Su-
5 perior Court. No petition shall be accepted after the expiration
6 of the 30 day period. Notwithstanding the provisions of any law
7 to the contrary, the Superior Court shall give any petition filed
8 as provided herein precedence over all other matters. It shall
9 render judgment within 60 days of the close of the petition period.

10 If any or all of the districts are found to be unacceptable, it shall
11 order the commission to establish new ones within 60 days.

12 A judgment by the Superior Court may be appealed to the
13 Supreme Court within 10 days of the day on which it is rendered.
14 Notwithstanding the provisions of any law to the contrary the
15 Supreme Court shall give that appeal precedence over all other
16 matters.

1 8. Any redistricting plan filed by the commission shall be pub-
2 lished by the Secretary of State once in at least one newspaper of
3 general circulation in each Congressional district. The publication
4 shall contain a map of the State showing the districts, and a map
5 showing the districts in the area normally served by the newspaper
6 in which the publication is made. The publication shall also state
7 the population of the districts having the smallest and largest
8 population and the percentage variation of each district from the
9 average population for the districts.

1 9. The Legislature shall appropriate sufficient funds for the
2 compensation and expenses of members and staff appointed by the
3 commission. The members of the commission shall be entitled to
4 the compensation for their services as the Legislature from time
5 to time shall determine, but no part shall be paid until a preliminary
6 plan is filed. If a preliminary plan is filed but the commission fails
7 to file a revised or final plan within the time prescribed, the com-
8 mission members shall forfeit all rights to compensation not paid.

1 10. P. L. 1982, c. 1 (C. 19:46-4 et seq.) is repealed.

1 11. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to create the New Jersey Congressional Redistricting Commission to be responsible for establishing election districts for members of the House of Representatives after each decennial census.

The bill also repeals the statute which established Congressional districts in 1982 and which was ruled to be unconstitutional by the Supreme Court of the United States.

ASSEMBLY CONCURRENT RESOLUTION No. 11

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION
By Assemblyman BROWN

SENATE CONCURRENT RESOLUTION No. 34

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senator LIPMAN

A CONCURRENT RESOLUTION proposing to amend Article IV, Sections II and III, of the State Constitution, and providing a schedule therefor.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*
2 *General Assembly concurring)*:

1 1. The following proposed amendment to the Constitution of the
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 a. Amend Article IV, Section II, of the Constitution to read as
4 follows:

5 **[1. The Senate shall be composed of forty senators apportioned**
6 **among Senate districts as nearly as may be according to the number**
7 **of their inhabitants as reported in the last preceding decennial**
8 **census of the United States and according to the method of equal**
9 **proportions. Each Senate district shall be composed, wherever**
10 **practicable, of one single county, and, if not so practicable, of two**
11 **or more contiguous whole counties.**

12 2. Each senator shall be elected by the legally qualified voters of
13 the Senate district, except that if the Senate district is composed of
14 two or more counties and two senators are apportioned to the
15 district, one senator shall be elected by the legally qualified voters
16 of each Assembly district. Each senator shall be elected for a term
17 beginning at noon of the second Tuesday in January next following
18 his election and ending at noon of the second Tuesday in January
19 four years thereafter, except that each senator, to be elected for a

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

20 term beginning in January of the second year following the year in
 21 which a decennial census of the United States is taken, shall be
 22 elected for a term of two years.

23 3. The General Assembly shall be composed of eighty members.
 24 Each Senate district to which only one senator is apportioned shall
 25 constitute an Assembly district. Each of the remaining Senate
 26 districts shall be divided into Assembly districts equal in number to
 27 the number of senators apportioned to the Senate district. The
 28 Assembly districts shall be composed of contiguous territory, as
 29 nearly compact and equal in the number of their inhabitants as
 30 possible, and in no event shall each such district contain less than
 31 eighty per cent nor more than one hundred-twenty per cent of
 32 one-fortieth of the total number of inhabitants of the State as
 33 reported in the last preceding decennial census of the United States.
 34 Unless necessary to meet the foregoing requirements, no county or
 35 municipality shall be divided among Assembly districts unless it
 36 shall contain more than one-fortieth of the total number of in-
 37 habitants of the State, and no county or municipality shall be
 38 divided among a number of Assembly districts larger than one plus
 39 the whole number obtained by dividing the number of inhabitants in
 40 the county or municipality by one-fortieth of the total number of
 40A inhabitants of the State.

41 4. Two members of the General Assembly shall be elected by the
 42 legally qualified voters of each Assembly district for terms begin-
 43 ning at noon of the second Tuesday in January next following their
 44 election and ending at noon of the second Tuesday in January two
 45 years thereafter.】

46 1. *The Senate shall be composed of 40 senators. One senator*
 47 *shall be elected by the legally qualified voters of each Senate district*
 48 *for a term beginning at noon of the second Tuesday in January*
 49 *next following his election and ending at noon of the second Tues-*
 50 *day in January four years thereafter, except that each senator to be*
 51 *elected for a term beginning in January of the year in which a*
 52 *decennial census of the United States is taken, shall be elected for*
 53 *a term of two years.*

54 2. *The General Assembly shall be composed of 80 members. One*
 55 *member of the General Assembly shall be elected by the legally*
 56 *qualified voters of each Assembly district for a term beginning at*
 57 *noon of the second Tuesday in January next following his election*
 58 *and ending at noon of the second Tuesday in January two years*
 59 *thereafter.*

60 3. *The Senate districts shall be composed of contiguous territory,*
 61 *as nearly compact and equal in the number of their inhabitants as*
 62 *practicable. Unless necessary to meet the foregoing requirements,*
 63 *no county or municipality shall be divided among Senate districts,*
 64 *and each Senate district shall be so drawn as to adhere to as many*
 65 *county and municipal lines as practicable. Each Senate district*
 66 *shall contain two whole Assembly districts.*

67 4. *The Assembly districts shall be composed of contiguous*
 68 *territory, as nearly compact and equal in the number of their in-*
 69 *habitants as practicable. No municipality shall be divided among*
 70 *Assembly districts unless it shall contain more than one-eightieth*
 71 *of the total number of inhabitants of the State, and each Assembly*
 72 *district shall be so drawn as to adhere to as many county and muni-*
 72A *cipal lines as practicable.*

73 b. Amend Article IV, Section III, of the Constitution to read as
 74 follows:

75 1. After the next and every subsequent decennial census of the
 76 United States, the Senate districts and Assembly districts shall be
 77 established~~],~~ and the senators and members of the General Assem-
 78 bly shall be apportioned among them.] by an Apportionment Com-
 79 mission consisting of ten members, five to be appointed by the chair-
 80 man of the State committee of each of the two political parties
 81 whose candidates for Governor receive the largest number of votes
 82 at the most recent gubernatorial election. Each State chairman, in
 83 making such appointments, shall give due consideration to the
 84 representation of the various geographical areas of the State.
 85 Appointments to the commission shall be made on or before
 86 November 15 of the year in which such census is taken and shall be
 87 certified by the Secretary of State on or before December 1 of that
 88 year. The commission, by a majority of the whole number of its
 89 members, shall certify the establishment of Senate and Assembly
 90 districts [and the apportionment of senators and members of the
 91 General Assembly] to the Secretary of State within one month of
 92 the receipt by the Governor of the official decennial census of the
 93 United States for New Jersey, or on or before February one of the
 94 year following the year in which the census is taken, whichever date
 95 is later.

96 2. If the Apportionment Commission fails so to certify such
 97 establishment [and apportionment] to the Secretary of State on
 98 or before the date fixed or if prior thereto it determines that it will
 99 be unable so to do, it shall so certify to the Chief Justice of the
 100 Supreme Court of New Jersey and he shall appoint an eleventh

101 member of the commission. The commission so constituted, by a
 102 majority of the whole number of its members, shall, within one
 103 month after the appointment of such eleventh member, certify to the
 104 Secretary of State the establishment of Senate and Assembly
 105 districts [and the apportionment of senators and members of the
 106 General Assembly].

107 3. Such establishment [and apportionment] shall be used there-
 108 after for the election of members of the Legislature and shall
 109 remain unaltered until the following decennial census of the United
 110 States for New Jersey shall have been received by the Governor.

1 2. When this proposed amendment to the Constitution is finally
 2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,
 3 it shall be submitted to the people at the next general election
 4 occurring more than three months after such final agreement and be
 5 published at least once in at least one newspaper of each county
 6 designated by the President of the Senate and the Speaker of the
 7 General Assembly and the Secretary of State, not less than three
 8 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-
 2 mitted to the people at said election in the following manner and
 3 form:

4 There shall be printed on each official ballot to be used at such
 5 general election, the following:

6 a. In every municipality in which voting machines are not used,
 7 the following legend shall immediately precede the question:

8 If you favor the proposition printed below make a cross (X),
 9 plus (+) or check (✓) in the square opposite the word "Yes." If
 10 you are opposed thereto make a cross (X), plus (+) or check (✓)
 11 in the square opposite the word "No."

12 b. In every municipality the following question:

	Yes.	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT PROVIDING STANDARDS FOR ESTABLISHMENT OF STATE LEGISLATIVE DISTRICTS</p> <p>Shall the amendment of Article IV, Sections II and III, of the State Constitution, agreed to by the Legislature, which provides standards for population equality, preservation of political subdivision boundaries, contiguity, and compactness to which the Apportionment Commission shall conform; establishes 40 Senate districts that elect one senator each and contain two whole Assembly districts each and 80 Assembly districts that elect one member of the General Assembly each; and creates hereafter a Senate with terms in each 10-year period starting with a year ending in 2, of 4, 4 and 2 years instead of the present terms of 2, 4, and 4 years: be approved?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>This amendment formulates new criteria for the establishment of State Senate and General Assembly districts. Two distinct, single-member Assembly districts would be created within each Senate district, instead of the present system which provides for "at large" Assemblyman to be elected from each Senate district as a whole. The amendment also requires that terms of office for State Senators be altered so that the longer 4 year terms in the 10 year cycle come closest in time to the most accurate census figures upon which apportionment was based.</p>

SCHEDULE

13 This Constitutional amendment shall, if approved, be applicable
 14 to any establishment of Legislative districts subsequent to
 15 December 31, 1984 and to terms for the State Senate beginning in
 16 1992.

8K

STATEMENT

This resolution provides for an amendment to the New Jersey Constitution which would create new criteria for the establishment of districts for the State Senate and General Assembly. The Constitution of the State of New Jersey presently provides for two Assemblymen "at large" within each Senate district. The effect of this constitutional amendment would be to provide for two Assembly districts within each of the 40 Senate districts. It should be noted that 28 out of the 50 states have single member districts in the legislative house equivalent to our General Assembly. Among these 28 are other states with large urban areas such as Connecticut, Massachusetts, New York and Pennsylvania.

Proponents of the concept of single-member districts hold that this method of apportionment would give minority groups a better chance for representation, that it would reduce the size of Assembly districts to a more manageable scale, and that it would create a higher level of identification for Assemblypersons among their constituents.

In addition to creating single-member districts, the amendment provides that the Assembly districts shall be composed of "contiguous territory, as nearly compact and equal in the number of their inhabitants as practicable". Also the 10 year, 2-4-4, cycle for Senatorial terms of office, beginning in the year ending in "2" in every decade, is changed to 4-4-2 so the longer terms are closest the decennial census. The amendment further provides that no county or municipality shall be divided among Assembly districts unless it is necessary to maintain compactness and equality of members.

The resolution provides that the constitutional amendment shall, if approved, be applicable to any legislative redistricting subsequent to December 31, 1984 and to State Senate terms beginning in 1992.

ASSEMBLY CONCURRENT RESOLUTION No. 50

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION
By Assemblyman SCHUBER

ASSEMBLY CONCURRENT RESOLUTION No. 20

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman SCHUBER

A CONCURRENT RESOLUTION proposing to amend Article II of the Constitution of the State of New Jersey, and providing a schedule therefor.

1 *BE IT RESOLVED by the General Assembly of the State of New*
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of the
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article II to read as follows:

Article II ELECTIONS AND SUFFRAGE

Section I

4 1. General elections shall be held annually on the first Tuesday
5 after the first Monday in November; but the time of holding such
6 elections may be altered by law. The Governor and members of the
7 Legislature shall be chosen at general elections. Local elective
8 officers shall be chosen at general elections or at such other times
9 as shall be provided by law.

10 2. All questions submitted to the people of the entire State shall
11 be voted upon at general elections.

12 3. (a) Every citizen of the United States, of the age of 18 years,
13 who shall have been a resident of this State and of the county in
14 which he claims his vote 30 days, next before the election, shall be
15 entitled to vote for all officers that now are or hereafter may be
16 elective by the people, and upon all questions which may be sub-
17 mitted to a vote of the people; and

Matter printed in italics *thus is new matter.*

10X

18 (b) (Deleted by amendment, effective December 5, 1974.)

19 (c) Any person registered as a voter in any election district of
20 this State who has removed or shall remove to another state or to
21 another county within this State and is not able there to qualify to
22 vote by reason of an insufficient period of residence in such state
23 or county, shall, as a citizen of the United States, have the right to
24 vote for electors for President and Vice President of the United
25 States, only, by Presidential Elector Absentee Ballot, in the county
26 from which he has removed, in such manner as the Legislature
27 shall provide.

28 4. In time of war no elector in the military service of the State or
29 in the armed forces of the United States shall be deprived of his
30 vote by reason of absence from his election district. The Legislature
31 may provide for absentee voting by members of the armed forces
32 of the United States in time of peace. The Legislature may provide
33 the manner in which, and the time and place at which such absent
34 electors may vote, and for the return and canvass of their votes in
35 the election district in which they respectively reside.

36 5. No person in the military, land or marine service of the
37 United States shall be considered a resident of this State by being
38 stationed in any garrison, barracks, or military or naval place or
39 station within the State.

40 6. No idiot or insane person shall enjoy the right of suffrage.

41 7. The Legislature may pass laws to deprive persons of the right
42 of suffrage who shall be convicted of such crime as it may desig-
43 nate. Any person so deprived, when pardoned or otherwise restored
44 by law to the right of suffrage, shall again enjoy that right.

Section II

45 1. After each federal census taken in a year ending in zero, a
46 Congressional Redistricting Commission shall be constituted to
47 establish election districts for members of the House of Repre-
48 sentatives. The commission shall consist of five members: four of
49 whom shall be the majority and minority leaders of both Houses
50 of the State Legislature, or deputies appointed by each of them,
51 and a fifth member selected as provided in this paragraph. No later
52 than December 1 of the year in which the federal census is taken,
53 the four members from the Legislature shall be certified by the
54 President of the Senate and the Speaker of the General Assembly
55 to the Secretary of State. Within 45 days after their certification,
56 the four members shall select a fifth member to serve as chairman
57 of the commission and shall immediately certify his name to the
58 Secretary of State. The chairman shall be a resident of this State
59 other than a person in a local, State or federal office to which com-

60 *pensation is attached. If the four members fail to select the*
61 *chairman within 45 days after their certification, a majority of the*
62 *membership of the Supreme Court shall appoint the chairman and*
63 *certify his appointment to the Secretary of State within 30 days*
64 *thereafter. The commission shall act by a majority of the whole*
65 *number of its members. A vacancy in the commission shall be filled*
66 *within 15 days in the same manner as the original appointment.*

67 2. *The commission shall establish congressional districts which*
68 *are as nearly equal in population as practicable, composed of con-*
69 *venient contiguous territory and, to the extent consistent with the*
70 *required population ratio, their boundaries shall be drawn to*
71 *coincide with the boundaries of counties and municipalities.*

72 3. *The commission shall file a preliminary redistricting plan with*
73 *the Secretary of State no later than 90 days after the certification*
74 *of the chairman or the receipt by the Governor of the official federal*
75 *census figures for New Jersey, whichever is later. The commission*
76 *shall have 30 days after filing the preliminary plan to make cor-*
77 *rections. Any resident of this State shall have 30 days from the*
78 *filing of the preliminary plan to file exceptions with the Secretary*
79 *of State. The commission shall have 30 days after the exceptions*
80 *are filed to file a revised redistricting plan with the Secretary of*
81 *State. If no exceptions are filed within 30 days, or if filed and acted*
82 *upon, the commission's plan shall be final.*

83 4. *Any resident of this State may file an appeal from the final*
84 *plan directly to the Supreme Court within 30 days after the filing*
85 *of the final plan. If the appellant establishes that the final plan*
86 *is contrary to law, the Supreme Court shall issue an order re-*
87 *manding the plan to the commission and directing the commission*
88 *to redistrict the State in a manner consistent with the order.*

89 5. *When the last day for filing an appeal has passed with no*
90 *appeal taken, or when the Supreme Court has finally decided an*
91 *appeal, the Congressional districts established by the redistricting*
92 *plan shall be used for the election of members of the House of*
93 *Representatives and shall remain unaltered until the following*
94 *census taken in a year ending in zero.*

95 6. *The Legislature shall appropriate sufficient funds for the com-*
96 *pensation and expenses of members and staff appointed by the*
97 *commission. The members of the commission shall be entitled to*
98 *the compensation for their services as the Legislature from time*
99 *to time shall determine, but no part shall be paid until a preliminary*
100 *plan is filed. If a preliminary plan is filed but the commission fails*
101 *to file a revised or final plan within the time prescribed, the com-*
102 *mission members shall forfeit all rights to compensation not paid.*

103 7. *If a preliminary, revised or final redistricting plan is not filed*
 104 *by the commission within the time prescribed by this section, unless*
 105 *the time is extended by the Supreme Court for cause shown, the*
 106 *Supreme Court shall immediately proceed on its own motion to*
 107 *redistrict the State.*

108 8. *Any redistricting plan filed by the commission, or ordered or*
 109 *prepared by the Supreme Court upon the failure of the commission*
 110 *to act, shall be published by the Secretary of State once in at least*
 111 *one newspaper of general circulation in each Congressional district.*
 112 *The publication shall contain a map of the State showing the dis-*
 113 *tricts, and a map showing the districts in the area normally served*
 114 *by the newspaper in which the publication is made. The publication*
 115 *shall also state the population of the districts having the smallest*
 116 *and largest population and the percentage variation of each dis-*
 117 *trict from the average population for the districts.*

1 2. When this proposed amendment to the Constitution is finally
 2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,
 3 it shall be submitted to the people at the next general election
 4 occurring more than 3 months after such final agreement and shall
 5 be published at least once in at least one newspaper of each county
 6 designated by the President of the Senate and the Speaker of the
 7 General Assembly and the Secretary of State, not less than 3
 8 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-
 2 mitted to the people at said election in the following manner and
 3 form:

4 There shall be printed on each official ballot to be used at such
 5 general election, the following:

6 a. In every municipality in which voting machines are not used,
 7 a legend which shall immediately precede the question as follows:

8 If you favor the proposition printed below make a cross (×),
 9 plus (+) or check (√) in the square opposite the word "Yes." If
 10 you are opposed thereto make a cross (×), plus (+) or check (√)
 11 in the square opposite the word "No."

12 b. In every municipality the following question:

	Yes.	<p style="text-align: center;">CREATES A CONGRESSIONAL REDISTRICTING COMMISSION</p> <p>Shall the amendment of Article II of the Constitution, agreed to by the Legislature, providing for the creation of a Congressional Redistricting Commission, be adopted?</p> <p style="text-align: center;">INTERPRETIVE STATEMENT</p>
	No.	<p>Adoption of this amendment would create a bipartisan Congressional Redistricting Commission that would redraw Congressional districts at the beginning of each decade. These districts would stand for 10 years. Currently, districts are created by statute at the beginning of each decade and may be redrawn from time to time throughout the decade.</p>

SCHEDULE

13 This Constitutional amendment shall, if approved, be applicable
 14 to any establishment of Congressional districts for use subsequent
 15 to December 31, 1983.

STATEMENT

The purpose of this Constitutional amendment is to create a Congressional Redistricting Commission.

The commission will be responsible for establishing election districts for members of the House of Representatives after each decennial census. It consists of five members. Four are the majority and minority leadership in both Houses of the Legislature. The fifth is a citizen selected by the four political members.

The commission is charged with establishing election districts which respect county and municipal boundaries to the greatest extent possible. The districts established would stand for 10 years, unlike our currently system which allows the Legislature to redraw Congressional districts at any time.

ASSEMBLY CONCURRENT RESOLUTION No. 80

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION
By Assemblyman DOYLE

ASSEMBLY CONCURRENT RESOLUTION No. 51

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1984

By Assemblyman FLYNN

A CONCURRENT RESOLUTION proposing to amend Article II of the Constitution of the State of New Jersey, and providing a schedule therefor.

1 BE IT RESOLVED *by the General Assembly of the State of New*
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of the
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article II to read as follows:

Article II

ELECTIONS AND SUFFRAGE

Section I

4 1. General elections shall be held annually on the first Tuesday
5 after the first Monday in November; but the time of holding such
6 elections may be altered by law. The Governor and members of the
7 Legislature shall be chosen at general elections. Local elective
8 officers shall be chosen at general elections or at such other times
9 as shall be provided by law.

10 2. All questions submitted to the people of the entire State shall
11 be voted upon at general elections.

12 3. (a) Every citizen of the United States, of the age of 18 years,
13 who shall have been a resident of this State and of the county in
14 which he claims his vote 30 days, next before the election, shall be
15 entitled to vote for all officers that now are or hereafter may be
16 elective by the people, and upon all questions which may be sub-
17 mitted to a vote of the people; and

Matter printed in italics *thus is new matter.*

15x

18 (b) (Deleted by amendment, effective December 5, 1974.)

19 (c) Any person registered as a voter in any election district of
20 this State who has removed or shall remove to another state or to
21 another county within this State and is not able there to qualify to
22 vote by reason of an insufficient period of residence in such state
23 or county, shall, as a citizen of the United States, have the right to
24 vote for electors for President and Vice President of the United
25 States, only, by Presidential Elector Absentee Ballot, in the county
26 from which he has removed, in such manner as the Legislature
27 shall provide.

28 4. In time of war no elector in the military service of the State or
29 in the armed forces of the United States shall be deprived of his
30 vote by reason of absence from his election district. The Legislature
31 may provide for absentee voting by members of the armed forces
32 of the United States in time of peace. The Legislature may provide
33 the manner in which and the time and place at which such absent
34 electors may vote, and for the return and canvass of their votes in
35 the election district in which they respectively reside.

36 5. No person in the military, naval or marine service of the
37 United States shall be considered a resident of this State by being
38 stationed in any garrison, barrack, or military or naval place or
39 station within this State.

40 6. No idiot or insane person shall enjoy the right of suffrage.

41 7. The Legislature may pass laws to deprive persons of the right
42 of suffrage who shall be convicted of such crimes as it may desig-
43 nate. Any person so deprived, when pardoned or otherwise restored
44 by law to the right of suffrage, shall again enjoy that right.

Section II

45 1. *After each federal census taken in a year ending in zero, the*
46 *Congressional districts shall be established by a Congressional*
47 *Redistricting Commission consisting of 10 members, five to be*
48 *appointed by chairman of the State committee of each of the two*
49 *political parties whose candidates for Governor receive the largest*
50 *number of votes at the most recent gubernatorial election. Each*
51 *State chairman, in making such appointments, shall give due con-*
52 *sideration to the representation of the various geographical areas*
53 *of the State. Appointments to the commission shall be made on or*
54 *before November 15 of the year in which the census is taken and*
55 *shall be certified by the Secretary of State on or before December 1*
56 *of that year. The commission, by a majority of the whole number of*
57 *its members, shall certify the establishment of Congressional dis-*
58 *tricts and the apportionment of members of the House of Repre-*
59 *sentatives to the Secretary of State within 18 months of the receipt*
60 *by the Governor of the census for New Jersey.* 16X

61 2. *If the Congressional Redistricting Commission fails so to*
 62 *certify the establishment of Congressional districts to the Secre-*
 63 *tary of State on or before the date fixed or if prior thereto it*
 64 *determines that it will be unable so to do, it shall so certify to the*
 65 *Chief Justice of the Supreme Court of New Jersey and he shall*
 66 *appoint an eleventh member of the commission. The commission*
 67 *so constituted, by a majority of the whole number of its members,*
 68 *shall, within one month after the appointment of the eleventh mem-*
 69 *ber, certify to the Secretary of State the establishment of Congres-*
 70 *sional districts.*

71 3. *The establishment of Congressional districts shall be used*
 72 *thereafter for the election of members of the House of Repre-*
 73 *sentatives and shall remain unaltered until the following federal*
 74 *census taken in a year ending in zero for New Jersey shall have*
 75 *been received by the Governor.*

1 2. When this proposed amendment to the Constitution is finally
 2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,
 3 it shall be submitted to the people at the next general election
 4 occurring more than three months after such final agreement and
 5 shall be published at least once in at least one newspaper of each
 6 county designated by the President of the Senate and the Speaker
 7 of the General Assembly and the Secretary of State, not less than
 8 three months prior to the general election.

1 3. This proposed amendment to the Constitution shall be sub-
 2 mitted to the people at that election in the following manner and
 3 form:

4 There shall be printed on each official ballot to be used at such
 5 general election, the following:

6 a. In every municipality in which voting machines are not used,
 7 a legend which shall immediately precede the question as follows:
 8 If you favor the proposition printed below make a cross (×),
 9 plus (+) or check (✓) in the square opposite the word "Yes." If
 10 you are opposed thereto make a cross (×), plus (+) or check (✓)
 11 in the square opposite the word "No."

12 b. In every municipality the following question:

	Yes.	<p style="text-align: center;">CREATES A CONGRESSIONAL REDISTRICTING COMMISSION</p> <p>Shall the amendment of Article II of the Constitution, agreed to by the Legislature, providing for the creation of a Congressional Redistricting Commission, be adopted?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Adoption of this amendment would create a bipartisan Congressional Redistricting Commission that would redraw Congressional districts at the beginning of each decade. These districts would stand for 10 years. Currently, districts are created by statute at the beginning of each decade and may be redrawn from time to time throughout the decade.</p>

SCHEDULE

13 This Constitutional amendment shall, if approved, be applicable
 14 to any establishment of Congressional districts for use subsequent
 15 to December 31, 1984.

STATEMENT

The purpose of this Constitutional amendment is to create a Congressional Redistricting Commission that is similar in operation to the Apportionment Commission that draws Legislative districts. The commission is responsible for establishing new Congressional districts subsequent to each decennial census. It consists of 10 members, five of whom are to be appointed by each of the two major party State chairmen. In making such appointments, the State chairmen are to give due consideration to the representation of the various geographical areas of the State. If a deadlock occurs on the commission, the Chief Justice of the State Supreme Court appoints an eleventh member. The districts established would stand for 10 years.

ASSEMBLY CONCURRENT RESOLUTION No. 105

STATE OF NEW JERSEY

INTRODUCED MAY 8, 1986

By Assemblymen FRANKS and PELLY

A CONCURRENT RESOLUTION proposing to amend Article II and Article IV, Section II and to repeal Article IV, Section III of the Constitution of the State of New Jersey, and providing a schedule therefor.

1 BE IT RESOLVED *by the General Assembly of the State of New*
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of the
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 a. Amend Article II to read as follows:

Article II

ELECTIONS AND SUFFRAGE

SECTION I

4 1. General elections shall be held annually on the first Tuesday
5 after the first Monday in November; but the time of holding such
6 elections may be altered by law. The Governor and members of the
7 Legislature shall be chosen at general elections. Local elective
8 officers shall be chosen at general elections or at such other times
9 as shall be provided by law.

10 2. All questions submitted to the people of the entire State shall
11 be voted upon at general elections.

12-14 3. (a) Every citizen of the United States, of the age of 18 years,
15 who shall have been a resident of this State and of the county in
16 which he claims his vote 30 days, next before the election, shall be
17 entitled to vote for all officers that now are or hereafter may be
18 elective by the people, and upon all questions which may be sub-
19 mitted to a vote of the people; and

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

20 (b) (Deleted by amendment, effective December 5, 1974.)

21 (c) Any person registered as a voter in any election district of
 22 this State who has removed or shall remove to another state or to
 23 another county within this State and is not able there to qualify to
 24 vote by reason of an insufficient period of residence in such state
 25 or county, shall, as a citizen of the United States, have the right to
 26 vote for electors for President and Vice President of the United
 27 States, only, by Presidential Elector Absentee Ballot, in the county
 28 from which he has removed, in such manner as the Legislature
 29 shall provide.

30 4. In time of war no elector in the military service of the State or
 31 in the armed forces of the United States shall be deprived of his
 32 vote by reason of absence from his election district. The Legislature
 33 may provide for absentee voting by members of the armed forces
 34 of the United States in time of peace. The Legislature may provide
 35 the manner in which and the time and place at which such absent
 36 electors may vote, and for the return and canvass of their votes in
 37 the election district in which they respectively reside.

38 5. No person in the military, naval or marine service of the
 39 United States shall be considered a resident of this State by being
 40 stationed in any garrison, barrack, or military or naval place or
 41 station within this State.

42 6. No idiot or insane person shall enjoy the right of suffrage.

43 7. The Legislature may pass laws to deprive persons of the right
 44 of suffrage who shall be convicted of such crimes as it may desig-
 45 nate. Any person so deprived, when pardoned or otherwise restored
 46 by law to the right of suffrage, shall again enjoy that right.

SECTION II

47 1. (a) After each federal census taken in a year ending in zero,
 48 the Congressional districts and legislative districts shall be
 49 established by the New Jersey Redistricting Commission.

50 (b) The commission shall consist of 10 members. At least eight of
 51 the members shall be persons who at the time of their appointment
 52 to the commission are, and during their entire tenure thereon
 53 remain, affiliated with the political party whose candidate for
 54 Governor receives the largest number of votes in the most recent
 55 gubernatorial election or the political party whose candidate for
 56 Governor receives the second largest number of votes in that
 57 election, but no more than five members shall be affiliated with
 58 either party. A person shall be considered to be affiliated with a
 59 political party if he has voted in at least four of that party's five
 60 preceding primary elections for the general election and in no pri-
 61 mary election of any other party. The members of the commission

62 shall be appointed with due consideration to geographic, ethnic
63 and racial diversity and in the following manner:

64 (1) one member to be appointed by the President of the Senate;

65 (2) one member to be appointed by the Speaker of the General
66 Assembly;

67 (3) one member to be appointed by the minority leader of the
68 Senate;

69 (4) one member to be appointed by the minority leader of the
70 General Assembly;

71 (5) two members, one to be appointed by the chairman of the
72 State committee of each of the two political parties whose candi-
73 dates for Governor receive the largest numbers of votes at the
74 most recent gubernatorial election, who shall rotate as chairmen
75 of the commission from meeting to meeting; and

76 (6) four members, to be appointed by a majority of the Supreme
77 Court, none of whom shall have run for a public or party office,
78 and at least one of whom shall be affiliated with one of the two
79 political parties whose candidates for Governor received the larg-
80 est numbers of votes in the most recent gubernatorial election and
81 at least one of whom shall be affiliated with the other of those
82 parties.

83 Appointments to the commission shall be made on or before
84 November 15 of each year ending in zero and shall be certified by
85 the appointing official or officials to the Secretary of State on or
86 before December 1 of that year. Vacancies in the membership
87 of the commission occurring prior to the certification by the com-
88 mission of Congressional and legislative districts or during any
89 period in which the districts established by the commission may
90 be or are under challenge, under the provisions of paragraph 7
91 of this section, shall be filled within five days of their occurrence
92 in the same manner as the original appointments were made.

93 (c) On or before April 1 of each year ending in one, or within
94 three months after receipt by the Governor of the official figures
95 for the federal census taken in the preceding year, whichever is
96 later, the commission shall certify the establishment of 40 legis-
97 lative districts to the Secretary of State. On or before January 1
98 of each year ending in two, or within three months after receipt by
99 the Governor of those official federal census figures, whichever is
100 later, the commission shall certify the establishment of the Con-
101 gressional districts to the Secretary of State. The commission shall
102 certify the establishment of districts pursuant to a majority vote
103 of its members with at least three of the Supreme Court's
104 appointees and at least one member affiliated with each political
105 party from the remaining appointees voting with the majority.

106 2. *The New Jersey Redistricting Commission shall establish*
107 *Congressional and legislative districts composed of contiguous*
108 *territory, as nearly equal in population as is practicable. Districts*
109 *shall be as compact as possible and shall be drawn to coincide with*
110 *the boundaries of counties and municipalities as nearly as is*
111 *practicable, and no district boundary shall divide a municipality*
112 *unless the population of the municipality, as determined by the*
113 *most recent federal decennial census, exceeds the number obtained*
114 *by dividing the population of the State according to that census*
115 *by the total number of Congressional or legislative districts, as*
116 *appropriate.*

117 *The number of county and municipal fragments shall be no*
118 *more than 20% greater than the lowest possible number of frag-*
119 *ments. The number of fragments is obtained by determining the*
120 *number of whole counties and municipalities and parts of counties*
121 *and municipalities contained in each district and then totalling*
122 *these fragments for all the districts.*

123 3. *Except in the case of executive sessions, meetings of the New*
124 *Jersey Redistricting Commission shall be held at convenient times*
125 *and locations and shall be open to members of the general public.*
126 *Executive sessions of the commission shall be conducted upon*
127 *written request of at least six members or the vote of at least*
128 *six members.*

129 4. *The New Jersey Redistricting Commission shall hold public*
130 *hearings throughout the State. The commission shall accept*
131 *written plans for the establishment of Congressional and legis-*
132 *lative districts from members of the general public.*

133 5. *The Legislature shall appropriate the funds necessary for*
134 *the efficient operation of the New Jersey Redistricting Commis-*
135 *sion.*

136 6. *The establishment of Congressional and legislative districts*
137 *shall be used thereafter for the election of members of the House*
138 *of Representatives and Legislature and, except as provided by*
139 *paragraph 7 of this section, shall remain unaltered until the next*
140 *year ending in zero in which a federal census for New Jersey*
141 *is taken.*

142 7. *Notwithstanding any provision to the contrary of the Con-*
143 *stitution of this State and except as otherwise required by the*
144 *Constitution of the United States or by any federal law, original*
145 *jurisdiction over any judicial proceeding challenging the estab-*
146 *lishment of Congressional or legislative districts shall lie with a*
147 *judicial panel composed of three judges, as hereinafter provided.*
148 *Any legally qualified voter of the State may challenge the dis-*

149 tricts established by the Redistricting Commission by filing,
 150 within 45 days of the certification of their establishment, a peti-
 151 tion for injunctive relief with any Judge of the Superior Court.
 152 No petition shall be accepted after the expiration of the 45 day
 153 period. Upon the filing of the petition, the Judge to whom the
 154 petition is presented shall immediately notify the Chief Justice
 155 of the Supreme Court, who shall designate two other Judges of
 156 the Superior Court, at least one of whom shall be a Judge of the
 157 Appellate Division of the Superior Court and shall be designated
 158 to preside at the trial of the action. The judges so designated
 159 and the judge to whom the petition was presented shall serve as
 160 members of the panel to hear and determine the action or pro-
 161 ceeding. At least five days' notice of hearing of the action shall
 162 be given to the Governor and the Attorney General. The panel
 163 shall give any petition filed as provided herein precedence over
 164 all other matters. It shall render judgment within 60 days of the
 165 close of the petition period. If the panel finds any or all of the
 166 districts unacceptable, it shall order the commission to establish
 167 new ones within 60 days.

168 A judgment by the panel may be appealed to the Supreme
 169 Court within 10 days of the day on which it is rendered. The
 170 Supreme Court shall give that appeal precedence over all other
 171 matters.

172 b. Amend Article IV, Section II to read as follows:

173 [i. The Senate shall be composed of 40 senators apportioned
 174 among Senate districts as nearly as may be according to the
 175 number of their inhabitants as reported in the last preceding
 176 decennial census of the United States and according to the method
 177 of equal proportions. Each Senate district shall be composed,
 178 wherever practicable, of one single county, and, if not so practi-
 179 cable, of two or more contiguous whole counties.

180 2. Each senator shall be elected by the legally qualified voters of
 181 the Senate district, except that if the Senate district is composed
 182 of two or more counties and two senators are apportioned to the
 183 district, one senator shall be elected by the legally qualified voters
 184 of each Assembly district. Each senator shall be elected for a term
 185 beginning at noon of the second Tuesday in January next follow-
 186 ing his election and ending at noon of the second Tuesday in
 187 January four years thereafter, except that each senator, to be
 188 elected for a term beginning in January of the second year
 189 following the year in which a decennial census of the United
 190 States is taken, shall be elected for a term of two years.

191 3. The General Assembly shall be composed of 80 members.

192 Each Senate district to which only one senator is apportioned
 193 shall constitute an Assembly district. Each of the remaining
 194 Senate districts shall be divided into Assembly districts equal in
 195 number to the number of senators apportioned to the Senate
 196 district. The Assembly districts shall be composed of contiguous
 197 territory, as nearly compact and equal in the number of their
 198 inhabitants as possible, and in no event shall each such district
 199 contain less than 80% nor more than 120% of one-fortieth of the
 200 total number of inhabitants of the State as reported in the last
 201 preceding decennial census of the United States. Unless necessary
 202 to meet the foregoing requirements, no county or municipality
 203 shall be divided among Assembly districts unless it shall contain
 204 more than one-fortieth of the total number of inhabitants of the
 205 State, and no county or municipality shall be divided among a
 206 number of Assembly districts larger than one plus the whole
 207 number obtained by dividing the number of inhabitants in the
 208 county or municipality by one-fortieth of the total number of
 209 inhabitants of the State.

210 4. Two members of the General Assembly shall be elected by the
 211 legally qualified voters of each Assembly district for terms begin-
 212 ning at noon of the second Tuesday in January next following
 213 their election and ending at noon of the second Tuesday in
 214 January 2 years thereafter.】

215 1. *The Senate shall be composed of 40 senators. One senator*
 216 *shall be elected by the legally qualified voters of each legislative*
 217 *district for a term beginning at noon of the second Tuesday in*
 218 *January next following his election and ending at noon of the*
 219 *second Tuesday in January four years thereafter, except that*
 220 *each senator to be elected for a term beginning in January of*
 221 *the second year following a year ending in zero in which a federal*
 222 *census is taken, shall be elected for a term of two years.*

223 2. *The General Assembly shall be composed of 80 members.*
 224 *Two members of the General Assembly shall be elected by the*
 225 *legally qualified voters of each legislative district for a term*
 226 *beginning at noon of the second Tuesday in January next follow-*
 227 *ing their election and ending at noon of the second Tuesday in*
 228 *January two years thereafter.*

229 c. Article IV, Section III, is repealed.

SCHEDULE

230 This Constitutional amendment shall, if approved, be appli-
 231 cable to any establishment of Congressional or legislative dis-
 232 tricts for use subsequent to the official federal census in 1990.

24X

1 2. When this proposed amendment to the Constitution is finally
 2 agreed to, pursuant to Article IX, paragraph 1 of the Constitu-
 3 tion, it shall be submitted to the people at the next general
 4 election occurring more than three months after the final agree-
 5 ment and shall be published at least once in at least one news-
 6 paper of each county designated by the President of the Senate
 7 and the Speaker of the General Assembly and the Secretary of
 8 State, not less than three months prior to the general election.

1 3. This proposed amendment to the Constitution shall be sub-
 2 mitted to the people at the election in the following manner and
 3 form:

4 There shall be printed on each official ballot to be used at the
 5 general election, the following:

6 a. In every municipality in which voting machines are not used,
 7 a legend which shall immediately precede the question as follows:

8 If you favor the proposition printed below make a cross (X),
 9 plus (+) or check (V) in the square opposite the word "Yes."
 10 If you are opposed thereto make a cross (X), plus (+) or check
 11 (V) in the square opposite the word "No."

12 b. In every municipality, the following question:

	Yes.	<p style="text-align: center;">CREATES THE NEW JERSEY REDISTRICTING COMMISSION</p> <p>Shall the amendment of Article II and Article IV, Section II and the repeal of Article IV, Section III, of the Constitution, agreed to by the Legislature, providing for the creation of the New Jersey Redistricting Commission and eliminating the Apportionment Commission, be adopted?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Adoption of this amendment would create a bipartisan New Jersey Redistricting Commission that would redraw both Congressional and legislative districts at the beginning of each decade. Currently, legislative districts are created by an Apportionment Commission, which would be eliminated by this amendment, and Congressional districts are created by vote of the Legislature.</p>

25 X

STATEMENT

The purpose of this Constitutional amendment is to create the New Jersey Redistricting Commission, which would draw Congressional and legislative districts for members of the House of Representatives and State Legislature. The amendment abolishes the present Apportionment Commission.

The commission would consist of 10 members, no more than five of whom could be affiliated with either of the two major political parties. The members are charged with establishing district lines which meet certain criteria.

Presently, Congressional districts are drawn by the Legislature and are subject to the whims of the partisan process without regard to the best interests of the voters.

ELECTIONS

Proposes an amendment to the Constitution creating the New Jersey Redistricting Commission.

SENATE CONCURRENT RESOLUTION No. 70

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION
By Senator LIPMAN

SENATE CONCURRENT RESOLUTION No. 34

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senator LIPMAN

A CONCURRENT RESOLUTION proposing to amend Article IV, Sections II and III, of the State Constitution, and providing a schedule therefor.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*
2 *General Assembly concurring)*:

1 1. The following proposed amendment to the Constitution of the
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 a. Amend Article IV, Section II, of the Constitution to read as
4 follows:

5 **[1. The Senate shall be composed of forty senators apportioned**
6 **among Senate districts as nearly as may be according to the number**
7 **of their inhabitants as reported in the last preceding decennial**
8 **census of the United States and according to the method of equal**
9 **proportions. Each Senate district shall be composed, wherever**
10 **practicable, of one single county, and, if not so practicable, of two**
11 **or more contiguous whole counties.**

12 2. Each senator shall be elected by the legally qualified voters of
13 the Senate district, except that if the Senate district is composed of
14 two or more counties and two senators are apportioned to the
15 district, one senator shall be elected by the legally qualified voters
16 of each Assembly district. Each senator shall be elected for a term
17 beginning at noon of the second Tuesday in January next following
18 his election and ending at noon of the second Tuesday in January
19 four years thereafter, except that each senator, to be elected for a

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

27X

20 term beginning in January of the second year following the year in
21 which a decennial census of the United States is taken, shall be
22 elected for a term of two years.

23 3. The General Assembly shall be composed of eighty members.
24 Each Senate district to which only one senator is apportioned shall
25 constitute an Assembly district. Each of the remaining Senate
26 districts shall be divided into Assembly districts equal in number to
27 the number of senators apportioned to the Senate district. The
28 Assembly districts shall be composed of contiguous territory, as
29 nearly compact and equal in the number of their inhabitants as
30 possible, and in no event shall each such district contain less than
31 eighty per cent nor more than one hundred-twenty per cent of
32 one-fortieth of the total number of inhabitants of the State as
33 reported in the last preceding decennial census of the United States.
34 Unless necessary to meet the foregoing requirements, no county or
35 municipality shall be divided among Assembly districts unless it
36 shall contain more than one-fortieth of the total number of in-
37 habitants of the State, and no county or municipality shall be
38 divided among a number of Assembly districts larger than one plus
39 the whole number obtained by dividing the number of inhabitants in
40 the county or municipality by one-fortieth of the total number of
40A inhabitants of the State.

41 4. Two members of the General Assembly shall be elected by the
42 legally qualified voters of each Assembly district for terms begin-
43 ning at noon of the second Tuesday in January next following their
44 election and ending at noon of the second Tuesday in January two
45 years thereafter.】

46 1. *The Senate shall be composed of 40 senators. One senator*
47 *shall be elected by the legally qualified voters of each Senate district*
48 *for a term beginning at noon of the second Tuesday in January*
49 *next following his election and ending at noon of the second Tues-*
50 *day in January four years thereafter, except that each senator to be*
51 *elected for a term beginning in January of the year in which a*
52 *decennial census of the United States is taken, shall be elected for*
53 *a term of two years.*

54 2. *The General Assembly shall be composed of 80 members. One*
55 *member of the General Assembly shall be elected by the legally*
56 *qualified voters of each Assembly district for a term beginning at*
57 *noon of the second Tuesday in January next following his election*
58 *and ending at noon of the second Tuesday in January two years*
59 *thereafter.*

60 3. *The Senate districts shall be composed of contiguous territory,*
 61 *as nearly compact and equal in the number of their inhabitants as*
 62 *practicable. Unless necessary to meet the foregoing requirements,*
 63 *no county or municipality shall be divided among Senate districts,*
 64 *and each Senate district shall be so drawn as to adhere to as many*
 65 *county and municipal lines as practicable. Each Senate district*
 66 *shall contain two whole Assembly districts.*

67 4. *The Assembly districts shall be composed of contiguous*
 68 *territory, as nearly compact and equal in the number of their in-*
 69 *habitants as practicable. No municipality shall be divided among*
 70 *Assembly districts unless it shall contain more than one-eightieth*
 71 *of the total number of inhabitants of the State, and each Assembly*
 72 *district shall be so drawn as to adhere to as many county and muni-*
 72A *cipal lines as practicable.*

73 b. Amend Article IV, Section III, of the Constitution to read as
 74 follows:

75 1. After the next and every subsequent decennial census of the
 76 United States, the Senate districts and Assembly districts shall be
 77 established[, and the senators and members of the General Assem-
 78 bly shall be apportioned among them,] by an Apportionment Com-
 79 mission consisting of ten members, five to be appointed by the chair-
 80 man of the State committee of each of the two political parties
 81 whose candidates for Governor receive the largest number of votes
 82 at the most recent gubernatorial election. Each State chairman, in
 83 making such appointments, shall give due consideration to the
 84 representation of the various geographical areas of the State.
 85 Appointments to the commission shall be made on or before
 86 November 15 of the year in which such census is taken and shall be
 87 certified by the Secretary of State on or before December 1 of that
 88 year. The commission, by a majority of the whole number of its
 89 members, shall certify the establishment of Senate and Assembly
 90 districts [and the apportionment of senators and members of the
 91 General Assembly] to the Secretary of State within one month of
 92 the receipt by the Governor of the official decennial census of the
 93 United States for New Jersey, or on or before February one of the
 94 year following the year in which the census is taken, whichever date
 95 is later.

96 2. If the Apportionment Commission fails so to certify such
 97 establishment [and apportionment] to the Secretary of State on
 98 or before the date fixed or if prior thereto it determines that it will
 99 be unable so to do, it shall so certify to the Chief Justice of the
 100 Supreme Court of New Jersey and he shall appoint an eleventh

101 member of the commission. The commission so constituted, by a
102 majority of the whole number of its members, shall, within one
103 month after the appointment of such eleventh member, certify to the
104 Secretary of State the establishment of Senate and Assembly
105 districts [and the apportionment of senators and members of the
106 General Assembly].

107 3. Such establishment [and apportionment] shall be used there-
108 after for the election of members of the Legislature and shall
109 remain unaltered until the following decennial census of the United
110 States for New Jersey shall have been received by the Governor.

1 2. When this proposed amendment to the Constitution is finally
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,
3 it shall be submitted to the people at the next general election
4 occurring more than three months after such final agreement and be
5 published at least once in at least one newspaper of each county
6 designated by the President of the Senate and the Speaker of the
7 General Assembly and the Secretary of State, not less than three
8 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-
2 mitted to the people at said election in the following manner and
3 form:

4 There shall be printed on each official ballot to be used at such
5 general election, the following:

6 a. In every municipality in which voting machines are not used,
7 the following legend shall immediately precede the question:

8 If you favor the proposition printed below make a cross (×),
9 plus (+) or check (✓) in the square opposite the word "Yes." If
10 you are opposed thereto make a cross (×), plus (+) or check (✓)
11 in the square opposite the word "No."

12 b. In every municipality the following question:

	Yes.	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT PROVIDING STANDARDS FOR ESTABLISHMENT OF STATE LEGISLATIVE DISTRICTS</p> <p>Shall the amendment of Article IV, Sections II and III, of the State Constitution, agreed to by the Legislature, which provides standards for population equality, preservation of political subdivision boundaries, contiguity, and compactness to which the Apportionment Commission shall conform; establishes 40 Senate districts that elect one senator each and contain two whole Assembly districts each and 80 Assembly districts that elect one member of the General Assembly each; and creates hereafter a Senate with terms in each 10-year period starting with a year ending in 2, of 4, 4 and 2 years instead of the present terms of 2, 4, and 4 years: be approved?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>This amendment formulates new criteria for the establishment of State Senate and General Assembly districts. Two distinct, single-member Assembly districts would be created within each Senate district, instead of the present system which provides for "at large" Assemblyman to be elected from each Senate district as a whole. The amendment also requires that terms of office for State Senators be altered so that the longer 4 year terms in the 10 year cycle come closest in time to the most accurate census figures upon which apportionment was based.</p>

SCHEDULE

13 This Constitutional amendment shall, if approved, be applicable
 14 to any establishment of Legislative districts subsequent to
 15 December 31, 1984 and to terms for the State Senate beginning in
 16 1992.

STATEMENT

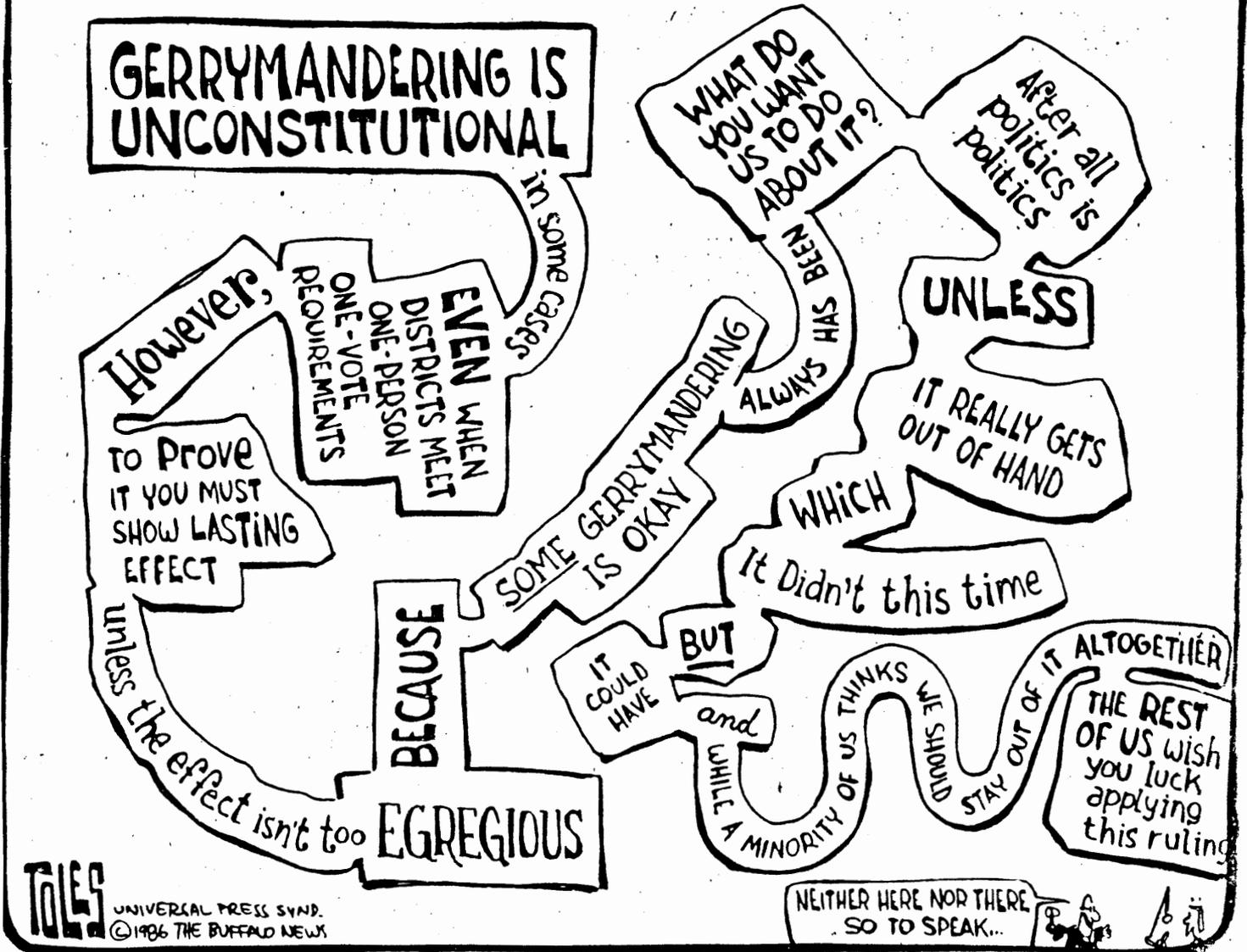
This resolution provides for an amendment to the New Jersey Constitution which would create new criteria for the establishment of districts for the State Senate and General Assembly. The Constitution of the State of New Jersey presently provides for two Assemblymen "at large" within each Senate district. The effect of this constitutional amendment would be to provide for two Assembly districts within each of the 40 Senate districts. It should be noted that 28 out of the 50 states have single member districts in the legislative house equivalent to our General Assembly. Among these 28 are other states with large urban areas such as Connecticut, Massachusetts, New York and Pennsylvania.

Proponents of the concept of single-member districts hold that this method of apportionment would give minority groups a better chance for representation, that it would reduce the size of Assembly districts to a more manageable scale, and that it would create a higher level of identification for Assemblypersons among their constituents.

In addition to creating single-member districts, the amendment provides that the Assembly districts shall be composed of "contiguous territory, as nearly compact and equal in the number of their inhabitants as practicable". Also the 10 year, 2-4-4, cycle for Senatorial terms of office, beginning in the year ending in "2" in every decade, is changed to 4-4-2 so the longer terms are closest the decennial census. The amendment further provides that no county or municipality shall be divided among Assembly districts unless it is necessary to maintain compactness and equality of members.

The resolution provides that the constitutional amendment shall, if approved, be applicable to any legislative redistricting subsequent to December 31, 1984 and to State Senate terms beginning in 1992.

The Supreme Court Ruling on Gerrymandering



Tom Toles

The Buffalo News

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	LSC 116 2317-2	1.4
116th General Assembly		1.6
Regular Session	Sub. S. J. R. No. 30	1.7
1985-1986		1.8
MESSRS. NEY-BRANSTOOL-CUPP-HORN-LUKENS-SNYDER		1.10
		1.11
	J O I N T R E S O L U T I O N	1.12
	Proposing to amend Section 2 of Article II, and	1.14
	Sections 2, 3, 5, 6, 12, and 13 of Article XI; to	1.15
	amend, for the purpose of adopting new section	1.16
	numbers as indicated in parentheses, Sections 5	1.17
	(4), 6 (5), 12 (11), 13 (12), and 15 (14) of	1.18
	Article XI; to enact new Sections 1, 6 to 10, and	1.19
	13 of Article XI; and to repeal Sections 1, 4, 7,	1.21
	8, 9, 10, 11, and 14 of Article XI of the	1.22
	Constitution of the State of Ohio to provide for	1.23
	the drawing of Congressional and General Assembly	
	district boundaries, commencing in 1991.	1.24
	Be it resolved by the General Assembly of the State of	1.27
	Ohio, three-fifths of the members elected to each house	1.28
	concurring herein, that there shall be submitted to the electors	1.29
	of the state in the manner prescribed by law at a special	1.30
	election to be held on the first Tuesday after the first Monday	1.31
	in November, 1986, a proposal to amend Section 2 of Article II,	1.32
	and Sections 2, 3, 5, 6, 12, and 13 of Article XI; to amend	1.34
	Sections 5 (4), 6 (5), 12 (11), 13 (12), and 15 (14) of Article	1.36
	XI for the purpose of adopting new section numbers as indicated	2.1
	in parentheses; and to enact new Sections 1, 6, 7, 8, 9, 10, and	2.2
	13 of Article XI of the Constitution of Ohio to read as follows:	2.3
	ARTICLE II	2.5
	Section 2. Representatives shall be elected biennially by	2.7
	the electors of the respective house of representatives	2.8
	districts; their term of office shall commence on the first day	2.9
	of January next thereafter and continue two years.	2.10

Senators shall be elected by the electors of the respective 2.11
 senate districts; their terms of office shall commence on the 2.12
 first day of January next after their election. All terms of 2.13
 senators which THAT commence on the first day of January, 1969 2.15
 shall be four years, and all terms which THAT commence on the 2.17
 first day of January, 1971 shall be four years. Thereafter, 2.18
 except for the filling of vacancies for unexpired terms AND TO 2.19
 COMPLY WITH THE REQUIREMENTS OF ARTICLE XI OF THIS CONSTITUTION, 2.20
 senators shall be elected to and hold office for terms of four 2.22
 years.

ARTICLE XI 2.24

Section 1. IN EACH YEAR ENDING IN ONE, AND ONLY AT THAT 2.26
 TIME, THIS STATE SHALL BE DIVIDED INTO AS MANY CONGRESSIONAL 2.27
 DISTRICTS AS THERE ARE SEATS IN THE UNITED STATES HOUSE OF 2.28
 REPRESENTATIVES APPORTIONED TO THE STATE, NINETY-NINE GENERAL 2.29
 ASSEMBLY HOUSE DISTRICTS, AND THIRTY-THREE SENATE DISTRICTS. 2.30

Section 2. THE WHOLE POPULATION OF THE STATE, AS 2.31
 DETERMINED BY THE MOST RECENT FEDERAL CENSUS, SHALL BE DIVIDED BY 2.32
 THE NUMBER OF UNITED STATES REPRESENTATIVES APPORTIONED TO THE 2.35
 STATE PURSUANT TO THAT CENSUS, AND THE QUOTIENT SHALL BE THE 2.36
 RATIO OF REPRESENTATION IN THE CONGRESS FOR THE NEXT TEN YEARS. 3.1
 The apportionment of this state for members of the general 3.2
 assembly shall be made in the following manner: THE WHOLE 3.4
 POPULATION OF THIS STATE SHALL BE DIVIDED BY THE NUMBER "THIRTY- 3.5
 THREE," AND THE QUOTIENT SHALL BE THE RATIO OF REPRESENTATION FOR 3.6
 THE SENATE FOR THE NEXT TEN YEARS. The whole population of the 3.7
 state ~~;-as-determined-by-the-federal-decennial-census-or;-if-such~~ 3.9
~~is-unavailable;-such-other-basis-as-the-general-assembly-may~~ 3.10
~~direct;~~ shall be divided by the number "ninety-nine," and the 3.11
 quotient shall be the ratio of representation in FOR the house of 3.12
 representatives for THE NEXT ten years ~~next-succeeding-such~~ 3.14
~~apportionment. The-whole-population-of-the-state-as-determined~~ 3.16
~~by-the-federal-decennial-census-or;-if-such-is-unavailable;-such~~ 3.17
~~other-basis-as-the-general-assembly-may-direct;-shall-be-divided~~ 3.18
~~by-the-number-"thirty-three"-and-the-quotient-shall-be-the-ratio~~ 3.19

of-representation-in-the-senate-for-ten-years-next-succeeding 3.20
such-apportionment:

Section 3. THE POPULATION OF EACH CONGRESSIONAL DISTRICT 3.21
SHALL BE AS NEARLY EQUAL AS PRACTICABLE TO THE CONGRESSIONAL 3.22
RATIO OF REPRESENTATION, AS PROVIDED IN SECTION 2 OF THIS 3.24
ARTICLE, AND NO SUCH DISTRICT SHALL CONTAIN A POPULATION OF LESS 3.26
THAN NINETY-NINE PER CENT OR MORE THAN ONE HUNDRED ONE PER CENT 3.29
OF THAT RATIO. The population of each SENATE OR house of 3.30
representatives district shall be substantially equal to the 3.31
ratio of representation in FOR the SENATE OR THE house of 3.33
representatives, RESPECTIVELY, as provided in section SECTION 2 3.35
of this Article, and in no event shall any SENATE OR house of 3.36
representatives district contain a population of less than 4.1
ninety-five percent nor more than one hundred five percent PER 4.4
CENT of the APPLICABLE ratio of representation in-the-house-of 4.6
representatives;-except-in-those-instances-where-reasonable 4.7
effort-is-made-to-avoid-dividing-a-county-in-accordance-with 4.8
section-9-of-this-Article. EACH SENATE DISTRICT SHALL BE 4.9
COMPOSED OF THREE CONTIGUOUS HOUSE OF REPRESENTATIVES DISTRICTS. 4.10
SENATE DISTRICTS SHALL BE RANKED IN ORDER OF AREA, AND THAT 4.12
DISTRICT LARGEST IN AREA SHALL BE NUMBERED "ONE," AND SO FORTH, 4.13
UNTIL THE SMALLEST IN AREA IS NUMBERED "THIRTY-THREE." TERMS OF 4.14
SENATORS REPRESENTING ODD-NUMBERED DISTRICTS SHALL COMMENCE ON 4.16
JANUARY 1, 1995. TERMS OF SENATORS REPRESENTING EVEN-NUMBERED 4.17
DISTRICTS SHALL COMMENCE ON JANUARY 1, 1993.

Section 5 4. Each house of representatives district shall 4.20
be entitled to a single representative in each General-Assembly 4.21
GENERAL ASSEMBLY. Every senate district shall be entitled to a
single senator in each General-Assembly GENERAL ASSEMBLY. 4.22

Section 6 5. District boundaries established pursuant to 4.24
this Article shall not be changed until the ensuing federal 4.25
decennial census and the ensuing apportionment or EXCEPT as
provided in section-13 SECTION 12 of this Article, 4.26
notwithstanding the fact that boundaries of political 4.27
subdivisions or city wards within the A district may be changed 4.28

during that time. ~~District-boundaries-shall-be-created-by-using~~ 4.29
~~the-boundaries-of-political-subdivisions-and-city-wards-as-they~~ 4.30
~~exist-at-the-time-of-the-federal-decennial-census-on-which-the~~ 4.31
~~apportionment-is-based,-or-such-other-basis-as-the-general~~ 4.32
~~assembly-has-directed.~~

Section 6. (A) AS USED IN THIS ARTICLE: 4.33

(1) "PERIMETER SEGMENT" MEANS A PORTION OF THE PERIMETER 4.36
OF THIS STATE OR OF A TOWNSHIP, MUNICIPAL CORPORATION, CENSUS 5.1
TRACT, OR BLOCK NUMBERING AREA, OR UNIT THEREOF, AS ESTABLISHED 5.2
IN DIVISION (B) OF THIS SECTION, THAT COINCIDES WITH THE 5.3
PERIMETER OF ANOTHER STATE OR OF ANOTHER TOWNSHIP, MUNICIPAL 5.4
CORPORATION, CENSUS TRACT, OR BLOCK NUMBERING AREA, OR UNIT 5.6
THEREOF.

(2) "CENSUS TRACT," "BLOCK NUMBERING AREA," AND "CENSUS 5.8
BLOCK GROUP" MEAN THE GEOGRAPHICAL UNITS DESIGNATED BY THESE 5.9
TERMS IN THE MOST RECENT FEDERAL CENSUS AND INCLUDE ANY 5.10
COMPARABLE GEOGRAPHICAL UNITS CALLED BY OTHER NAMES IN A FEDERAL 5.11
CENSUS AFTER THE EFFECTIVE DATE OF THIS AMENDMENT. 5.12

(3) "COUNTY FRAGMENT" MEANS ONE OF THE PORTIONS OF A 5.14
COUNTY RESULTING WHEN A COUNTY IS DIVIDED BETWEEN TWO OR MORE 5.15
SENATE DISTRICTS, IN THE CASE OF A SENATE PLAN, OR CONGRESSIONAL 5.16
DISTRICTS, IN THE CASE OF A CONGRESSIONAL PLAN, OR HOUSE OF 5.17
REPRESENTATIVES DISTRICTS, IN THE CASE OF A HOUSE OF 5.18
REPRESENTATIVES PLAN. 5.19

(4) "MUNICIPAL FRAGMENT" MEANS ONE OF THE PORTIONS OF A 5.21
MUNICIPAL CORPORATION RESULTING WHEN A MUNICIPAL CORPORATION IS 5.22
DIVIDED BETWEEN TWO OR MORE SENATE DISTRICTS, IN THE CASE OF A 5.23
SENATE PLAN, OR CONGRESSIONAL DISTRICTS, IN THE CASE OF A 5.24
CONGRESSIONAL PLAN, OR HOUSE OF REPRESENTATIVES DISTRICTS, IN THE 5.26
CASE OF A HOUSE OF REPRESENTATIVES PLAN.

TO DETERMINE THE COMPACTNESS RATIO OF DISTRICTS FOR 5.28
PURPOSES OF THIS ARTICLE, EACH PERSON SUBMITTING A PLAN SHALL: 5.29

(a) COMPUTE THE AREA OF EACH DISTRICT IN EACH PLAN; 5.31

(b) COMPUTE THE PERIMETER OF EACH DISTRICT IN EACH PLAN; 5.33

(c) COMPUTE THE COMPACTNESS RATIO OF EACH DISTRICT IN EACH PLAN BY DIVIDING THE AREA OF EACH DISTRICT BY THE SQUARE OF ITS PERIMETER;

(d) COMPUTE THE COMPACTNESS OF ANY DISTRICT THAT INCLUDES THE OTTAWA COUNTY TOWNSHIPS OF PORTAGE OR DANBURY, THE LAKE ERIE ISLANDS, OR THE MEIGS COUNTY TOWNSHIPS OF SUTTON, LEBANON, AND LETART, AS IF THESE AREAS WERE NOT CONTAINED IN THAT DISTRICT.

(B) ON THE FIRST DAY OF MAY IN EACH YEAR ENDING IN ONE, THE SECRETARY OF STATE SHALL, BY PUBLIC NOTICE, INVITE ANY PERSON TO SUBMIT A PLAN FOR DIVIDING THE ENTIRE STATE INTO CONGRESSIONAL DISTRICTS, SENATE DISTRICTS, OR BOTH. ANY PERSON INTENDING TO SUBMIT A PLAN SHALL FILE A NOTICE OF INTENT WITH THE SECRETARY OF STATE BY THE FIFTEENTH DAY OF MAY, ALONG WITH A FEE IN AN AMOUNT TO BE FIXED BY LAW NOT TO EXCEED ONE HUNDRED DOLLARS FOR EACH PLAN.

(C) ON THE FIRST DAY OF JUNE OF THE SAME YEAR, THE SECRETARY OF STATE SHALL PUBLISH AND DISTRIBUTE TO ANY PERSON WHO FILED A NOTICE OF INTENT TO SUBMIT A PLAN, DOCUMENTS INDICATING THE POPULATION, LENGTH OF PERIMETER SEGMENTS, AND AREA OF EACH COUNTY, TOWNSHIP, MUNICIPAL CORPORATION, CENSUS TRACT, AND BLOCK NUMBERING AREA IN THE STATE WHOSE POPULATION DOES NOT EXCEED A THRESHOLD EQUAL TO ONE PER CENT OF THE RATIO OF REPRESENTATION IN CONGRESS OR FIVE PER CENT OF THE RATIO OF REPRESENTATION IN THE HOUSE OF REPRESENTATIVES, WHICHEVER IS SMALLER.

THE SECRETARY OF STATE SHALL DIVIDE ANY TOWNSHIP, CENSUS TRACT, OR BLOCK NUMBERING AREA WHOSE POPULATION EXCEEDS THE THRESHOLD DEFINED IN THIS SECTION INTO THE FEWEST POSSIBLE UNITS OF CONTIGUOUS TERRITORY CONTAINING POPULATIONS NOT EXCEEDING THE THRESHOLD. IF IT IS NECESSARY TO DIVIDE CENSUS BLOCK GROUPS, THE SECRETARY OF STATE SHALL DIVIDE THE FEWEST CENSUS BLOCK GROUPS POSSIBLE. THE SECRETARY OF STATE SHALL INCLUDE IN THE DOCUMENTS PUBLISHED UNDER THIS DIVISION THE POPULATION, LENGTH OF PERIMETER SEGMENTS, AND AREA FOR EACH SUCH UNIT.

INFORMATION PUBLISHED BY THE SECRETARY OF STATE PURSUANT TO THIS DIVISION, INCLUDING CENSUS DATA AND MEASUREMENTS MADE USING

ESTABLISHED CARTOGRAPHIC TECHNIQUES, SHALL BE PRESUMED TO BE	7.6
ACCURATE.	7.7
Section 7. EACH PLAN SUBMITTED PURSUANT TO AN INVITATION	7.9
ISSUED UNDER SECTION 6 OF THIS ARTICLE SHALL COVER THE ENTIRE	7.11
STATE AND SHALL BE SUBMITTED IN THE MANNER PRESCRIBED BY THE	7.12
SECRETARY OF STATE. THE SECRETARY OF STATE SHALL REQUIRE EACH	7.13
PLAN TO INCLUDE A SUMMARY SHEET LISTING THE POPULATION AND	
COMPACTNESS RATIO OF EACH DISTRICT IN EACH PLAN, THE IDENTITY OF	7.14
EACH COUNTY DIVIDED BY THE PLAN, THE NUMBER OF COUNTY FRAGMENTS	7.15
RESULTING FROM THE PLAN, THE IDENTITY OF EACH MUNICIPAL	7.16
CORPORATION DIVIDED BY THE PLAN, AND THE NUMBER OF MUNICIPAL	7.17
FRAGMENTS RESULTING FROM THE PLAN. THE SUMMARY SHEET SHALL	7.18
INCLUDE A STATEMENT, SIGNED BY THE PERSON SUBMITTING THE PLAN,	7.19
ATTESTING THAT THE CRITERIA IN SECTION 8 OF THIS ARTICLE HAVE	7.21
BEEN MET. ALL PLANS SHALL BE FILED WITH THE SECRETARY OF STATE	7.23
NOT LATER THAN THE FIRST DAY OF JULY IN EACH YEAR ENDING IN ONE,	7.24
AND SUBSEQUENT TO THAT DATE SHALL BE AVAILABLE FOR PUBLIC	7.25
EXAMINATION.	
Section 8. THE SECRETARY OF STATE SHALL EXAMINE THE	7.27
SUMMARY SHEET OF EACH PLAN SUBMITTED PURSUANT TO SECTION 7 OF	7.28
THIS ARTICLE AND DETERMINE WHETHER THE PLAN DESCRIBED IN THE	7.29
SUMMARY SHEET APPARENTLY CONFORMS TO THE FOLLOWING CRITERIA:	7.30
(A) THE PLAN SHALL MEET THE APPROPRIATE DISTRICT	7.32
POPULATION REQUIREMENTS OF SECTION 3 OF THIS ARTICLE;	7.33
(B) EACH TOWNSHIP, MUNICIPAL CORPORATION, CENSUS TRACT, OR	7.35
BLOCK NUMBERING AREA, OR UNIT THEREOF, AS PUBLISHED BY THE	
SECRETARY OF STATE UNDER SECTION 6 OF THIS ARTICLE, SHALL RETAIN	8.1
ITS INTEGRITY AND SHALL NOT BE DIVIDED BETWEEN TWO OR MORE	8.2
DISTRICTS;	8.3
(C) EACH DISTRICT CREATED BY THE PLAN SHALL BE COMPOSED OF	8.5
CONTIGUOUS TERRITORY AND BE BOUNDED BY A SINGLE, NONINTERSECTING,	8.6
CONTINUOUS LINE;	
(D) NO DISTRICT CREATED BY THE PLAN SHALL HAVE A	8.8
COMPACTNESS RATIO OF LESS THAN TWENTY-FOUR THOUSANDTHS AS	8.9

CALCULATED ACCORDING TO DIVISION (A) OF SECTION 6 OF THIS ARTICLE. 8.10 8.11

Section 9. (A) THE SECRETARY OF STATE SHALL CHOOSE, FROM AMONG THE PLANS QUALIFYING UNDER SECTION 8 OF THIS ARTICLE, ONE PLAN FOR CONGRESSIONAL DISTRICTS AND ONE PLAN FOR SENATE DISTRICTS, IN ACCORDANCE WITH THIS SECTION. 8.13 8.15 8.16 8.17

(B) THE SECRETARY OF STATE SHALL DETERMINE FOR EACH QUALIFYING PLAN, ON THE BASIS OF THE INFORMATION PROVIDED ON ITS SUMMARY SHEET, THE TOTAL NUMBER OF COUNTY FRAGMENTS CONTAINED IN IT AND THE TOTAL NUMBER OF MUNICIPAL FRAGMENTS CONTAINED IN IT. THE SECRETARY OF STATE SHALL DESIGNATE THE PLAN THAT HAS THE FEWEST COUNTY FRAGMENTS THE APPARENT WINNER. HE SHALL THEN MAKE A DETAILED EXAMINATION OF THE SUPPORTING DOCUMENTS OF THE APPARENT WINNER TO DETERMINE WHETHER THE INFORMATION PROVIDED ON ITS SUMMARY SHEET IS TRUE AND CORRECT. IF IT IS, THE SECRETARY OF STATE SHALL, NO LATER THAN THE FIFTEENTH DAY OF AUGUST IN EACH YEAR ENDING IN ONE, DECLARE THAT PLAN THE WINNER AND THAT PLAN SHALL BE THE PLAN IN EFFECT FOR THE NEXT TEN YEARS. 8.18 8.20 8.22 8.23 8.24 8.25 8.26 8.27 8.29 8.30

(C) IF EXAMINATION OF THE SUPPORTING DOCUMENTS OF THE APPARENT WINNER FAILS TO VERIFY THE INFORMATION PROVIDED ON ITS SUMMARY SHEET, THAT PLAN SHALL BE DISQUALIFIED. THE SECRETARY OF STATE SHALL THEN DETERMINE THE APPARENT WINNER FROM THE REMAINING PLANS AND FOLLOW THE SAME VERIFICATION PROCEDURE USED IN DIVISION (B) OF THIS SECTION. IF THE DATA PROVIDED ON THE SUMMARY SHEET OF THE SECOND APPARENT WINNER CANNOT BE VERIFIED, THE VERIFICATION PROCEDURE SHALL BE REPEATED UNTIL THE PLAN THAT BEST MEETS THE CRITERIA OF THIS SECTION IS FOUND. 8.32 8.33 8.35 8.36 9.1 9.2 9.3 9.4

(D) IF TWO OR MORE QUALIFYING PLANS EACH CONTAIN THE FEWEST COUNTY FRAGMENTS, THE SECRETARY OF STATE SHALL CHOOSE THAT PLAN THAT HAS THE FEWEST MUNICIPAL FRAGMENTS, NOT COUNTING THOSE DERIVED FROM MUNICIPAL CORPORATIONS THAT ARE INCLUDED IN MORE THAN ONE COUNTY. IF TWO OR MORE QUALIFYING PLANS EACH CONTAIN THE FEWEST MUNICIPAL FRAGMENTS, THE SECRETARY OF STATE SHALL CHOOSE THAT PLAN WHOSE LEAST COMPACT DISTRICT HAS THE HIGHEST RATIO OF COMPACTNESS. 9.6 9.8 9.9 9.10 9.11 9.12 9.14

(E) THE SECRETARY OF STATE SHALL NOT DISQUALIFY ANY PLAN 9.16
BECAUSE THE PLAN OR SUMMARY SHEET CONTAINS MINOR TECHNICAL ERRORS 9.18
THAT HAVE NO SUBSTANTIVE EFFECT. 9.19

Section 10. (A) NO LATER THAN THE FIFTEENTH DAY OF AUGUST 9.22
IN EACH YEAR ENDING IN ONE, THE SECRETARY OF STATE SHALL, BY 9.23
PUBLIC NOTICE, INVITE ANY PERSON TO SUBMIT A PLAN FOR DIVIDING 9.24
ANY NUMBER OF THE SENATE DISTRICTS ESTABLISHED BY THE CHOSEN PLAN 9.25
INTO HOUSE OF REPRESENTATIVE DISTRICTS. THE SECRETARY OF STATE 9.26
SHALL DISTRIBUTE TO ANY PERSON WHO INTENDS TO SUBMIT SUCH A PLAN 9.27
THE DOCUMENTS PUBLISHED IN ACCORDANCE WITH DIVISION (C) OF 9.28
SECTION 6 OF THIS ARTICLE. EACH PLAN SHALL BE SUBMITTED IN THE 9.29
MANNER PRESCRIBED BY THE SECRETARY OF STATE. THE PLAN SHALL 9.30
INCLUDE FOR EACH SENATE DISTRICT DIVIDED A SUMMARY SHEET AS 9.31
PROVIDED IN SECTION 7 OF THIS ARTICLE AND SHALL BE ACCOMPANIED BY 9.32
A FILING FEE IN AN AMOUNT TO BE FIXED BY LAW NOT TO EXCEED TEN 9.33
DOLLARS PER SENATE DISTRICT BEING DIVIDED; HOWEVER, THE FEE SHALL 9.34
NOT EXCEED ONE HUNDRED DOLLARS IF ALL SENATE DISTRICTS ARE
INCLUDED. ALL PLANS SHALL BE FILED WITH THE SECRETARY OF STATE 10.2
NOT LATER THAN THE FIFTEENTH DAY OF SEPTEMBER OF THE SAME YEAR. 10.3

(B) THE SECRETARY OF STATE SHALL, NO LATER THAN THE FIRST 10.6
DAY OF NOVEMBER OF EACH YEAR ENDING IN ONE, CHOOSE A WINNING PLAN 10.7
FROM AMONG QUALIFYING PLANS, USING THE SAME SELECTION PROCEDURE 10.8
PROVIDED IN SECTIONS 8 AND 9 OF THIS ARTICLE. 10.9

(C) THE GENERAL ASSEMBLY MAY, BY LAW, ADJUST: 10.10

(1) THE DATES SPECIFIED IN SECTIONS 6 AND 7, DIVISION (B) 10.14
OF SECTION 9, AND DIVISIONS (A) AND (B) OF SECTION 10 OF THIS 10.15
ARTICLE TO REFLECT THE AVAILABILITY OF CENSUS DATA, THE TIME THE 10.16
SECRETARY OF STATE REQUIRES TO PROCESS PLANS, THE FILING DATES 10.17
FOR PRIMARY ELECTIONS, AND OTHER FACTORS;

(2) THE FILING FEES PROVIDED FOR IN DIVISION (B) OF 10.18
SECTION 6 AND DIVISION (A) OF SECTION 10 OF THIS ARTICLE TO 10.19
ACCOUNT FOR INFLATION.

Section ~~12~~ 11. At any time the boundaries of senate 10.24
districts are changed in any DISTRICTING plan of apportionment 10.26
made ADOPTED pursuant to any provision of this Article, a senator 10.28

whose term will not expire within two years of the time the plan 10.29
 of apportionment is made ADOPTED shall represent; HOLD OFFICE for 10.31
 the remainder of the term for which he was elected, the senate 10.32
 district which contains the largest portion of the population of 10.34
 the district from which he was elected; and the district shall be 10.35
 given the number of the district from which the senator was 10.36
 elected IF HE IS A RESIDENT OF A NEWLY CREATED DISTRICT NOT 11.1
 ELECTING A SENATOR WITHIN TWO YEARS OF THE TIME THE PLAN IS MADE. 11.2
 If more than one senator whose term will not so expire would 11.3
 represent the same district by following the provisions of this 11.4
 section, the persons responsible for apportionment, by a majority 11.5
 of their number, shall designate which senator shall represent 11.6
 the district and shall designate which district the other senator 11.7
 or senators shall represent for the balance of their term or 11.8
 terms DISTRICT SHALL BE REPRESENTED BY THE SENATOR WHOSE FORMER 11.9
 CONSTITUENTS MAKE UP THE LARGEST FRACTION OF THE POPULATION OF 11.11
 THE NEW DISTRICT. IN ALL OTHER CASES, ELECTIONS SHALL BE HELD TO 11.11
 ENSURE THAT THE TERMS OF SENATORS CONFORM TO THE PROVISIONS OF 11.12
SECTION 3 OF THIS ARTICLE. 11.13

Section 13 12. The supreme court of Ohio shall have 11.16
 exclusive, original jurisdiction in all cases arising under this 11.17
 Article INVOLVING THE DISTRICTING OF EITHER HOUSE OF THE GENERAL 11.18
 ASSEMBLY. PETITIONS CHALLENGING A DISTRICTING PLAN ADOPTED BY 11.19
 THE SECRETARY OF STATE SHALL BE FILED WITH THE COURT NO LATER 11.21
 THAN THIRTY DAYS AFTER THE PUBLIC ANNOUNCEMENT OF THE DECISION TO 11.22
 ADOPT THE PLAN. ~~in the event that any section of this~~
~~Constitution relating to apportionment or any plan of~~ 11.24
~~apportionment made by the persons responsible for apportionment,~~ 11.25
~~by a majority of their number, is determined to be invalid by~~ 11.26
~~either the supreme court of Ohio, or the supreme court of the~~ 11.27
~~United States--then notwithstanding any other provisions of this~~ 11.28
~~Constitution, the persons responsible for apportionment by a~~ 11.29
~~majority of their number shall ascertain and determine a plan of~~ 11.30
~~apportionment in conformity with such provisions of this~~ 11.31
~~Constitution as are then valid, including establishing terms of~~ 11.32

office-and-election-of-members-of-the-general-assembly-from 11.33
 districts-designated-in-the-plan, to-be-used-until-the-next 11.34
 regular-apportionment-in-conformity-with-such-provisions-of-this 11.35
 Constitution-as-are-then-valid. 11.36

Notwithstanding-any-provision-of-this-Constitution-or-any 12.1
 law-regarding-the-residence-of-senators-and-representatives, a 12.2
 plan-of-apportionment-made-pursuant-to-this-section-shall-allow 12.3
 thirty-days-for-persons-to-change-residence-in-order-to-be 12.4
 eligible-for-election. 12.5

The-governor-shall-give-the-persons-responsible-for 12.6
 apportionment-two-weeks-advance-written-notice-of-the-date, time, 12.7
 and place-of-any-meeting-held-pursuant-to-this-section. 12.8

Section 13. THE BOUNDARIES OF SENATE DISTRICTS, HOUSE OF 12.11
 REPRESENTATIVES DISTRICTS, AND CONGRESSIONAL DISTRICTS, FROM 12.11
 WHICH SENATORS, REPRESENTATIVES, AND MEMBERS OF CONGRESS WERE 12.12
 ELECTED TO THE NINETY-EIGHTH CONGRESS AND THE ONE HUNDRED 12.13
 FIFTEENTH GENERAL ASSEMBLY, SHALL REMAIN IN EFFECT UNTIL JANUARY 12.17
 1, 1990, AND THE REPRESENTATIVES AND MEMBERS OF CONGRESS ELECTED 12.18
 IN THE GENERAL ELECTION IN 1990 SHALL HOLD OFFICE FOR THE TERMS 12.20
 FOR WHICH THEN ELECTED. 12.21

Section 15 14. The various provisions of this Article XI 12.23
 are intended to be severable, and the invalidity of one or more 12.24
 of such provisions shall not affect the validity of the remaining 12.25
 provisions.

EFFECTIVE DATE AND REPEAL 12.27

If adopted by a majority of the electors voting on this 12.29
 amendment, the amendment shall take immediate effect and existing 12.30
 Section 2 of Article II, and existing Sections 2, 3, 5, 6, 12, 12.31
 13, and 15 of Article XI and Sections 1, 4, 7, 8, 9, 10, 11, and 12.32
 14 of Article XI of the Constitution of Ohio shall be repealed 12.33
 from such effective date. 12.34

	A. 526 (Shusted)	ACR. 11 (Brown) SCR. 70 (Lipman)	ACR. 50 (Schuber)	ACR. 80 (Doyle)	ACR. 105 (Franks)
STATE LEGISLATIVE DISTRICTS					
(1) Up-date Constituional language	-	YES	-	-	YES
(2) Change pattern of representation	-	1.Changes Senate term pattern during decade from 2-4-4 to 4-4-2. 2.Requires 2 Assembly Districts within each Senate District.	-	-	-
(3) Change districting procedure	-	-	-	-	1.Combines Legislative Districting and Congressional Districting in a single 10-member commission.
(4) Specify districting criteria	-		-	-	
a. Contiguous territory	-	YES	-	-	YES
b. Compact territory	-	YES	-	-	YES
c. Equal population	-	YES	-	-	YES
d. Adherence to county and municipal boundaries	-	YES	-	-	YES

11-1-77

11-1-77

X # 77

	A.526 (Shusted)	ACR.11(Brown) SCR.70(Lipman)	ACR.50 (Schuber)	ACR.80 (Doyle)	ACR.105 (Franks)
<u>STATE LEGISLATIVE DISTRICTS</u> (5) Specify districting standards:	-		-	-	
a. Contiguous territory	-	None specified	-	-	None specified
b. Compact territory	-	As nearly compact as practicable	-	-	As compact as possible
c. Equal population	-	As nearly equal in population as practicable	-	-	As nearly equal in population as practicable
d. Adherence to county and municipal boundaries	-	1.Senate: adhere to as many county and municipal lines as possible. No county or municipality to be divided unless necessary to meet other requirements. 2.Gen.Assembly; adhere to as many county and municipal lines as possible. No municipality to be divided unless it contains 1/80 of state population.	-	-	1.All districts to coincide with county and municipal boundaries as practicable. No municipality to be divided unless it contains more than the population of the state divided by the number of districts. 2.Number of county and municipal fragments to be no more than 20% greater than minimum possible number of fragments.

45 X

New Jersey State Library

	A.526 (Shusted)	ACR.11 (Brown) SCR.70 (Lipman)	ACR.50 (Schuber)	ACR.80 (Doyle)	ACR.105 (Franks)
<u>CONGRESSIONAL DISTRICTS</u>					
(1) Change districting procedures	1. Congressional Redistricting Commission of 9 former judges	-	1. Congressional Redistricting Commission of majority and minority leaders of each house, plus fifth member mutually agreed upon.	1. Congressional Redistricting Commission of 10 members; 5 appointed by each state party chairman. Eleventh member appointed by CJ of Supreme Court if deadlock.	1. Combines legislative and congressional districting in single 10-member commission with no provision for breaking deadlock.
(2) Specify districting criteria		-			
a. Contiguous territory	YES	-	YES	-	YES
b. Convenient territory	YES	-	YES	-	-
c. Compact territory	-	-	-	-	YES
d. Equal population	YES	-	YES	-	YES
e. Adherence to county and municipal boundaries	YES	-	YES	-	YES

X97

	Λ.526 (Shusted)	ΛCR.11 (Brown) SCR.70 (Lipman)	ΛCR.50 (Schuber)	ΛCR.80 (Doyle)	ΛCR.105 (Franks)
<u>CONGRESSIONAL DISTRICTS</u>					
(3) Specify districting standards					
a. Contiguous territory	None specified	-	None specified	-	None specified
b. Convenient territory	None specified	-	None specified	-	-
c. Compact territory	-	-	-	-	As compact as possible
d. Equal population	As nearly equal in population as practicable	-	As nearly equal in population as practicable	-	As nearly equal in population as practicable
e. Adherence to county and municipal boundaries	Boundaries to coincide with county and municipal boundaries to the extent consistent with the required population ratio.	-	Boundaries to coincide with county and municipal boundaries to the extent consistent with the required population ratio.	-	<p>1. All districts to coincide with county and municipal boundaries as nearly as practicable. No municipality to be divided unless it contains more than the population of the state divided by the number of districts.</p> <p>2. Number of county and municipal fragments to be no more than 20 greater than minimum possible number of fragments.</p>

47X



TAXPAYERS POLITICAL ACTION COMMITTEE
TAXPAC

P.O. BOX 175 KEARNY, N.J. 07032

201-627-1533

February 15, 1982

Ralph Fucetola, Esquire
23 River Road
North Arlington NJ 07032

Dear Ralph:

The attached report on "Congressional Re-districting for New Jersey" has been prepared under the auspices of TAXPAC and is being released to interested parties.

The report was prepared under the direction of Mr. C. A. Haverly who is an expert in the fields of Applied Mathematics, Operations Research and Computer Science. A summary of his credentials is attached.

Sincerely yours,

Edward T. Magee
Edward T. Magee
Chairman

SUMMARY OF CREDENTIALS

C. A. Haverly

College Education:

Bachelors Degree, Engineering, Ohio State University, 1944.

Masters Degree, Business Administration, Ohio State
University, 1948.

Graduate Courses, Operations Research and Computer Science,
Stevens Institute of Technology.

Professional Experience:

Full time work in the fields of Operations Research,
Applied Mathematics and Computer Science for 25 years.

President, Haverly Systems Inc. an international company
specializing in Operations Research and computer
applications

Lecturer

Speaker at professional meetings on many occasions.

Written numerous papers.

Former editor of the Special Interest Group in Math
programming.

Professional Societies:

Institute of Management Science

Operations Research Society

International Mathematical Programming Institute

Association of Computing Machinery.

Political and Issue Activities:

Former Director of Statewide Federation NJ Taxpayers.

Executive Director TAXPAC

Testified at numerous State hearings during the past 8 years.



TAXPAYERS POLITICAL ACTION COMMITTEE
TAXPAC

P.O. BOX 175 KEARNY, N. J. 07032

201-627-1533

CONGRESSIONAL REDISTRICTING FOR NEW JERSEY

February 1982

INTRODUCTION

Our attention was drawn to the current redistricting problem of New Jersey by numerous newspaper stories about how the districts were being gerrymandered to give special advantage to one party. This of course would mean that the voting effectiveness of many citizens would be diminished.

When the redistricting map was published it was apparent that the problem was real and that New Jersey would have considerably worse districting than it currently has.

Attachments 1 thru 14 show the problem visually with districts 3,5 and 7 being especially bad and districts 4,8, 9,12 and 13 being poor.

Therefore we began a study and scientific analysis to determine how bad the redistricting really was and whether a substantially better plan might not be possible.

We found it possible to develop a scientific approach which resulted in a non-partisan redistricting plan with compactness, with much better preservation of county boundaries and other desirable features. The scientific method and the resultant plan are described in section IV.

Further work was done to develop quantitative measures of any redistricting plan. When these measures were applied to the official (Democrat) plan they showed the plan to be badly wanting as compared to reasonable goals for criteria, as compared to the scientifically constructed (TAXPAC) plan, and as compared to the current districts. Attachments 35, 36 and 37 show this clearly.

The development of the measures are discussed in sections I,II and III and the comparison of plans in section VI.

SECTION I

CRITERIA FOR REDISTRICTING

To measure a redistricting plan one must first establish the criteria by which the plan will be measured, then prepare quantitative measures in terms of those criteria and finally apply the measures to the plan in question. This section deals with the criteria.

The United States Supreme Court has held that Article I, Section 2 of the Constitution commands "that States create congressional districts which provide equal representation for equal numbers of people..." and "permits only the limited population variances which are unavoidable despite a good-faith effort to achieve absolute equality, or for which justification is shown." *Kirkpatrick v Preisler*, 394 U.S. 526, 531 (1973). Let us then consider the question of the criteria of population variances among districts.

First, it is not possible mathematically to have exactly equal population in all districts of a state unless the total population of the state happens to be an exact multiple of the number of districts in that state. Therefore, the Supreme Court directive must allow some variation in population among districts.

Further, the districts are composed of integral political subdivisions (cities, townships, boroughs, etc) each containing a specified population. Therefore, in general, these cannot always be combined to yield districts of exactly equal populations. It would be possible to use a high speed modern computer to combine political subdivisions into districts with the objective of minimizing variations in population. However, the mathematical

derived combination of political subdivisions which has the lowest population variation among the districts of a state would suffer from having districts made up of non-contiguous political subdivisions. Therefore, since some population variation among districts is inevitable, it becomes necessary to consider the question of what constitutes reasonable and acceptable justification for population variances. Criteria other than just population variance must be considered.

The U.S. District Court in David v Cahill, Civ. A. 1914-71 (1972) has said "We have considered as appropriate for redistricting these criteria:

- A. Minimum population deviation among districts.
- B. Contiguity and compactness of districts.
- C. The preservation of whole municipalities in single districts wherever possible.
- D. Minimum fragmentation of counties.
- E. Recognition of increases in population in newer communities and of decreases in population in older communities.
- F. Use as a starting point of the last legislative determination of appropriate districts."

Further the court says "Except for criterion A, minimum population deviation, which is of course paramount, no exact order of priorities for the criteria can be established. The task is a balancing one." This point is very important because when one has multiple criteria it is in general not possible to prepare a plan which meets every criteria to the ultimate. The individual criteria are often in conflict. A plan which is the absolute best on population deviation may not be contiguous or may have excessive county fragmentation. One must give a small

bit on one criteria in order to gain substantially on other criteria.

Fortunately we are able to draw on recent developments from the fields of Applied Mathematics, Operations Research and Computer Science to help establish quantitative measures to assist in the balancing process.

The criteria of David v Cahill have been followed excepting for E which was not quantified. In addition the widely accepted criteria of community of interest, for which we have a quantitative measure, has been included. Item F has been restated slightly.

The criteria are stated as objectives as follows:

1. Minimize population deviation of the districts.
2. Preserve whole communities in a district.
3. Have all areas within a district contiguous.
4. Have districts compact geographically.
5. Minimize fragmentation of counties among districts.
6. Preserve communities of interests by avoiding non-contiguous counties in the same district.
7. Avoid undue shifting of population into new districts.

These represent criteria which one would like to have met to the extent possible but knowing that all can not be met fully. Slight trade-offs among them are inevitable.

In the next section these criteria will be elaborated and methods of measuring them presented.

SECTION II
MEASURES OF THE CRITERIA

In this section the specific criteria are discussed and a method of measuring each quantitatively is presented.

1. Population Deviation and its Measurement

District population is a count of the population within a district as recorded by the census.

Deviation for a district can be expressed as the plus or minus difference of the population of a district from that of an "ideal" district. An "ideal" district would have a population equal to the total census population of the state divided by the number of districts. For New Jersey and the 1980 census the population is 7,364,823, the number of districts 14, and the "ideal" district size 526,059.

Also sometimes called deviation is the difference between the populations of the districts with the most and with the fewest census populations. This should more properly be called variation.

All differences can be divided by the population of the "ideal" district to get percent deviation or percent variation.

These measures of the criteria are well established.

2. Preserve Whole Communities and its Measurement

It is desirable that political entities such as cities, boroughs, townships, etc., be kept intact within a district.

David v. Cahill says "Preservation of such lines is desirable not only for the purpose of simplifying the electoral machinery but

also because these local governmental units represent, in this state with a strong home rule tradition, logical centers of community interest."

It would be impossible to meet this criteria if a political subdivision, such as a city, has a population too large for a single district or if a subdivision of large population is surrounded by other subdivisions of large populations such that every grouping of them into districts would cause excessive population variation. However, various plans demonstrate that this criteria can be met for New Jersey under the 1980 census.

This criteria can be easily measured. It is done by counting the total number of instances in which a redistricting plan divides a city, borough, township or other local political entity into more than one district.

3. Contiguity and its Measurement

It is widely accepted that districts should be contiguous. Since the word district means "a geographical area" in practical terms contiguity should mean that one could travel from any part of the district to any other part of the district by locally accepted means. This would include modes of travel such as by walking, automobile, or in some cases by a bridge or ferry. Islands would be contiguous based on local practice.

Any districting plan which unnecessarily violates this criteria should be rejected.

Contiguity is measured by counting the total number of instances in which a redistricting plan has parts of a district separated from other parts of the district.

4. Compactness and its Measurement

The citizens have vital interests in districting beyond the mere assignment of equal numbers of people to each district. These include:

1. Opportunities to meet, hear, see and read about their congressional representative or prospective congressional representative without having to travel excessive distances.
2. Opportunities to confer with neighbors who have the same congressional representative regarding matters of mutual concern.
3. Opportunities to communicate with elected representatives through established local political communities of interest such as councils, boards of freeholders, etc.

These interests of citizens are diluted if a redistricting plan is unnecessarily complex, lacks reasonable compactness, or unnecessarily separates counties and other communities of interest. The specific matter of one compactness criteria will be covered here and the other criteria in the next parts of the report.

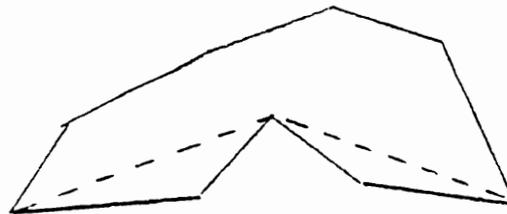
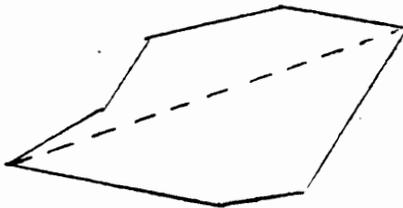
Districts come in a wide variety of sizes and shapes as they conform to local geography, political boundaries and populations. Therefore, each district is unique.

Several methods have been proposed for measuring compactness. Hess and Weaver (Operations Research, 13,6 (Nov. 1965, P. 998) were among the first to discuss ideas based on mean distance from the center of population within a district for redistricting. The calculations are extensive but can be done on a computer.

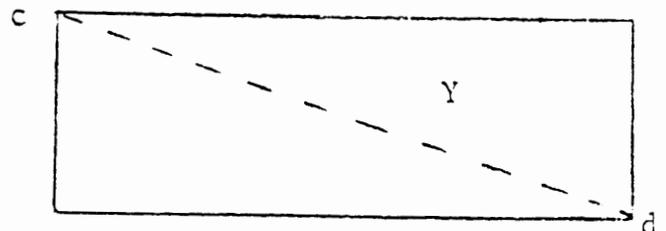
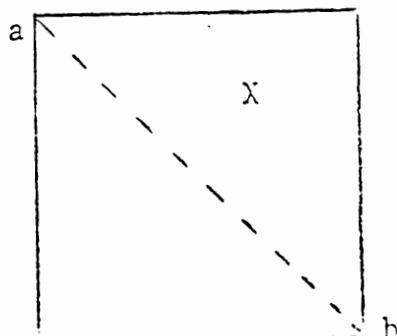
Another proposed method is to measure the perimeter (distance

around) a district. This is not easy to implement since many of the boundaries of districts are irregular.

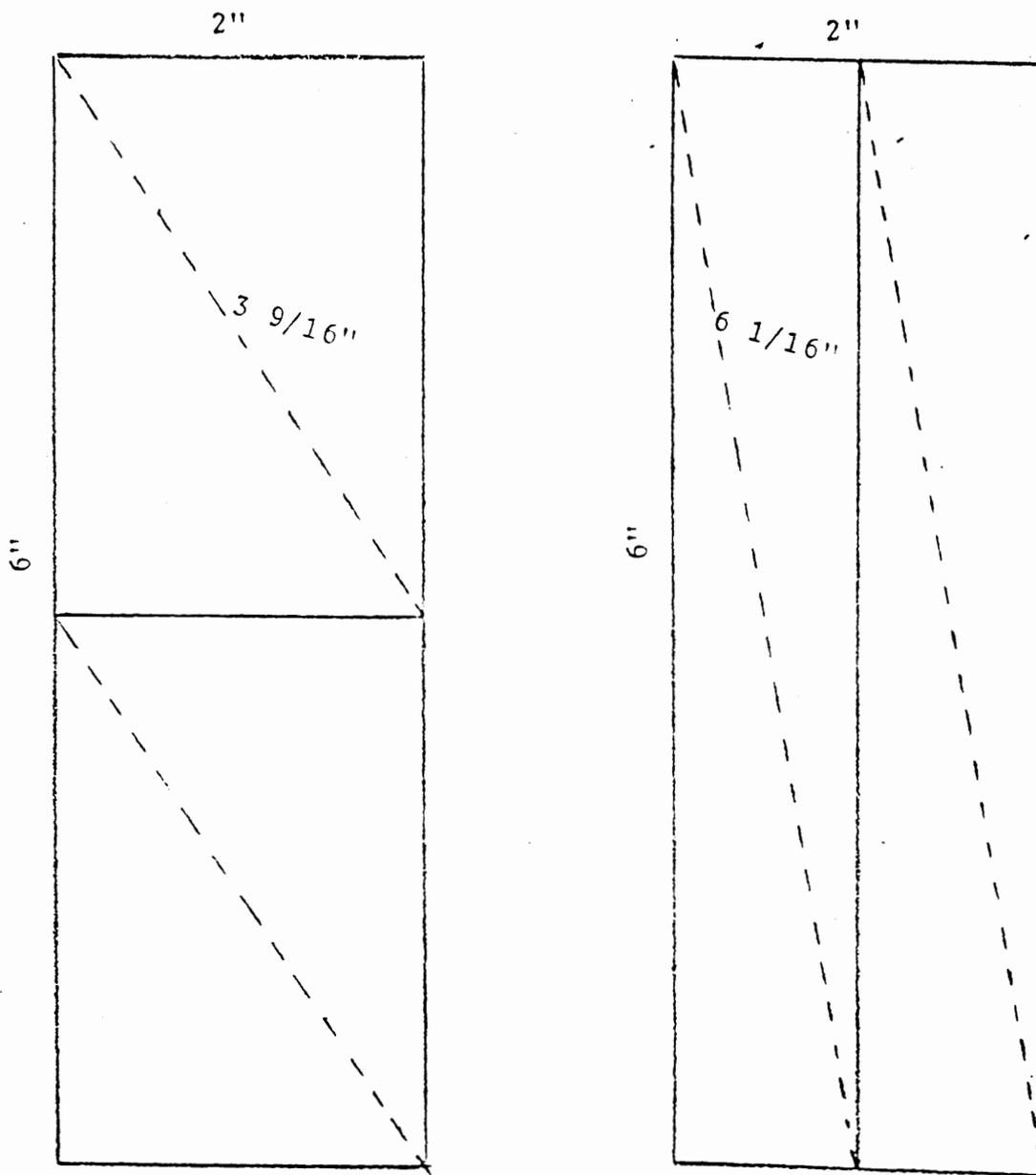
Instead, we use a measure which is easy to understand, easy to calculate, and yet accurately measures compactness. This measure is the distance between the two furthest apart points in a district. We, of course, mean the shortest (straight line) distance. When the two points cannot be reached by a single straight line which stays entirely within the district, then several connected straight lines are used to 'go around the corner.' Examples are shown below where the dotted line is the distance being measured.



For example, shapes X and Y have the same area of 3 square inches, but since X is more compact than Y, line a-b is shorter than line c-d.



In another example, if an area of 2" by 6" is divided two ways, the more compact way has the shorter distances.



Therefore, length can be used directly as a measure of compactness. The measurement of the distance between furthest points in a district is a direct quantitative measure of the compactness of the district.

The compactness of any districting plan can be measured objectively by measuring on a map the distance between furthest apart points within the district. The lengths for all 14 districts are added together to get an overall number for the state. The compactness of various plans can be compared by comparing the total lengths for each of the plans.

5. County Fragmentation and its Measurement

County fragmentation is the number of pieces that the counties are divided into in order to make up the districts.

If a county is wholly in one district, its fragmentation count is one. If a county is in two districts, its fragmentation count is two. If it is in three districts, its fragmentation count is three, etc. The total fragmentation count for a redistricting plan is the sum of the fragmentation count of each of the 21 counties.

Total fragmentation count is a significant measure of overall county fragmentation. It is easily calculated and easily understood. Any proposed redistricting plan, no matter how derived, can be easily evaluated and quantitative comparisons made between alternate plans.

A low total fragmentation count is desirable since it means that the population within most counties are in only one or two districts. County community of interests are maintained, and support is provided for New Jersey's long history of home rule.

A high total fragmentation count is undesirable since it means counties are divided into many districts and county communities of interests are fragmented.

6. Communities of Interest and its Measurement

Communities of interest are those interests which populations share. There are, of course, many, many different types of communities of interest involving economic, social, cultural, demographic, ethnic, and other factors. Communities of interest are also created by location of radio stations, circulation of newspapers, local telephone calling areas, etc. It is widely accepted that it is desirable not to unnecessarily split these communities of interests.

It is impossible and probably undesirable to try and identify all possible communities of interests. Rather, we recognize that many of them are geographically correlated. This leads us to a measure that can be applied to a redistricting plan. Recognizing that people who live in the same or adjoining counties are more likely to share communities of interest, we do a count of the non-contiguous counties in a district. The sum of these counts for the individual districts is the total count for the plan.

It is desirable that the count be as low as possible, since this means that only whole or adjoining counties are in a district.

7. Continuity of Districts and its Measurement

It is considered desirable that people not be arbitrarily shifted among districts at the time of redistricting. Shifting makes it more difficult for citizens to know their representative and to have meaningful communication with or from him or her.

This criteria can be measured by calculating the percent of

the current census population from an old district who are together in a new district. Only the percent for the largest fraction is used and the numbers for all 14 districts are averaged together to give an overall state average for a plan.

For example, if a new district A has 62% of its population from old District X, 24% from old District Y and 14% from old District Z, then we would average 62% (the highest) into the similarly calculated averages for the other new districts and obtain an overall state average.

A high number is desirable for this criteria.

SECTION III
GOALS FOR CRITERIA

In Section I we presented seven criteria for redistricting, and in Section II quantitative methods of measuring these criteria. In this section we use the methods of Operations Research and Applied Science to establish quantitative goals for the criteria. Each criteria is discussed separately.

1. Deviations in Population Goal

As discussed earlier it is not in general possible to have districts of exactly equal population - especially if districts are to be contiguous and not to divide municipalities. Balancing the other criteria will also cause deviations in population.

One can estimate an average possible deviation by dividing the total population of the state by the number of local political subdivisions. For the 1980 census, this is 7,364,823 divided by 567 to result in the population of an average community of 12,989 people. If the variation between two districts is greater than one half this size (6,494 people) the variance can be reduced by shifting a boundary community from one district to another. Thus, one can keep the deviation between two adjoining districts within 6,494 people or $\pm 1.2\%$ deviation or 2.4% variation.

However, the actual communities along a district boundary may not be the size of the average community. Some may be larger, some smaller. Therefore, one cannot be sure as to the maximum deviation which can actually be achieved without serious violation of other criteria. But, it is reasonable to consider the 2.4% as

a first approximation of an upper limit on allowed redistricting plan variation if the plan meets all other criteria in a satisfactory way. Of course, if a redistricting plan is poor in the other criteria, one should then require its variation to be close to zero. There is an inverse relationship between deviation and the other criteria.

2. Count of Divided Communities Goal

New Jersey does not have any communities with a 1980 census population which is larger than a district. Nor are there areas with many large communities such that a reasonable size population in a district cannot be achieved. The availability of specific plans demonstrates this. Therefore, the count should be zero and any plan which does not meet this criteria should be rejected.

3. Count of Non-Contiguous Districts Goal

There seems to be no reason in New Jersey to have redistricting plans which include non-contiguous districts. Therefore, the count should be zero and any plan which does not meet this criteria should be rejected.

4. Compactness Goal

New Jersey has a population of 7,364,826 (1980 census) and an area of 7,836 square miles. This gives an average population density for the state of 940 people per square mile.

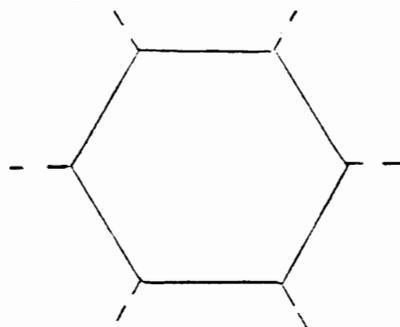
An ideal district population is the total state population divided by 14 districts (or 526,059 people).

To enclose a population of 526,059 with a population density equal to the state average of 940 people per square mile would require 560 square miles.

It is known that a circle is the most compact shape. An idealized circular district to contain 560 square miles would have a diameter of 26.7 miles.

This distance of 26.7 miles is also the shortest distance between the furthest apart points within the circular area.

However, it is not possible to cover a map with circular areas because either the circles would overlap or gaps would be left between circles. Instead, an area can be covered with hexagonal shapes (six sided) much as bees prepare honeycomb (hexagon shapes) to compact as much honey as possible into separate compartments. Therefore, a hexagon is actually the best shape for fitting together a number of adjacent idealized districts to cover a map. Thus, a hexagon becomes our idealized compact district.



We can calculate the size of a hexagon needed to enclose the same 560 square mile average size district. This hexagon has a distance between furthest points of 29.3 miles. This tells us that with New Jersey's average population density, an average ideal compact district would have a distance between furthest points of 29.3 miles.

We can demonstrate that other shape districts have longer distances. For example, a square district of 560 square miles would have a distance between furthest points of 33.6 miles. A rectangular district would have an even larger greater distance between furthest points. An irregular shape would have a distance between furthest points depending on its compactness.

It is also possible to use the hexagonal idealized district to establish a standard against which plans are compared. Multiplying the 29.3 miles per district by the 14 districts gives us a standard total of 410 miles for the state. We can compare the corresponding compactness measures of various redistricting plans to find out how far they are "off" on compactness criteria.

5. County Fragmentation Count Goal

Besides placing a quantitative measure of fragmentation on any plan, it is possible to use mathematical theory from the field of graph theory to calculate the normal theoretical minimum for the total fragmentation count. This minimum is calculated by adding the number of counties to the number of districts and subtracting one.

It can be proven mathematically that no redistricting plan can be drawn which has a fragmentation count less than the normal minimum unless a rare event known as degeneracy occurs. Degeneracy occurs if the population of a single county or of several contiguous counties exactly (within allowed deviation) equals the ideal population of an integral number of districts.

For New Jersey with its 21 counties and 14 districts, the normal theoretical minimum on fragmentation count is 34.

The current congressional districts were evaluated and have a total fragmentation count of 42.

6. Non-contiguous County Count Goal

Because of the geography, county locations and population densities, it does not appear to be possible to develop a redistricting plan which has a zero count for non-contiguous counties in a district. No mathematical method of calculating the minimum count is known. Therefore, to estimate the minimum count a partial redistricting plan was drawn up with the objective of minimizing the count while maintaining contiguity and municipality integrity. The plan is shown as attachment 15. It leads to a target for this count of 6 which is thought to be the minimum possible for any redistricting plan.

7. Population Shift Count Goal

It is, of course, desirable to have a percentage which is close to 100%. Since the number of districts in New Jersey has been reduced from 15 to 14, the maximum percent one could achieve in this redistricting is $14/15$ or 93%.

SECTION IV
CONSTRUCTION OF A REDISTRICTING
PLAN BY SCIENTIFIC MEANS

Serious deficiencies were recognized in the official redistricting plan established for New Jersey and planned for use during the next 10 years. The quantitative measures of the official plan will be presented in the Section VI.

The deficiencies in the existing plan led to the attempt to construct a plan in a non-partisan, scientific way. Techniques from the fields of Applied Mathematics, Operations Research and Computer Science were used. This section describes the scientific approach used and the plan so developed.

Traditional Method of Redistricting

The traditional method of redistricting is to start with the basic political subdivisions (cities, boroughs, townships, etc.) and build them (combine them) into districts. One normally starts the process at some point. It might be Cape May. It might be Newark or at the northwest corner of the state, or elsewhere. Adjacent subdivisions are attached, one at a time, until enough are combined to have a population for the district close to the target population for an average district.

Then, one goes on to develop a second district in a similar manner - of course, not using any subdivision already assigned to a prior district. The new district being built starts at some new point either along side the district already built or possibly in another part of the state. In the latter case, one

might even build districts alternately in the northern part of the state, then in the southern part toward the middle.

The process goes on until all subdivisions are assigned to a district.

In practice, it is generally easy to build the initial districts to be compact, to be of the right population, to follow county boundaries, and to recognize communities of interest. However, as one proceeds the remaining unassigned subdivisions get fewer and fewer. Some of them are left in awkward locations. So, the final districts built are often forced to include a diversity of "left over" subdivisions. Therefore, some of the districts poorly meet criterias of compactness, county lines, community of interest, etc.

This traditional method of redistricting is a subjective one based on considerable trial and error. Different people would start the process at different locations. Each and every person then must make a judgemental decision each and every time a subdivision is added to the district being built. It is a process which readily lends itself to partisan manipulation.

When decisions are being made in the early stages of the process, it is impossible to predict their impact on the final stages of the process. Different skilled people would produce different (often substantially different) redistricting plans based on where they decided to start and how they decided to add subdivisions to a district being built.

Since the traditional approach to drawing up a redistricting

plan is subjective, the results can be that equal population variation plans of widely different quality are obtained from different people. Also, the people drawing up plans may include, either consciously or subconsciously, politically motivated criteria, i.e., structuring of districts to help or hurt a particular incumbent or political party.

In the next two parts of the report we consider ways of redistricting which are less subjective and more scientific. In the section after that, we apply the objective measures described earlier to the plan developed by scientific means and compare it to other plans.

Mathematical Combinatorial Method of Redistricting

In an effort to establish a more scientific approach, a number of research studies have been done during the past two decades in which the attempt was made to have a computer do the redistricting in an objective way. However, the mathematics proved extremely difficult. There are 567 political subdivisions in New Jersey. The number of ways that 567 pieces can be combined into 14 districts is astronomical. This is a formidable task even for today's high-speed computers. Furthermore, there is a problem of expressing mathematically all the desired objectives such as contiguity, compactness, community of interest, etc.

This particular scientific approach did not appear to be suitable for the specific New Jersey redistricting problem.

Partitioning Method

This led us to the approach which proved successful. It is based on an applied mathematics method known as partitioning.

In partitioning, one seeks to divide a large complex problem into several smaller problems without violating the integrity of the overall answers. The smaller problems may be further subdivided. Then, one solves a series of small problems with considerably less effort than the original problem would have required.

Partitioning is especially suitable for maps and for redistricting. A map is considered in its entirety and as a whole. One subdivides the whole to sub areas and eventually districts, keeping in mind the whole. In contrast, other techniques start from the smallest subdivisions and attempt to build up districts without being able to keep in mind the whole.

Partitioning is also very good for redistricting because it allows criteria such as county lines, communities of interests, compactness and contiguity to be considered throughout the process.

The method as applied to New Jersey redistricting problems consists of dividing the state approximately into northern and southern halves along county lines. Then, each half is further divided along county and major community of interest lines. Some of these subdivisions are further subdivided until regions of population approximately equal to 1, 2 or 3 districts are achieved. Boundaries between regions are fine-tuned to bring populations into balance. Then, the regions are divided into districts. Finally, the boundaries are fine-tuned to balance populations in

the individual districts within acceptable population deviations.

The steps are described below and illustrated in attachments 16 through 22. First the 1980 census populations of the counties (as of October 1981) were tabulated. Then the number of ideal districts represented by each was calculated by dividing the population of the county by 526,059 (attachment 17). Fractional districts are carried as a mathematical convenience. These fractional districts were written on a map of the counties (attachment 18).

The first partition was created by dividing the state into 10 counties to the south and 11 to the north across the waist of New Jersey (attachment 19). Adding up the population south of the line indicated this area would have 5.07 districts and the part to the north 8.93 districts.

Then, the southern counties were subdivided into the shore counties (attachment 20). County lines were followed excepting for Burlington, which is partly in both regions and was divided between its Delaware and shore portions. The population was 2.00 districts for the shore communities and 3.07 districts for the others.

In the north, the 11 counties were partitioned between the rural and low density suburbs to the northwest (1.83 districts) and the older cities and higher density suburbs in the northeast (7.10 districts) as shown on attachment 21. County lines were followed except for Passaic which was divided at its narrow waist. The northeast was further subdivided into four points; Middlesex—Union (2.09 districts), Hudson (1.06 districts), the Newark area

(1.0 district), and Bergen plus the balance of Essex and Passaic (2.95 districts).

Small shifts were made in boundaries between areas to bring populations into line and then final districts were drawn. The resultant plan is labeled the TAXPAC Plan and is shown on a map in attachment 23 and in detail in attachment 24.

The plan resulted in full districts being largely carved out of the counties which are larger than a district (Essex, Hudson, Bergen and Middlesex). Counties which are already almost a district (Monmouth, Union) are made into districts. The counties of Cape May, Cumberland, Salem, Gloucester, Atlantic, Ocean, Mercer, Somerset, Hunterdon, Warren and Sussex are either wholly or mostly entirely within a district.

SECTION V

ALTERNATE TAXPAC REDISTRICTING PLAN

The partitioning method consists of starting with the whole and then successively subdividing it. The final stages consist of fine-tuning to reduce population variation. This fine-tuning will cause degradation of the other criteria. Therefore, part of the balancing consideration is how far to deviate from other criteria to further reduce population deviation.

The TAXPAC plan presented was fine-tuned with the objective of keeping the maximum population deviation of any district to less than $\pm 1\%$. The actual results were maximum deviations of $+ .89\%$ and $- .95\%$ for a variance of 1.82% . Details are on attachment 25. It is felt this is the best balance of the criteria.

A study was done to find the degradation of other criteria if the TAXPAC plan was fine-tuned to only $\pm .44\%$ population deviation or $.85\%$ population variance. The details are presented in attachment 26. The evaluation of this alternate plan will be included in the next section.

Further fine-tuning to reduce population deviation could be done but only at the expense of further degradation in the other criteria.

SECTION VI
COMPARISON OF PLANS

We next present a comparison of four plans using the criteria described earlier. The four plans are the Democrat plan as embodied in P.L. 1982, c.1, the TAXPAC plan and the TAXPAC alternate plan as described in Sections IV and V, and the Republican plan map as submitted to the court. The goals for the various criteria as described in Section III are also shown. Supporting documents are included as attachments 27 thru 33.

<u>Criteria</u>	<u>Goal</u>	<u>Democrat</u>	<u>Republican</u>	<u>TAXPAC</u>	<u>TAXPAC Alternate</u>
1. Population deviation	+ 0%	+ .43%	+ .02%	+ .95%	+ .44%
Population variation	0%	.70%	.03%	1.82%	.85%
2. Divided community count	0	0	0	0	0
3. Breaks in contiguity	0	1	0	0	0
4. Compactness	410 mi.	644	563 (a)	474	480
5. County fragmentation	34	55	42 (a)	37	42
6. Non-contiguous counties	6	46	14 (a)	13	16
7. Population stability	93%	?		?	?

No calculations were done on item 7 but a study of the redistricting map suggests that the Democrat plan will be the worst.

Certain comparisons of the Democrat plan and the TAXPAC plan

(a) Estimated from map only and may be off slightly.

are provided in attachments 35 through 37.

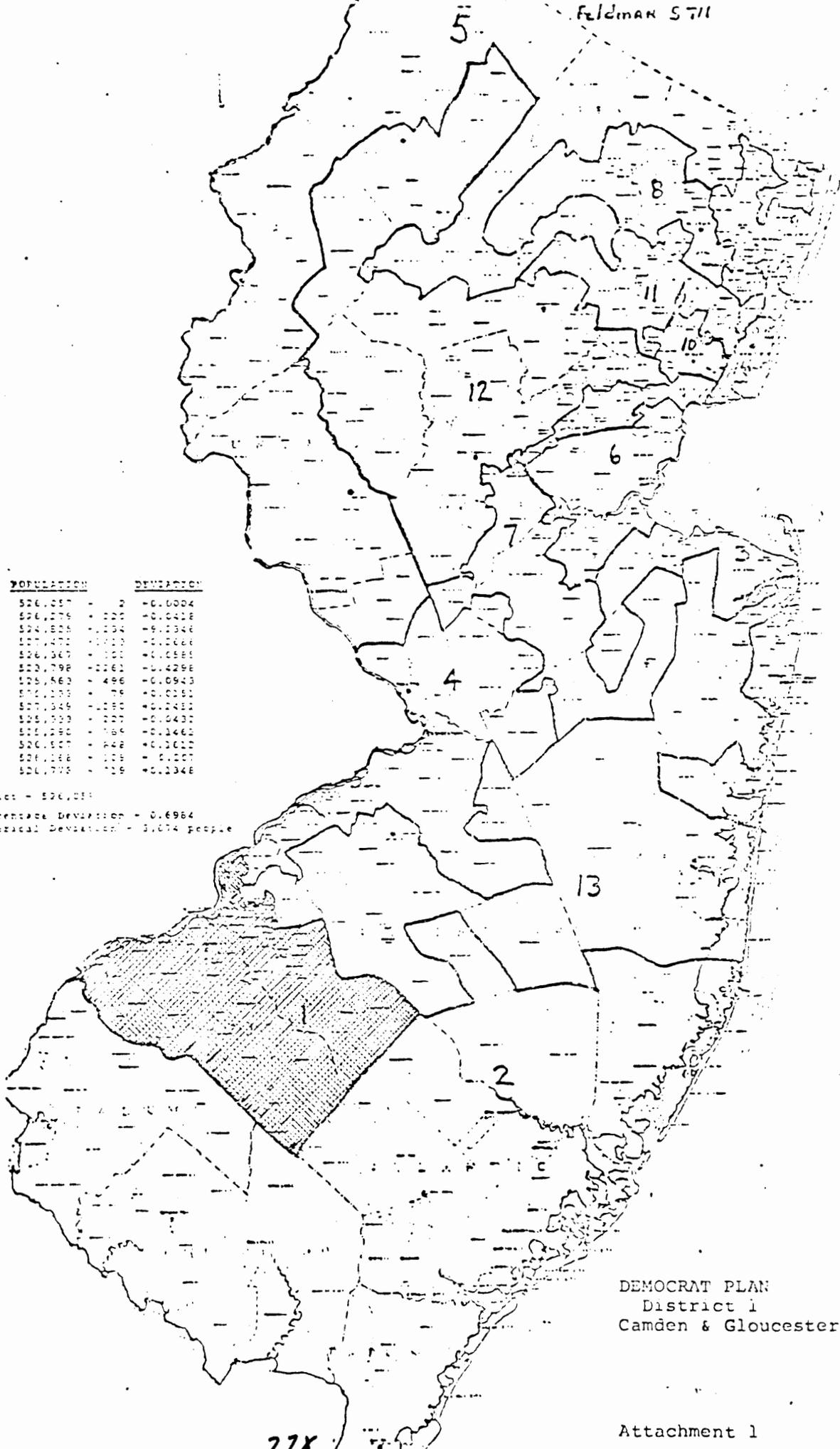
Of the four redistricting plans, the Democrat (official) plan has a moderate population deviation but is extremely poor on most other criteria.

It is observed that the Democrat redistricting plan unnecessarily violates the criteria of contiguity in District 3 where one cannot travel in any normal way from Manasquan (and the northern part of the district) to Point Pleasant Beach Borough (and other parts of the district) without first leaving District 3 and entering District 13. The Democrat plan thus unnecessarily violates contiguity which should be grounds alone to reject the plan.

On compactness, the Democrat plan is nearly 4 times worse than the TAXPAC plan. On county fragmentation, it is 7 times worse than the TAXPAC plan. Its fragmentation count of 55 is also worse than the current districts, which have a fragmentation count of 42. On non-contiguous county count, it is nearly 6 times worse than the TAXPAC plan.

A check was also made of the Black and Spanish origin vote in the Newark area district. The TAXPAC plan was constructed scientifically without any attempt to discriminate for or against these populations. Therefore, when the Democrat plan is shown in attachment 34 to have 11,333 fewer black people and 791 fewer of Spanish origin, one concludes that the gerrymandering used in the Democrat plan results in discrimination against these populations.

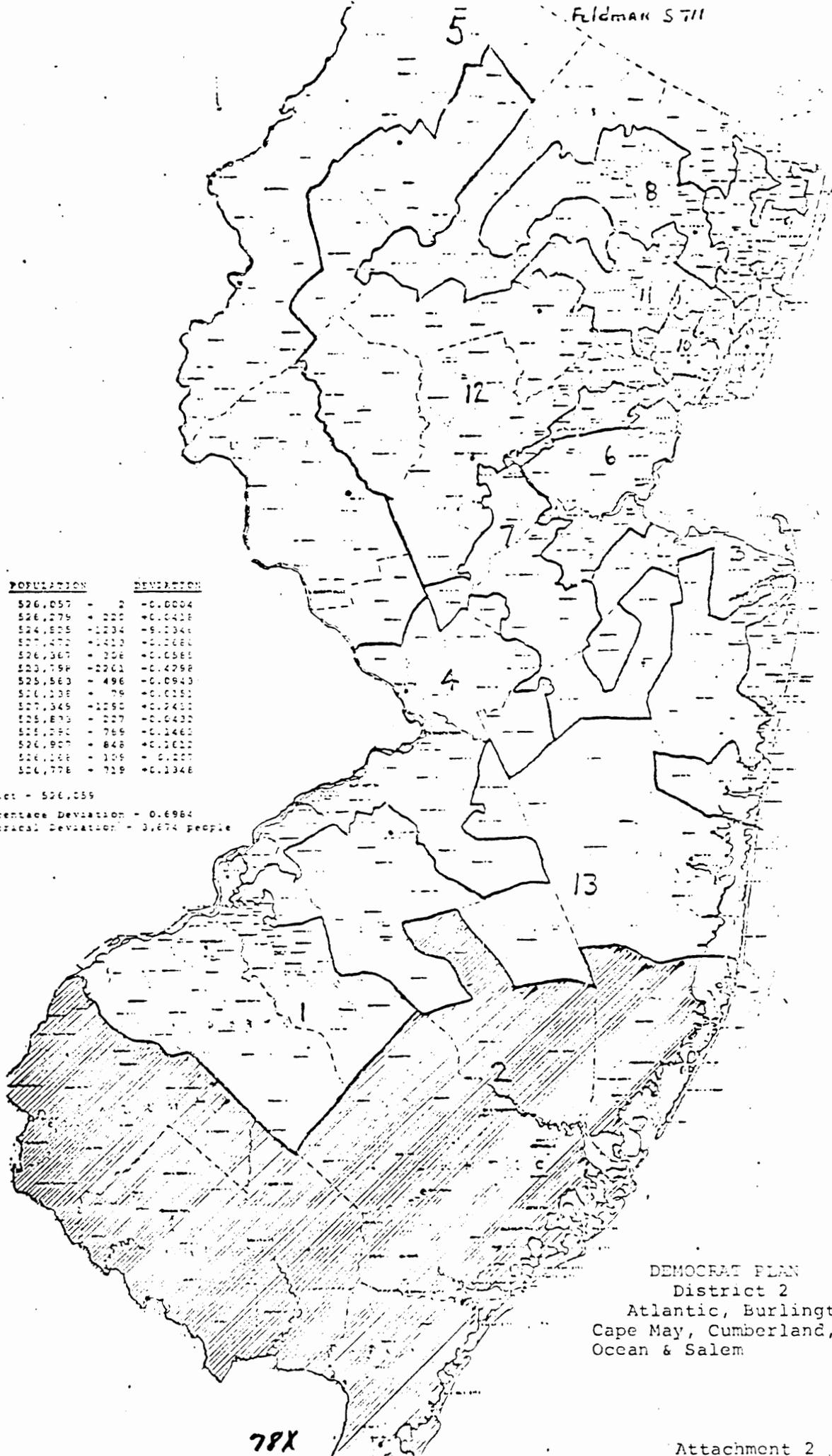
In summary, overall the Democrat plan is sufficiently bad that it would violate the citizens' constitution right to equality of representation.



	POPULATION		DEVIATION
precinct 1	526,057	- 9	-0.0004
precinct 2	526,276	+ 220	+0.0018
precinct 3	524,826	- 194	-0.0348
precinct 4	527,471	+ 135	+0.0268
precinct 5	526,967	+ 100	+0.0581
precinct 6	523,798	- 221	-0.4298
precinct 7	525,563	+ 486	+0.0943
precinct 8	521,333	- 479	-0.0351
precinct 9	527,349	+ 130	+0.2481
precinct 10	525,323	- 227	-0.0431
precinct 11	521,290	- 184	-0.1461
precinct 12	526,507	+ 248	+0.0312
precinct 13	528,168	+ 219	+0.0507
precinct 14	526,775	+ 129	+0.1348

total District = 526,057
 mean Percentage Deviation = 0.0964
 mean Numerical Deviation = 2074 people

DEMOCRAT PLAN
 District 1
 Camden & Gloucester



	POPULATION		DEVIATION
PRECINCT 1	526,057	- 2	-0.0004
PRECINCT 2	526,276	+ 220	+0.0428
PRECINCT 3	524,825	-1234	-0.2341
PRECINCT 4	527,472	+1413	+0.2682
PRECINCT 5	526,367	+ 308	+0.0585
PRECINCT 6	523,799	-2261	-0.4298
PRECINCT 7	525,563	+ 496	+0.0943
PRECINCT 8	516,128	- 79	-0.0151
PRECINCT 9	527,345	+1282	+0.2431
PRECINCT 10	525,873	+ 227	+0.0432
PRECINCT 11	525,290	+ 755	+0.1442
PRECINCT 12	526,927	+ 848	+0.1612
PRECINCT 13	526,168	+ 109	+0.0207
PRECINCT 14	526,778	+ 729	+0.1398

Dist District = 526,059

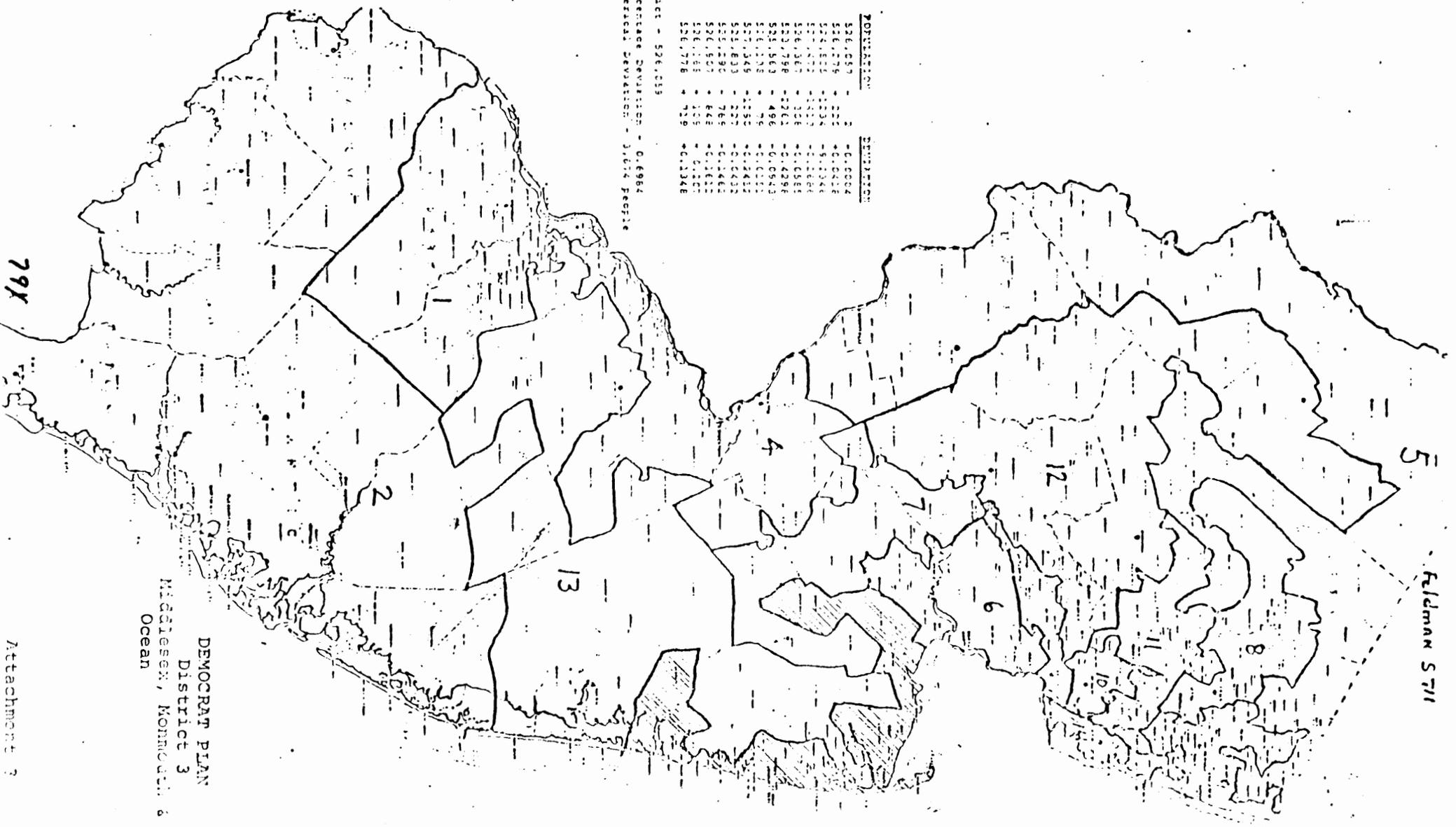
Mean Percentage Deviation = 0.0984

Mean Numerical Deviation = 3,674 people

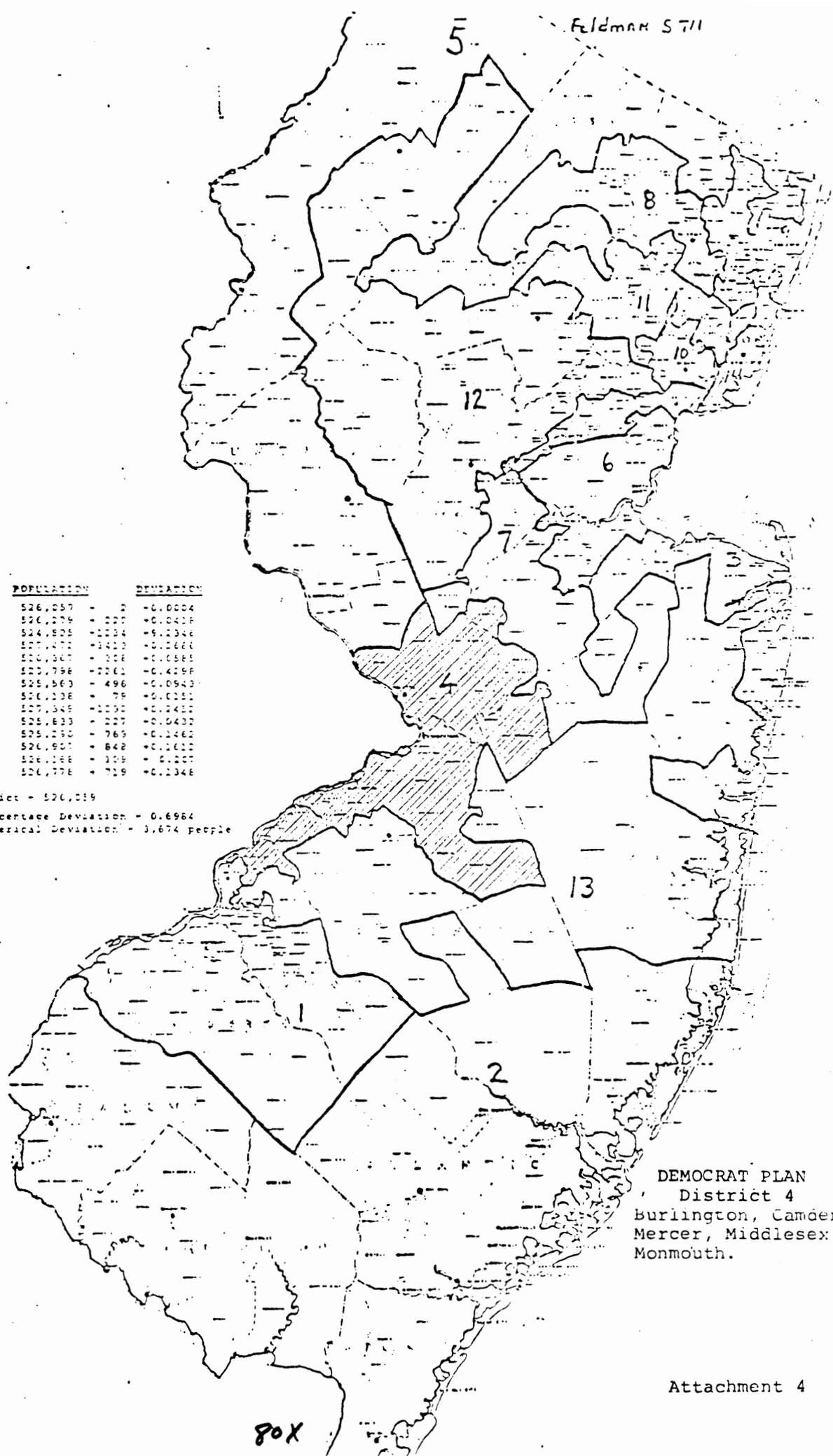
DEMOCRAT PLAN
 District 2
 Atlantic, Burlingt
 Cape May, Cumberland,
 Ocean & Salem

	POPULATION	DEVIATION
DISTRICT 1	526,057	-0.0004
DISTRICT 2	526,179	+0.0028
DISTRICT 3	526,802	-0.0046
DISTRICT 4	527,072	-0.0064
DISTRICT 5	526,367	+0.0584
DISTRICT 6	523,798	-0.4294
DISTRICT 7	523,563	+496
DISTRICT 8	524,178	+0.0011
DISTRICT 9	527,249	-1,750
DISTRICT 10	525,833	-227
DISTRICT 11	525,290	-769
DISTRICT 12	526,501	+642
DISTRICT 13	526,168	+155
DISTRICT 14	526,778	+719

2011 District - 526,019
 Mean Percentage Deviation - 0.6984
 Mean Numerical Deviation - 3,674 People



DEMOCRAT PLAN
 District 3
 Middlesex, Monmouth &
 Ocean



	POPULATION		DEVIATION
Precinct 1	526,057	-	-0.0004
Precinct 2	526,279	+ 222	+0.0428
Precinct 3	524,525	-1534	-0.2946
Precinct 4	527,271	+1213	+0.2286
Precinct 5	520,307	-570	-0.0581
Precinct 6	523,798	-2261	-0.4298
Precinct 7	525,563	+ 496	+0.0943
Precinct 8	526,138	+ 79	+0.0151
Precinct 9	527,345	+1292	+0.2432
Precinct 10	525,833	- 227	-0.0432
Precinct 11	525,250	- 765	-0.1462
Precinct 12	526,901	+ 842	+0.1612
Precinct 13	526,168	+ 109	+0.0207
Precinct 14	526,778	+ 719	+0.1348

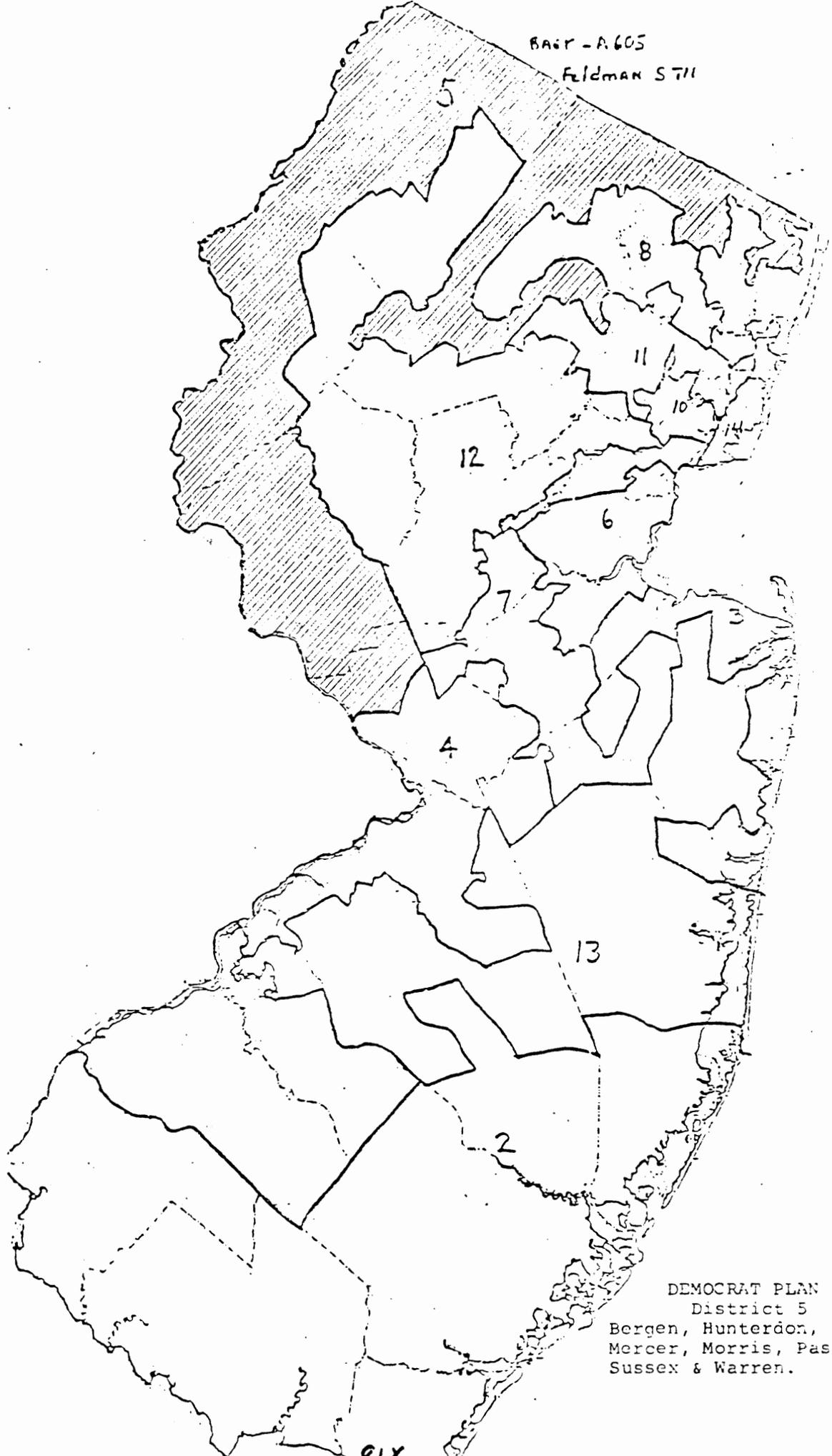
Total District = 526,019
 Mean Percentage Deviation = 0.0964
 Mean Numerical Deviation = 3,674 people

DEMOCRAT PLAN
 District 4
 Burlington, Camden
 Mercer, Middlesex
 Monmouth.

80X

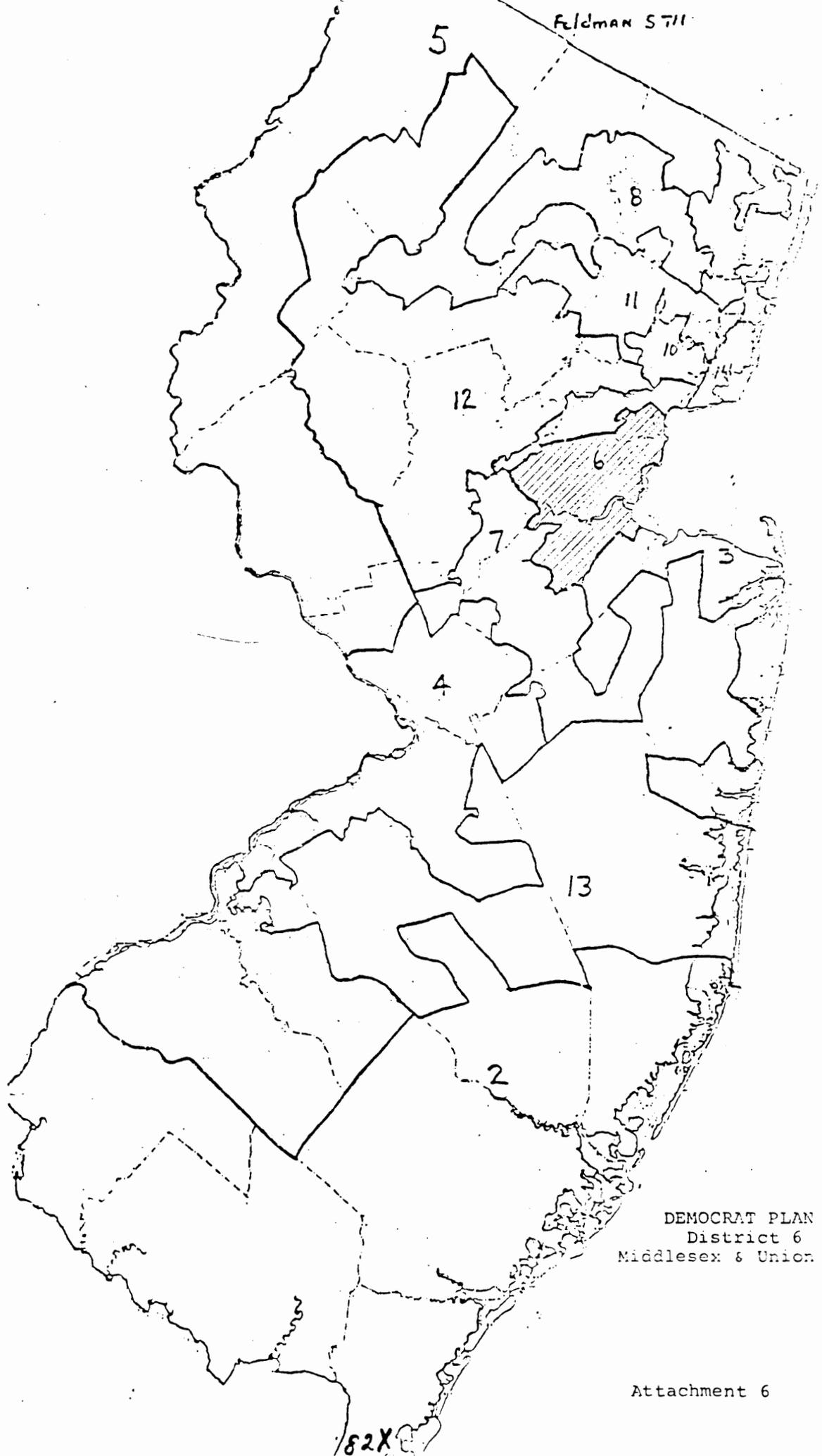
BAER - A.605

Feldman 5711



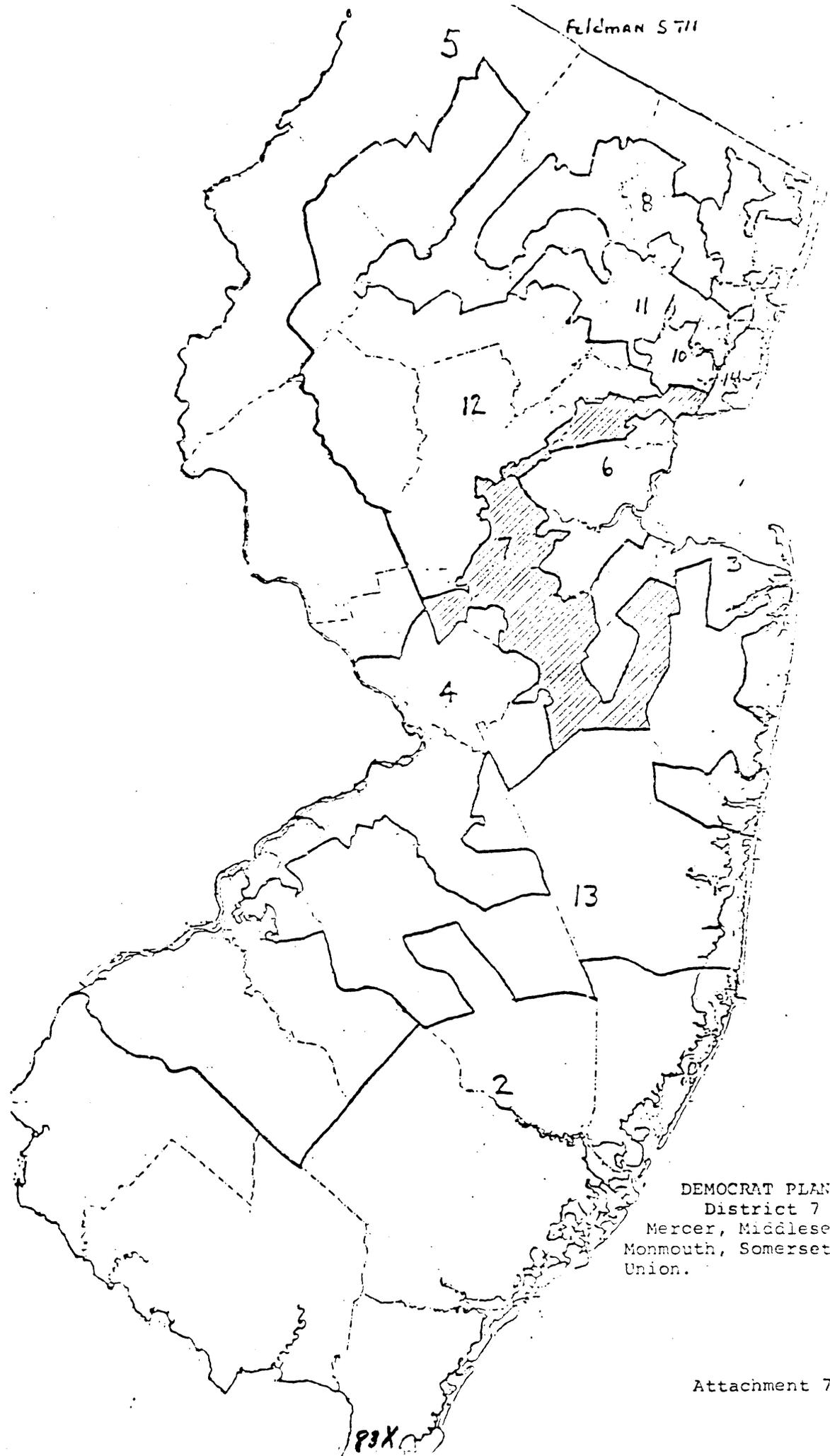
DEMOCRAT PLAN
District 5
Bergen, Hunterdon,
Mercer, Morris, Passaic
Sussex & Warren.

81X



DEMOCRAT PLAN
District 6
Middlesex & Union

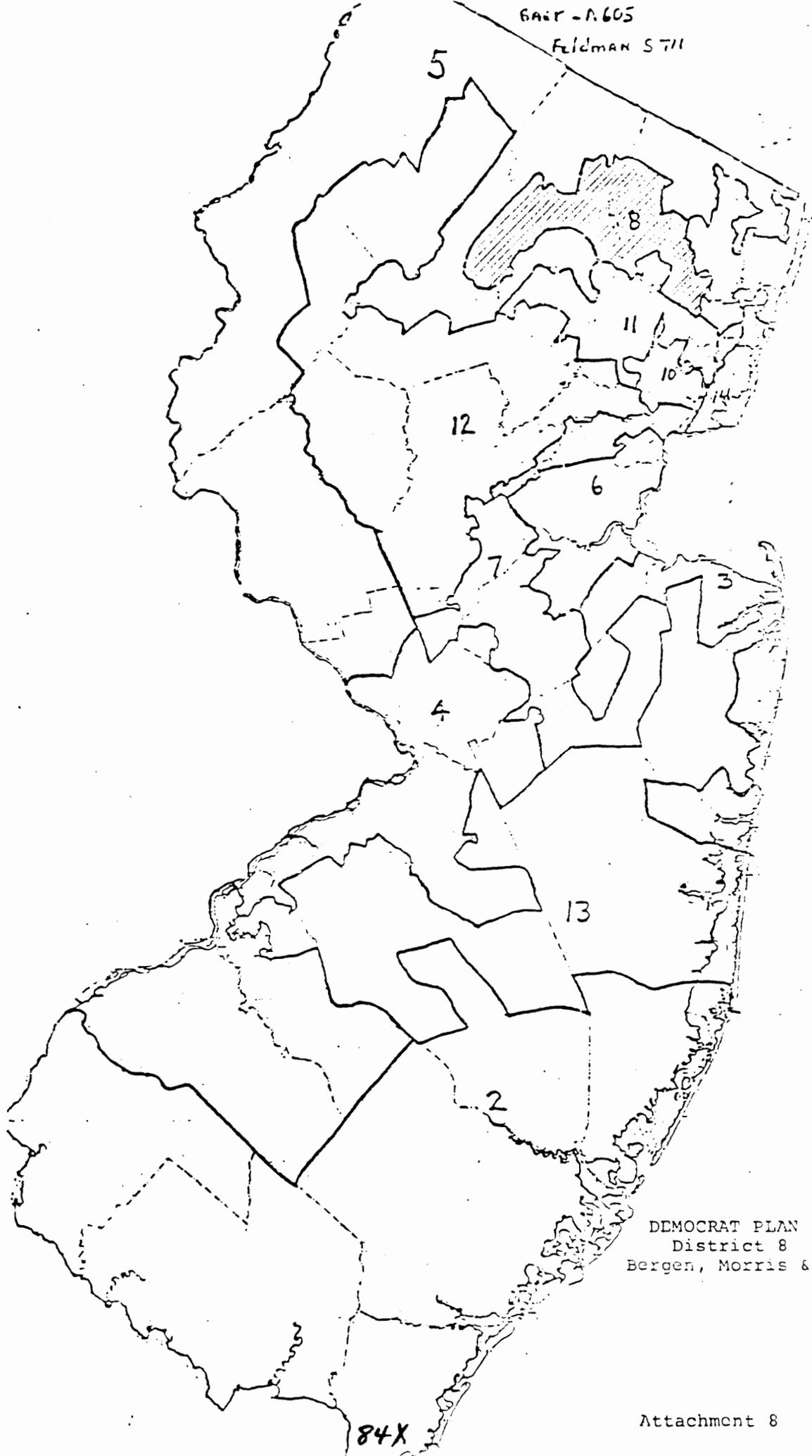
82X



DEMOCRAT PLAN
District 7
Mercer, Middlesex,
Monmouth, Somerset &
Union.

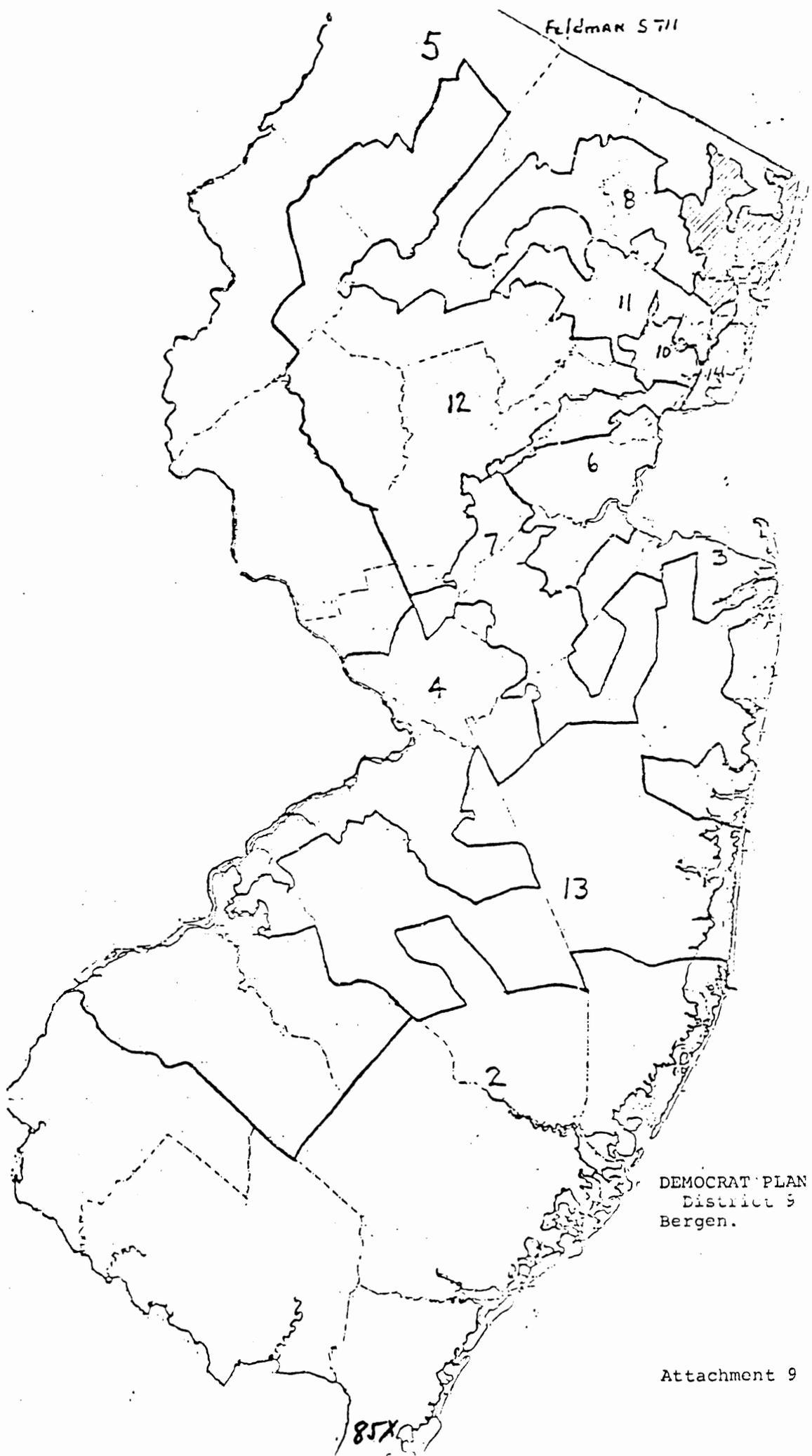
BAIR - A.605

Feldman 5711



DEMOCRAT PLAN
District 8
Bergen, Morris & Pa

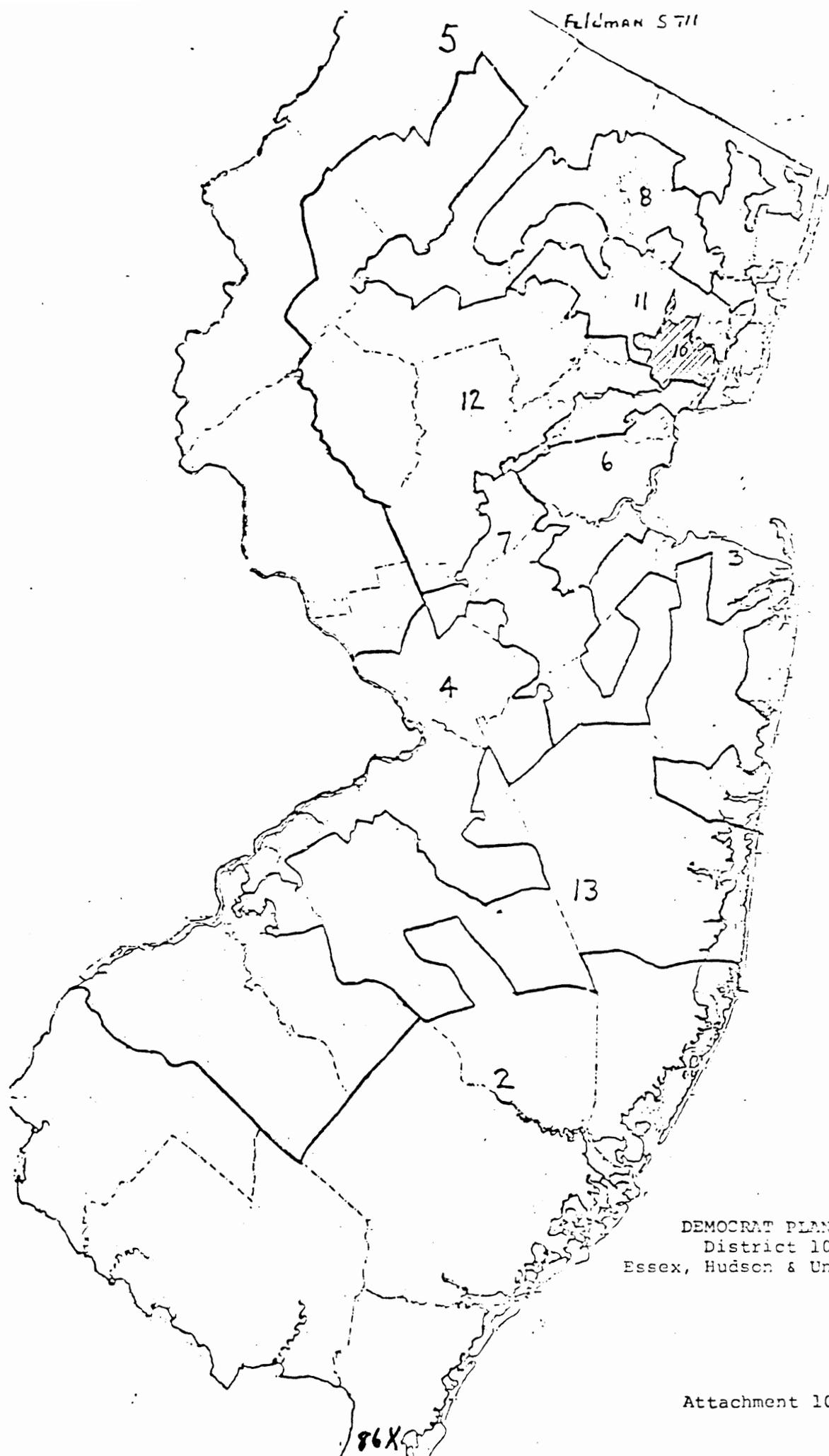
84X



DEMOCRAT PLAN
District 9
Bergen.

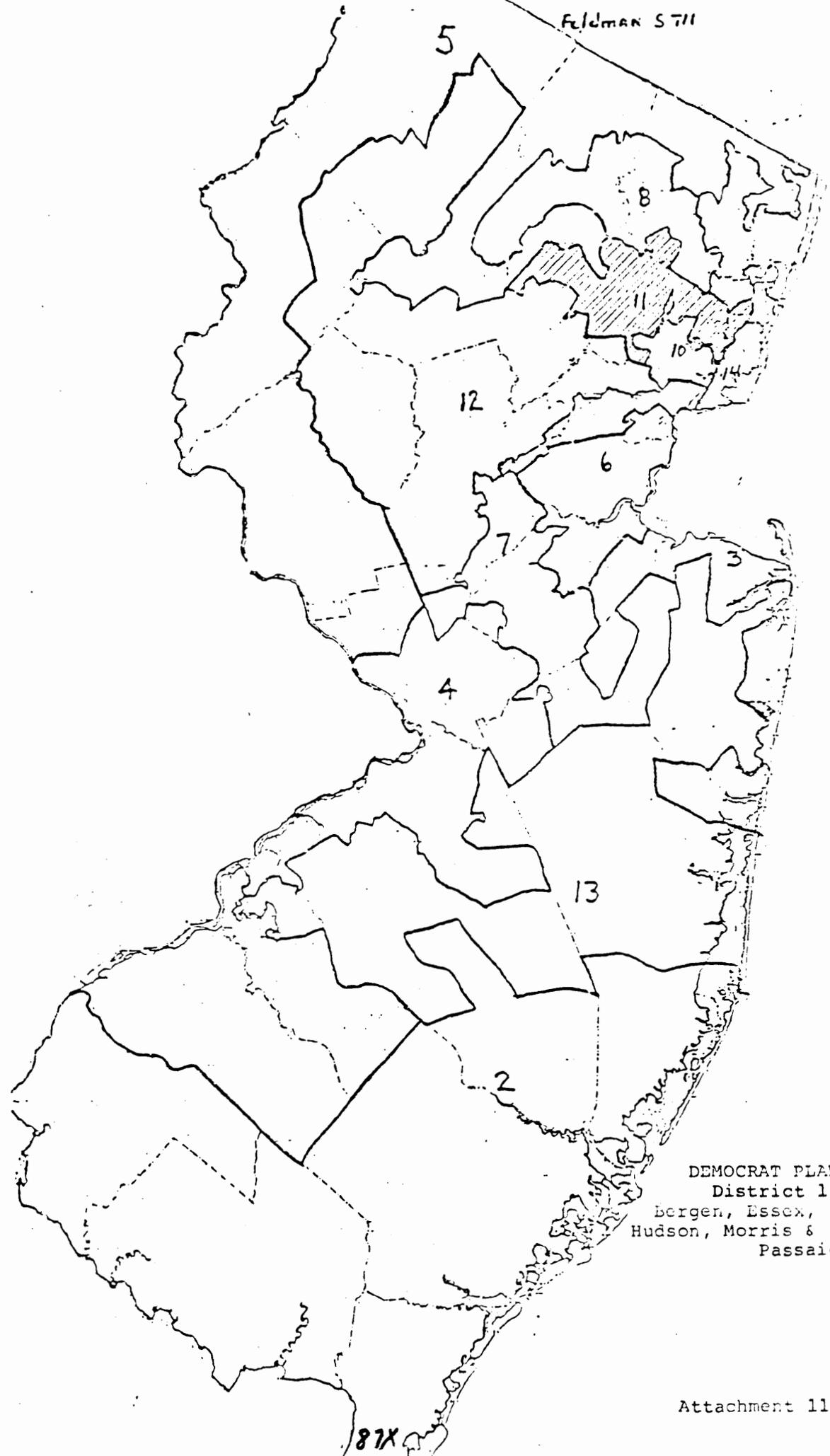
Attachment 9

85X



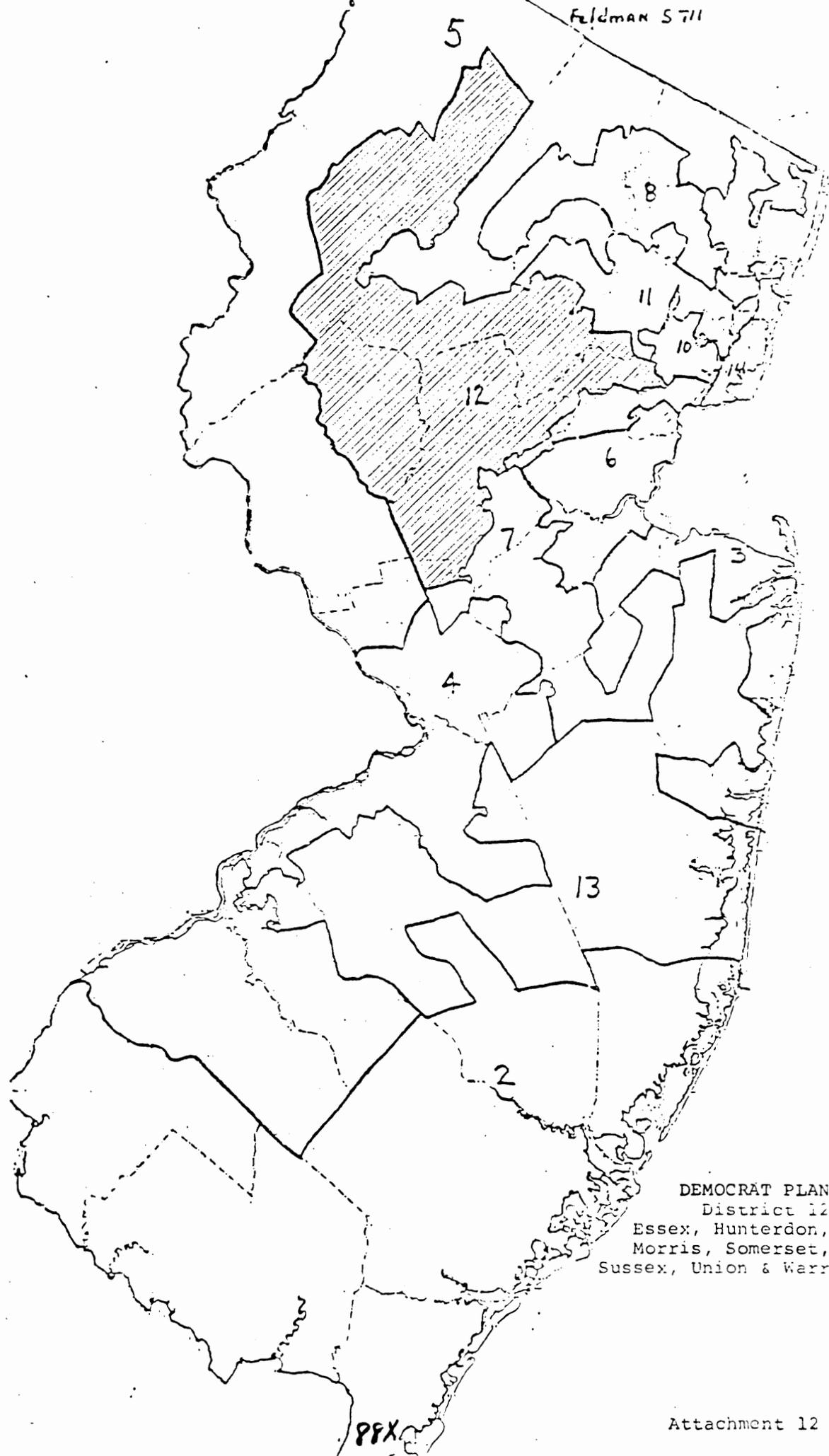
DEMOCRAT PLAN
District 10
Essex, Hudson & Un:

86X



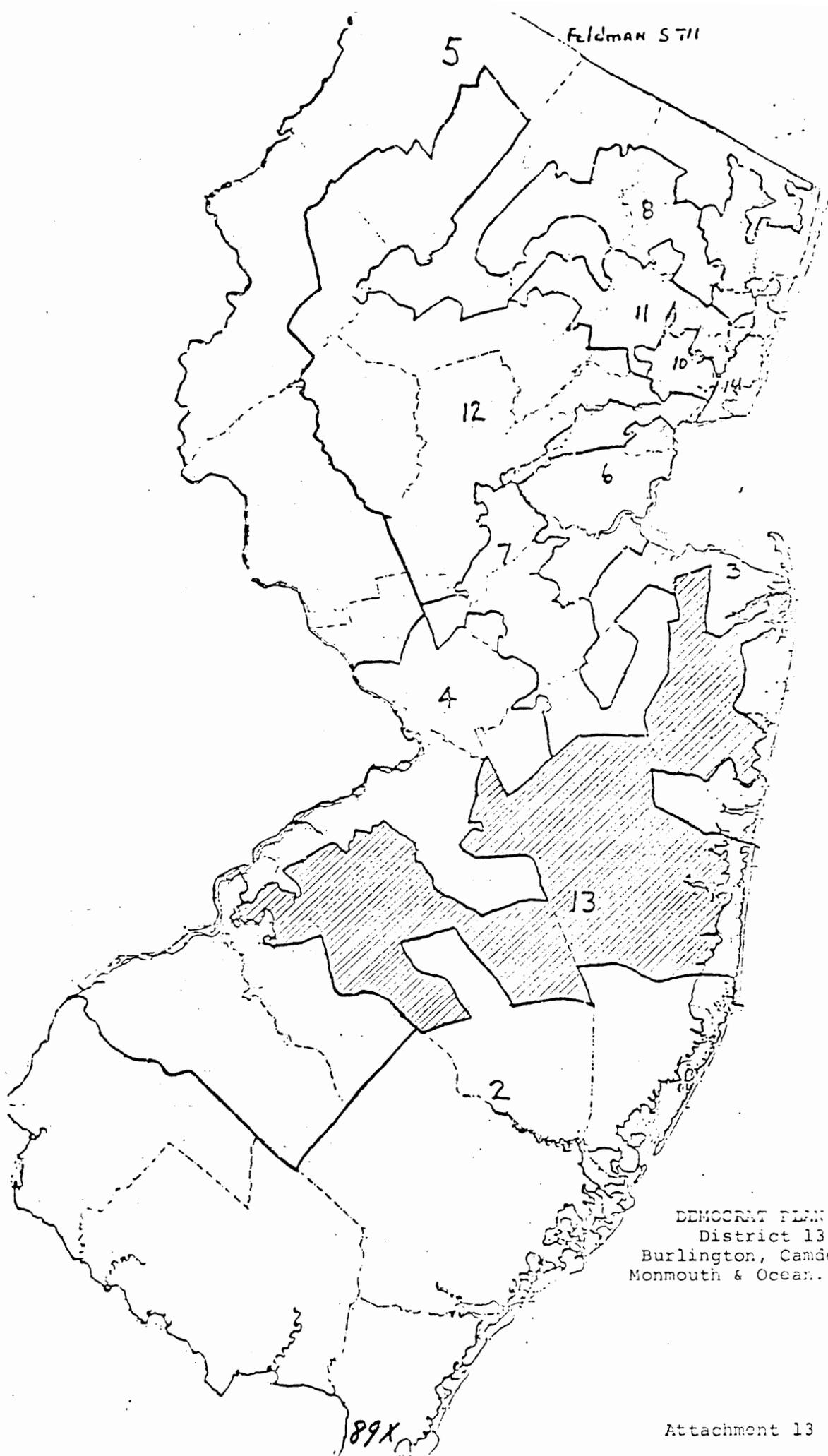
DEMOCRAT PLAN
District 11
Bergen, Essex,
Hudson, Morris &
Passaic.

87X



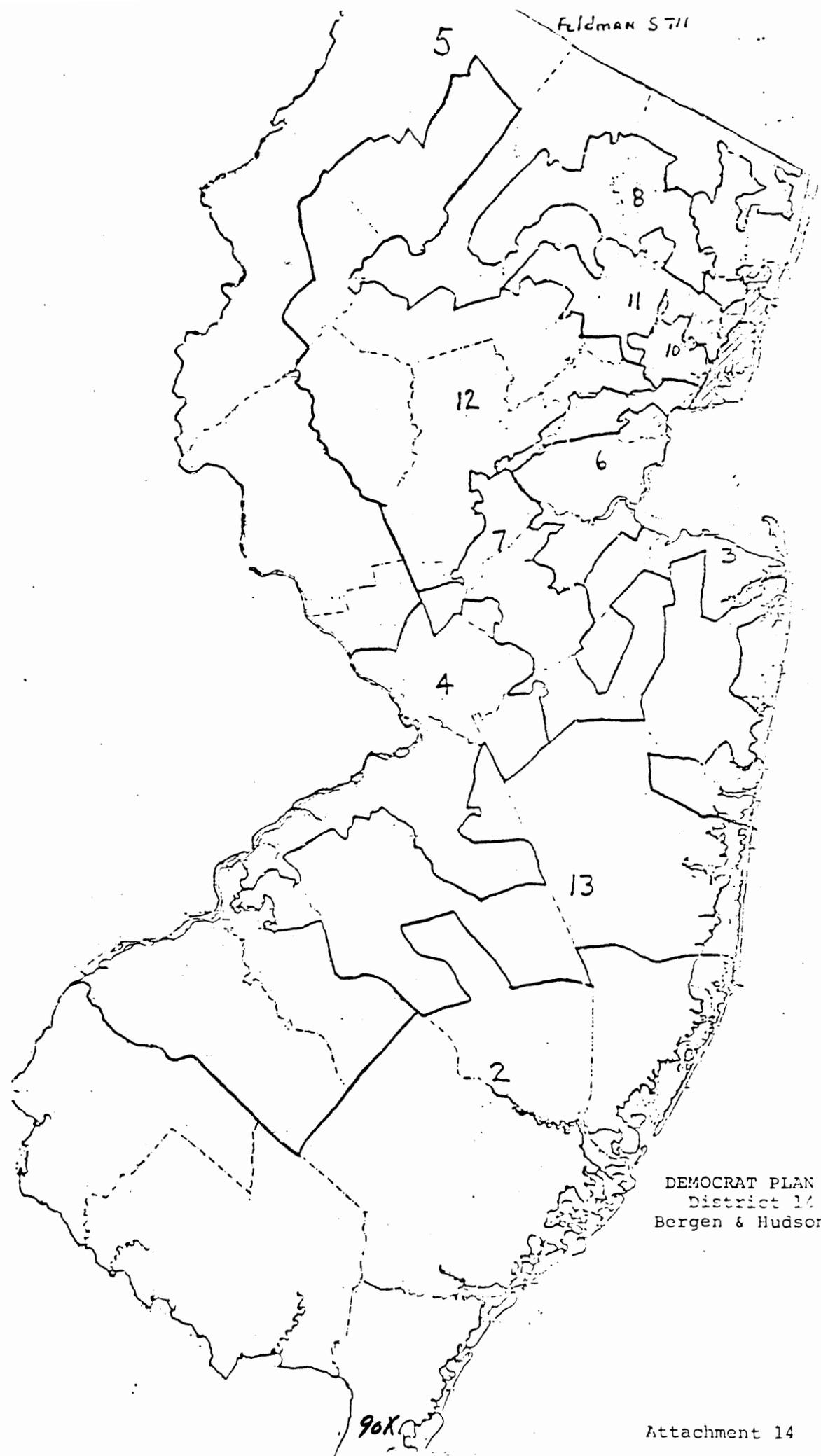
DEMOCRAT PLAN
District 12
Essex, Hunterdon,
Morris, Somerset,
Sussex, Union & Warren

PPX



DEMOCRAT PLAN
District 13
Burlington, Camden,
Monmouth & Ocean.

89X



DEMOCRAT PLAN
District 14
Bergen & Hudson.

90X

Partial Plan to Estimate Minimum
Possible Non-Contiguous Counties

- District 1: All of ATLANTIC, CAPE MAY, CUMBERLAND and SALEM and about 52,000 population in GLOUCESTER.
- District 2: All of GLOUCESTER except that portion in District 1 and most of CAMDEN.
- District 3: All of BURLINGTON and about 95,000 population from CAMDEN and 68,000 from OCEAN.
- District 4: Most of OCEAN excepting only that portion in District 3 and about half of the population of MONMOUTH.
- District 5: All of MERCER excepting about 37,000 population in District 6 and about half of MONMOUTH.
- District 6: Much of MIDDLESEX and about 37,000 population in MERCER.
- District 7: About 105,000 population in MIDDLESEX and all of UNION excepting about 84,000 population in District 8.
- District 8: All of HUNTERDON and SOMERSET, about 147,000 population in MORRIS and about 84,000 population in UNION.
- District 9: All of SUSSEX and WARREN and the larger part of the population of MORRIS county (excepting only the part in District 8) and 68,000 population in PASSAIC.
- District 10: Part of PASSAIC and BERGEN.
- District 11: Parts of BERGEN and about 14,000 population in HUDSON.
- District 12: Part of ESSEX and PASSAIC.
- District 13: All of HUDSON excepting about 14,000 population in district 11 and 14,000 population in District 14.
- District 14: 14,000 population in HUDSON and parts of ESSEX.

Non-Contiguous County Count

District 1

1. Gloucester and Cape May
2. Salem and Cape May
3. Salem and Atlantic

District 3

4. Camden and Ocean

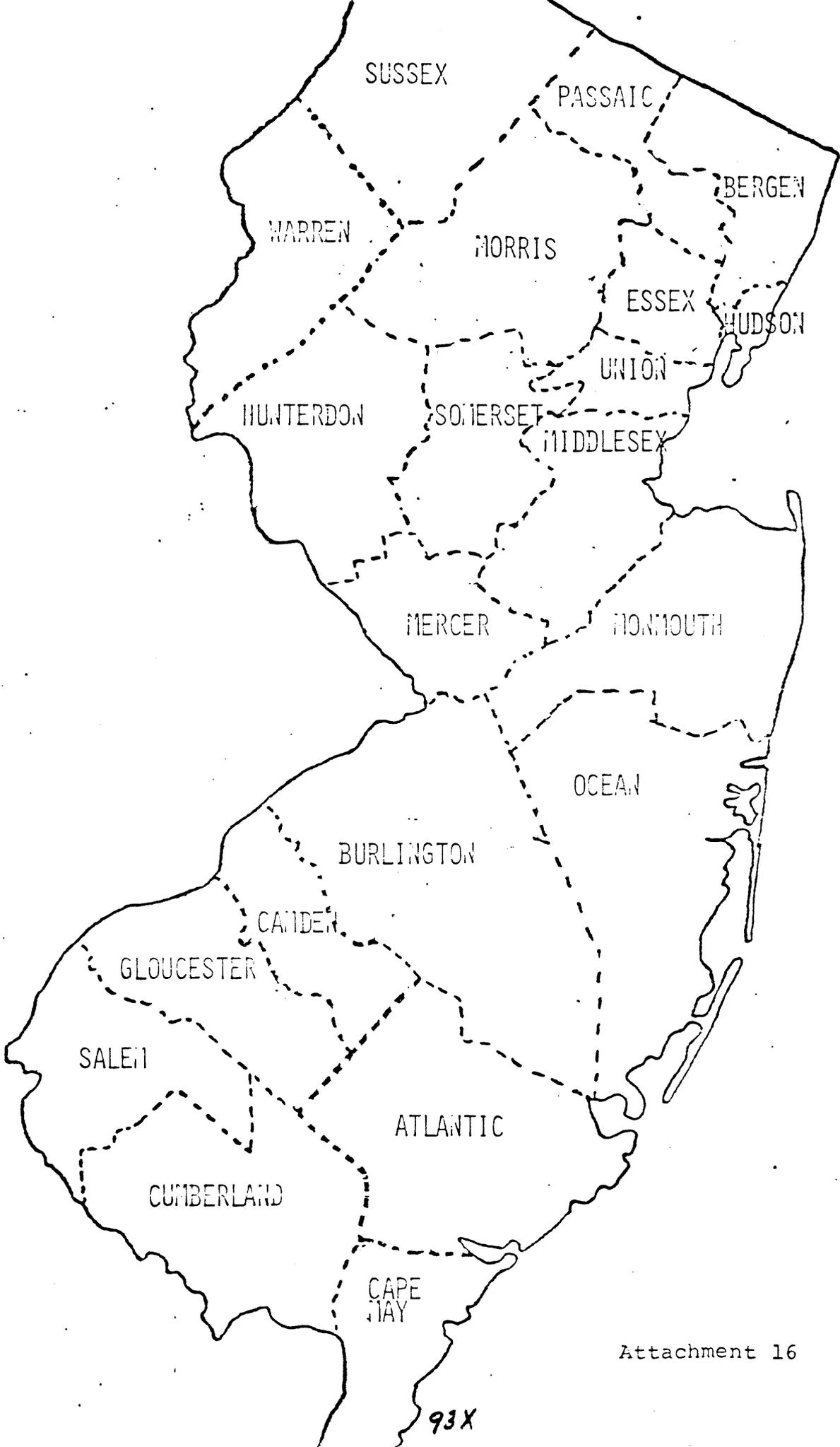
District 8

5. Union and Hunterdon

District 9

6. Warren and Passaic

This demonstrates that if achieving minimum count of non-contiguous county grouping is made the major objective, then it is possible to achieve a count of 6. This is thought to be the lowest possible count for New Jersey with the 1980 census.



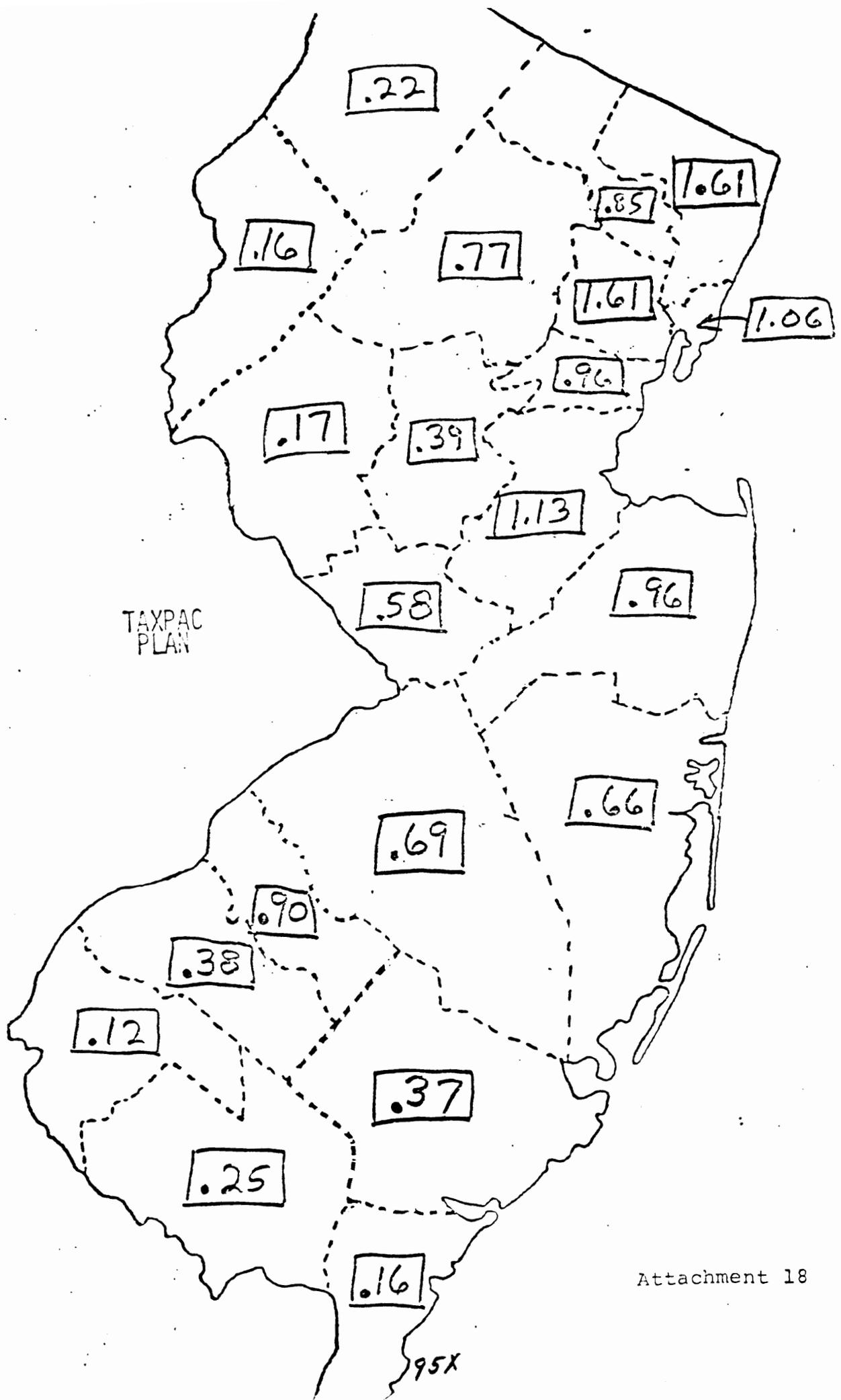
POPULATION OF COUNTIES

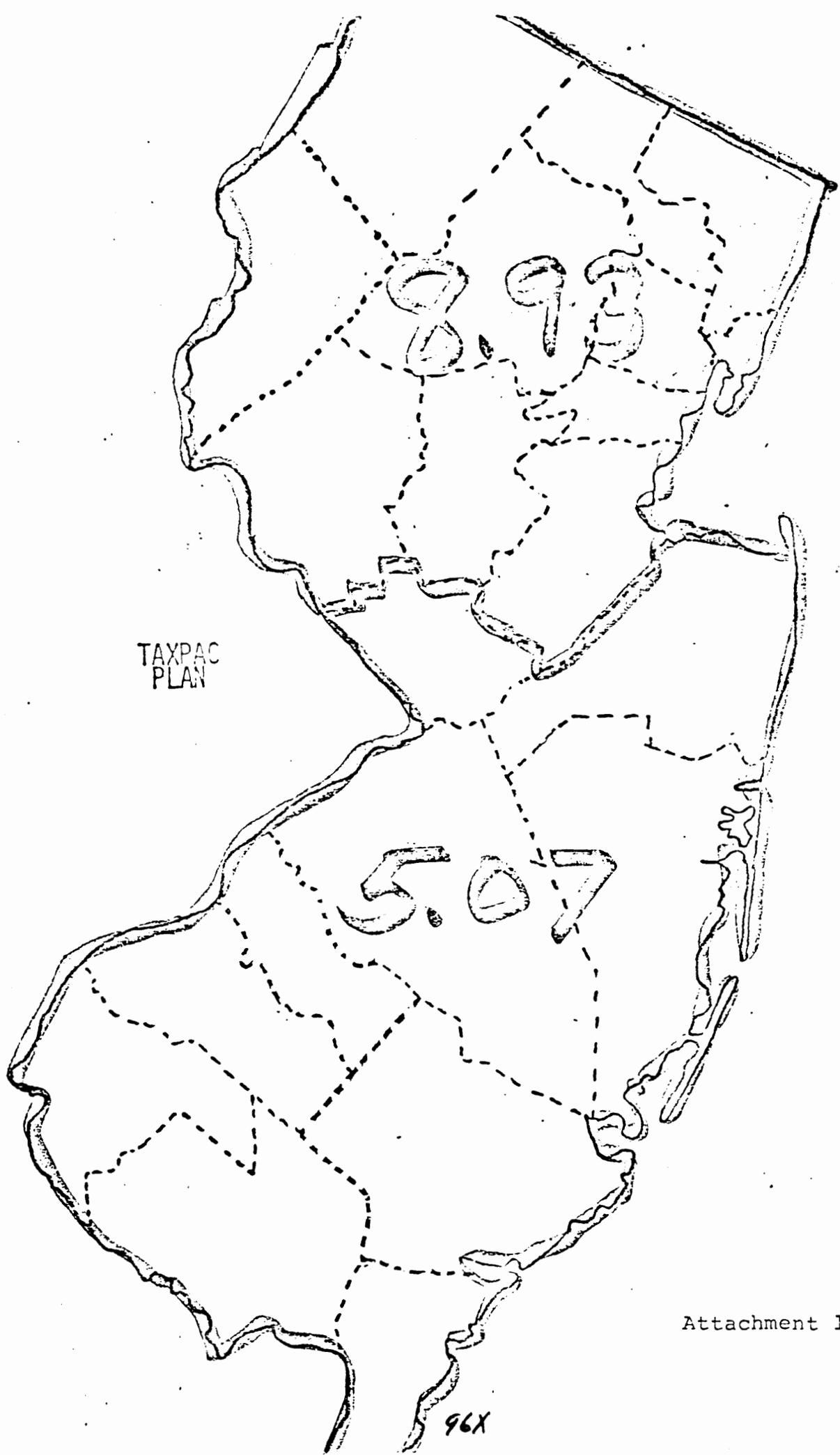
1980 Census (October 1981)

County	Population	Districts
Atlantic	194,119	.37
Bergen	845,385	1.61
Burlington	362,542	.69
Camden	471,650	.90
Cape May	82,266	.16
Cumberland	132,866	.25
Essex	851,116	1.61
Gloucester	199,917	.38
Hudson	556,972	1.06
Hunterdon	87,361	.17
Mercer	307,863	.58
Middlesex	595,893	1.13
Monmouth	503,173	.96
Morris	407,630	.77
Ocean	346,038	.66
Passaic	447,585	.85
Salem	64,676	.12
Somerset	203,129	.39
Sussex	116,119	.22
Union	504,094	.96
Warren	84,429	.16
Total State	7,364,823	14.00

Ideal District size= 7,364,823 ÷ 14 = 526,059 people

Attachment 17



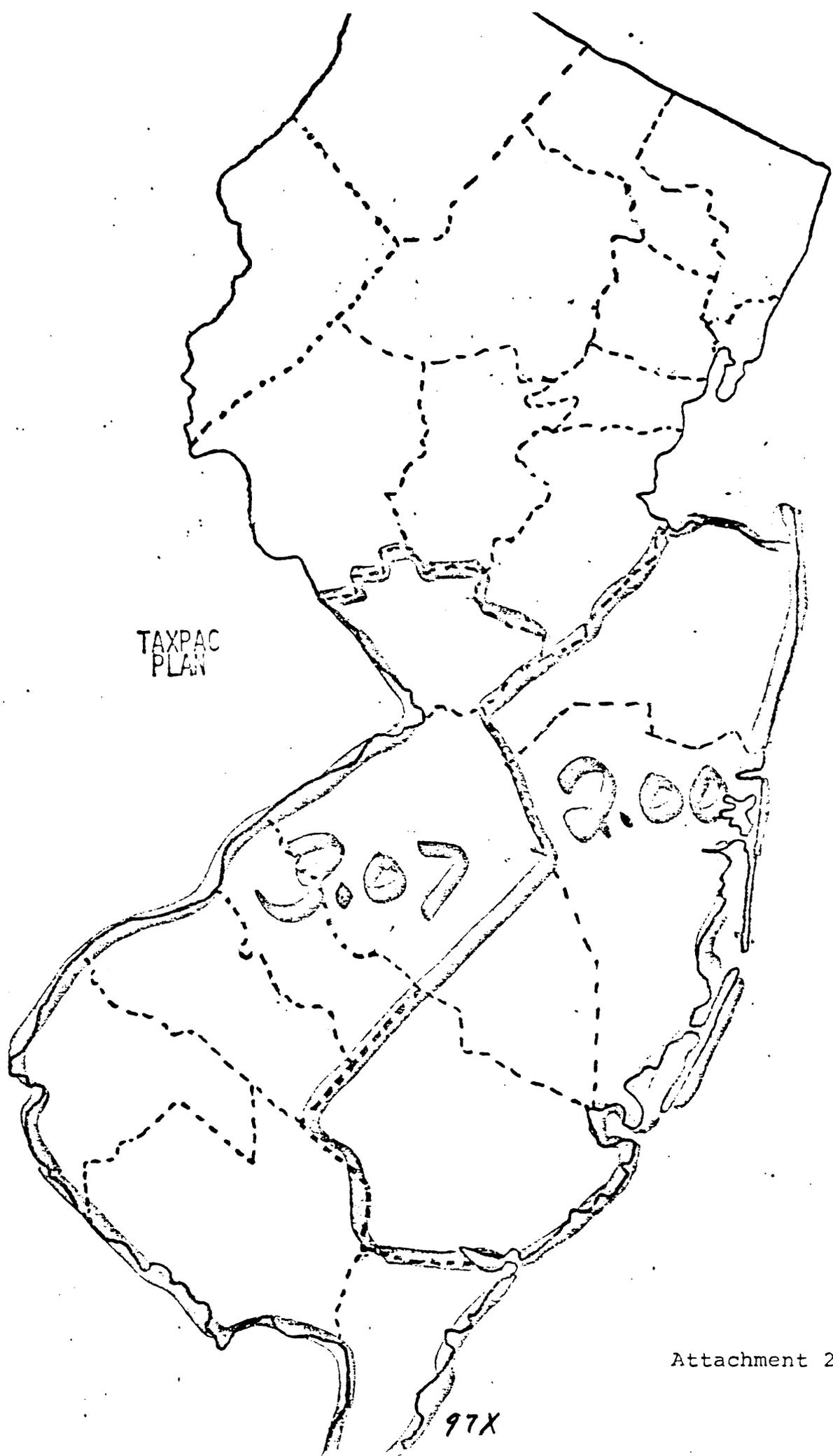


TAXPAC
PLAN

8.93

5.07

96X

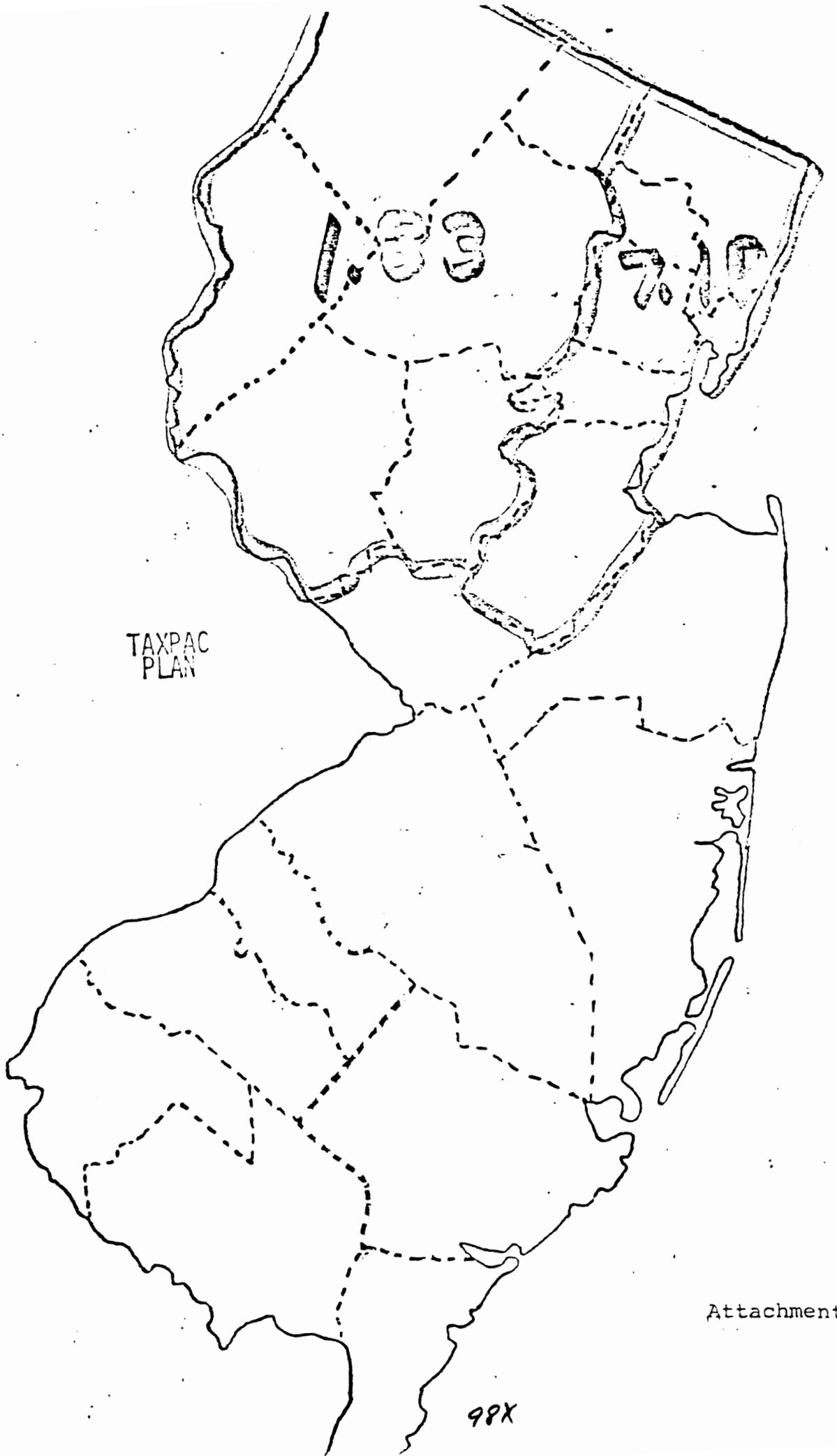


TAXPAC
PLAN

3.07

2.00

97X

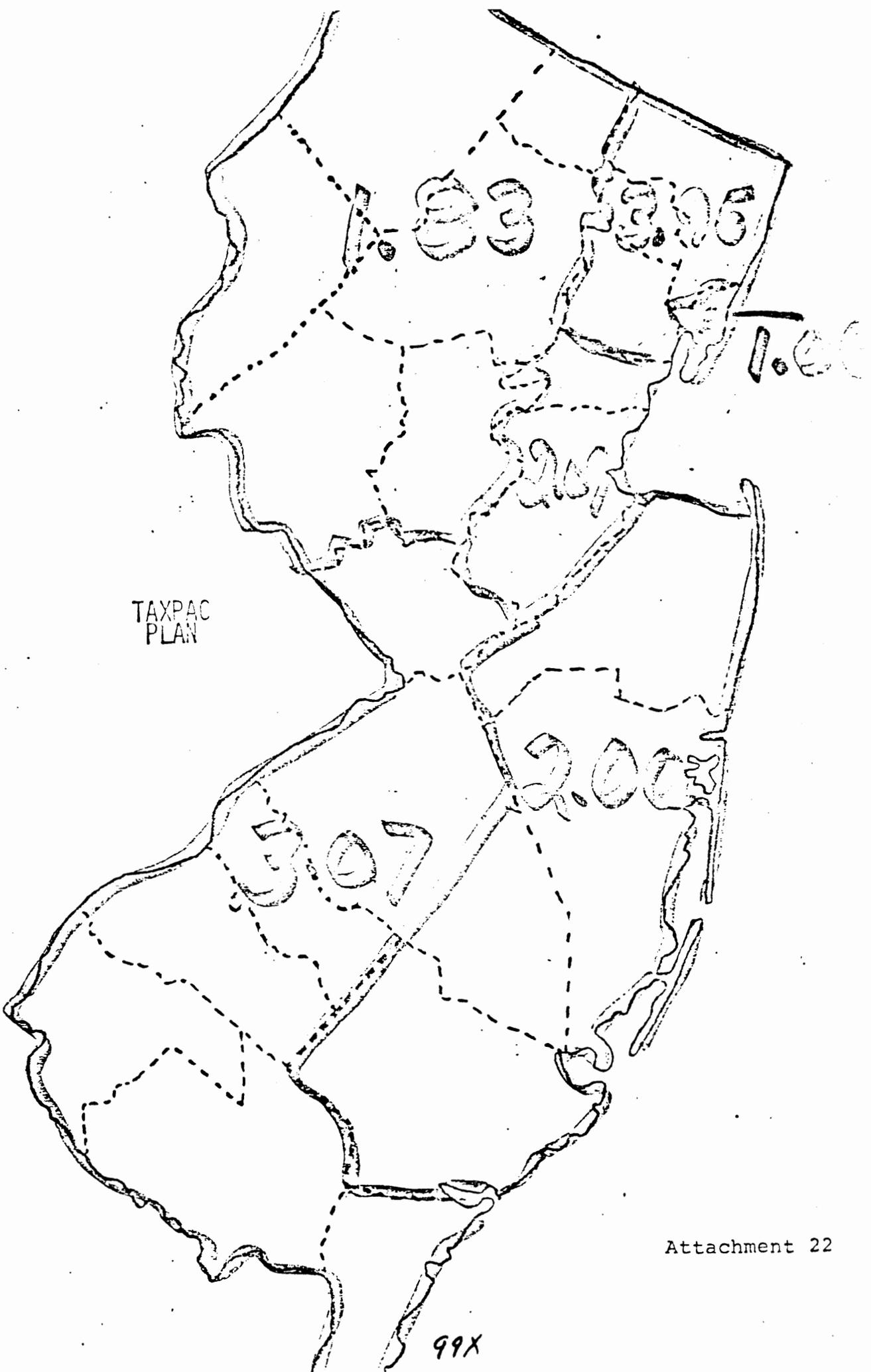


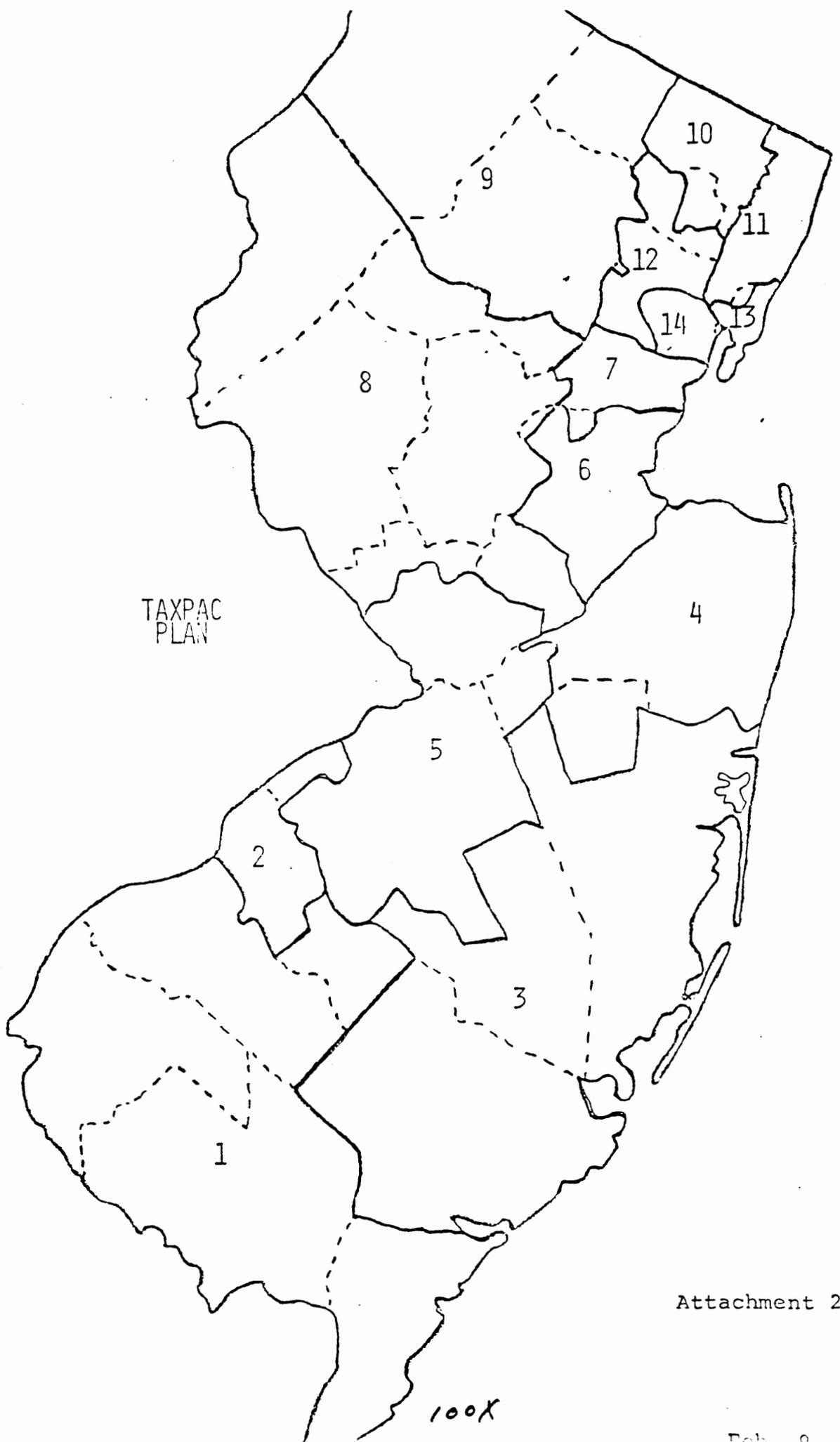
TAXPAC
PLAN

183

70

98X





TAXPAC
PLAN

100X

TAXPAC REDISTRICTING PLAN

Attachment 24a

- District 1. All of the counties of CAPE MAY, CUMBERLAND, SALEM and GLOUCESTER and those portions of CAMDEN embracing Berlin borough, Berlin, Chesilhurst, Pine Hill, Pine Valley, Waterford and Winslow.
- District 2. All of CAMDEN excepting Berlin borough, Berlin, Chesilhurst, Pine Hill, Pine Valley, Waterford and Winslow, and those portions of BURLINGTON embracing Beverly, Cinnaminson, Delanco, Delran, Edgewater Park, Palmyra, Riverside, Riverton and Willingboro.
- District 3. All of ATLANTIC, all of OCEAN excepting Jackson and those portions of BURLINGTON embracing Bass River, Shamong, Washington and Woodland.
- District 4. All of MONMOUTH excepting Roosevelt and Upper Freehold and Jackson township of OCEAN.
- District 5. All of BURLINGTON excepting Bass River, Beverly, Cinnaminson, Delanco, Delran, Edgewater Park, Palmyra, Riverside, Riverton, Shamong, Washington, Willingboro and Woodland, those portions of MONMOUTH embracing Roosevelt and Upper Freehold and all of MERCER excepting Hopewell borough, Hopewell, Pennington, Princeton borough and Princeton.
- District 6. All of MIDDLESEX excepting Cranbury, Dunellen, Middlesex, Plainboro, South Brunswick and South Plainfield.
- District 7. All of UNION and South Plainfield of MIDDLESEX.
- District 8. All of the counties of HUNTERDON, SOMERSET and WARREN and those portions of MERCER embracing Hopewell borough, Hopewell, Pennington, Princeton borough and Princeton and those portions of MIDDLESEX embracing Cranbury, Dunellen, Middlesex, Plainsboro and South Brunswick and those portions of MORRIS embracing Chatham, Chester borough, Chester, Harding, Mendham borough, Mendham, Mt. Olive, Passaic, and Washington.

District 9. All of SUSSEX, Roseland of ESSEX, those portions of PASSAIC embracing Bloomingdale, Pompton Lakes, Ringwood, Wanaque and West Milford and those portions of Morris not in District 8.

District 10. Those portions of PASSAIC embracing Haledon, Hawthorne, North Haledon, Paterson, Prospect Park and West Paterson, and those portions of BERGEN embracing Allendale, Elmwood Park, Emerson, Fair Lawn, Franklin Lakes, Garfield, Glen Rock, Hillsdale, Ho-ho-kus, Mahwah, Midland Park, Montvale, Oakland, Oradell, Paramus, Park Ridge, Ramsey, Ridgewood, River Vale, Saddle River, Saddle Brook, Upper Saddle River, Waldwick, Washington, Westwood, Woodcliff Lake and Wyckoff.

District 11. Secaucus of HUDSON and those portions of BERGEN not in district 10.

District 12. All of ESSEX except East Orange, Irvington, Newark, Orange, Roseland and South Orange and those parts of PASSAIC embracing Clifton, Little Falls, Passaic, Totowa and Wayne.

District 13. All of HUDSON excepting East Newark, Harrison and Secaucus.

District 14. East Newark and Harrison of HUDSON and those portions of ESSEX embracing East Orange, Irvington, Newark, Orange, and South Orange.

TAXPAC PLAN
Deviations and Variation

<u>District</u>	<u>Population</u>	<u>Deviation</u>
1	529,316	3257
2	525,295	-764
3	523,487	-2572
4	525,232	-827
5	521,059	-5000
6	530,640	4581
7	524,615	-1444
8	525,934	-125
9	527,444	1385
10	521,909	-4150
11	524,584	-1475
12	526,624	565
13	529,088	3629
14	<u>529,596</u>	<u>3537</u>
Total	7,364,823	-3

Maximum Deviation -.95%, +.87%

Maximum Variation 1.82%

Changes to Reduce Population Variation
With Minimum Degredation of Other Criteria

<u>Locality</u>	<u>County</u>	<u>Population</u>	<u>District</u>	
			<u>From</u>	<u>To</u>
Waterford	Camden	8,126	1	3
Buena borough	Atlantic	3,642	3	1
Millstone	Monmouth	3,926	4	5
Monroe	Middlesex	15,858	6	4
Jamesburg	Middlesex	4,114	6	4
Marlboro	Monmouth	17,560	4	6
East Newark	Hudson	1,923	14	11
Kearny	Hudson	35,735	13	11
Secaucus	Hudson	13,719	11	13
Rochelle Park	Bergen	5,603	11	10
Carlstadt	Bergen	6,166	11	13
Ridgefield	Bergen	10,294	11	13
Moonachie	Bergen	2,706	11	13

Population Deviations After Changes

1	-1227	6	2169	11	-2305
2	-764	7	-1444	12	565
3	1912	8	-125	13	179
4	-2341	9	1385	14	1614
5	-1074	10	1453	Total	<u>-3</u>

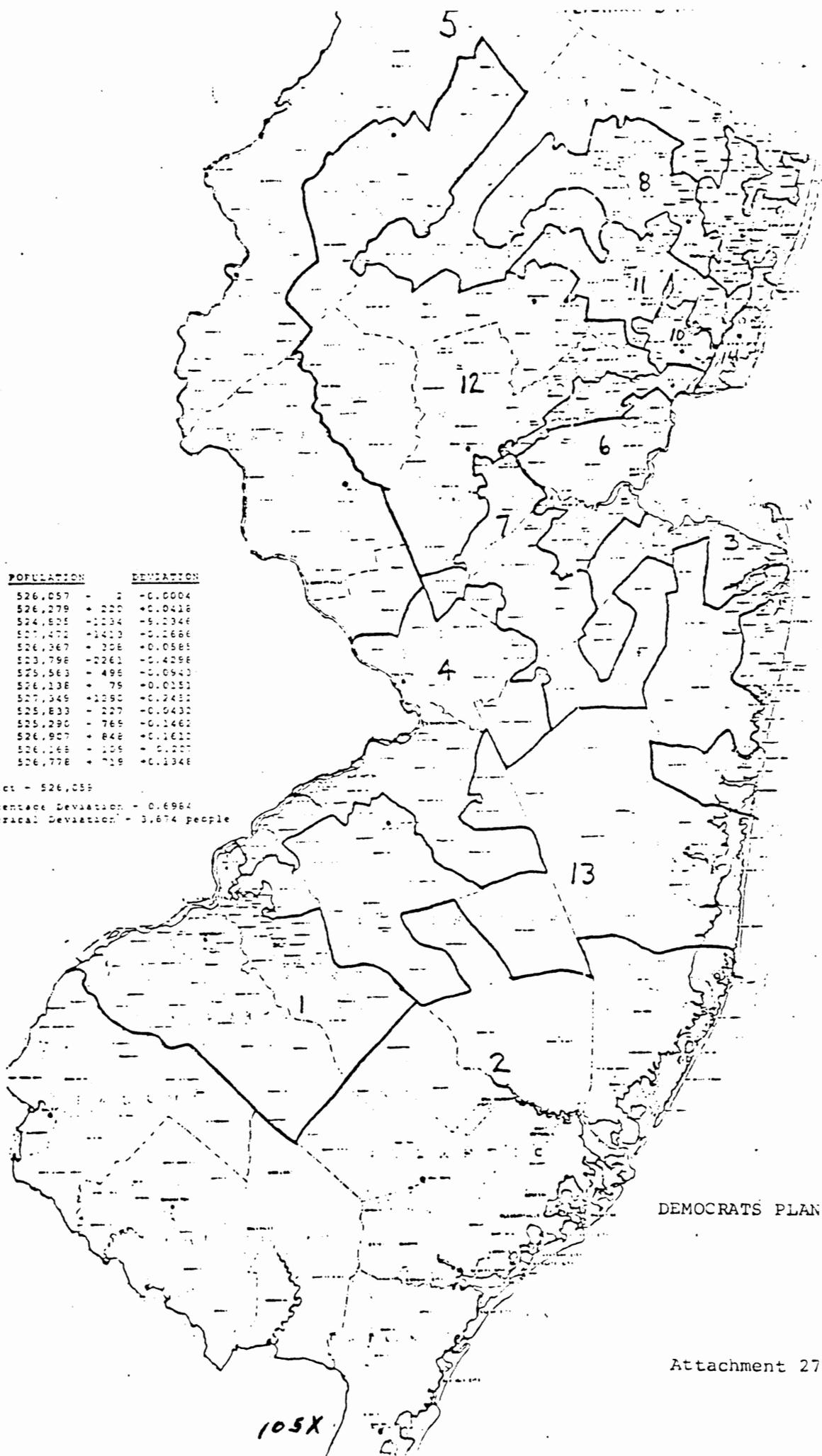
Maximum deviation -.44% to +.41%
Maximum variation .85%

	<u>POPULATION</u>		<u>DEVIATION</u>
.istrict 1	526,057	+ 2	-0.0004
.istrict 2	526,279	+ 220	+0.0418
.istrict 3	524,825	-1234	-0.2348
.istrict 4	527,472	+1417	+0.2686
.istrict 5	526,367	+ 308	+0.0585
.istrict 6	523,798	-2261	-0.4298
.istrict 7	525,563	+ 496	+0.0943
.istrict 8	526,138	+ 79	+0.0151
.istrict 9	527,045	+1090	+0.2051
.istrict 10	525,833	- 227	-0.0432
.istrict 11	525,290	- 769	-0.1462
.istrict 12	526,907	+ 848	+0.1610
.istrict 13	526,168	+ 109	+0.0207
.istrict 14	526,778	+ 719	+0.1348

total District - 526,059

MAXIMUM Percentage Deviation - 0.6984

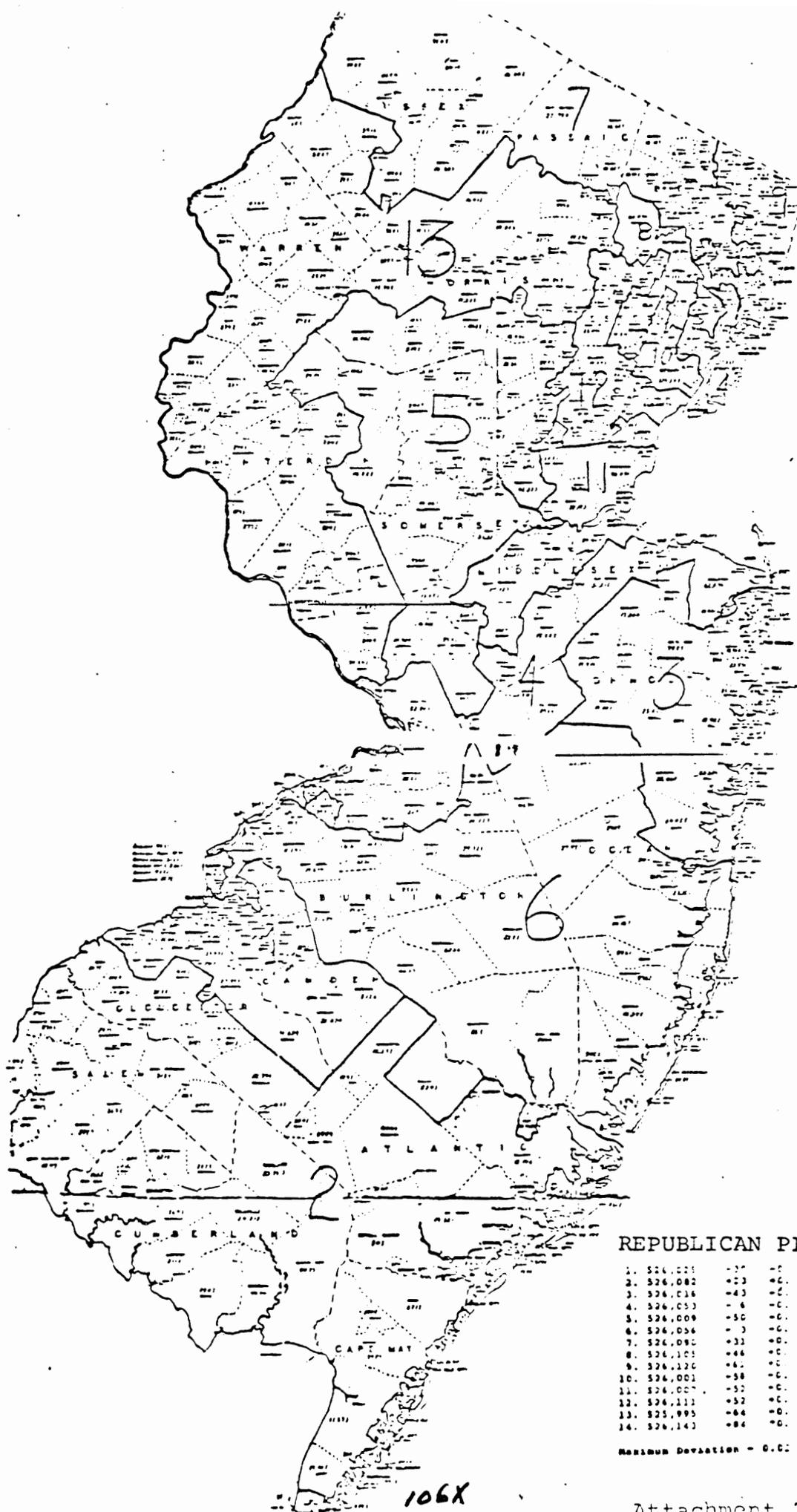
MAXIMUM Numerical Deviation - 3,674 people



DEMOCRATS PLAN

Attachment 27

105X



REPUBLICAN PLAN

1.	526,025	-37	-0
2.	526,082	+23	+0
3.	526,016	-43	-0
4.	526,053	-6	-0
5.	526,009	-50	-0
6.	526,056	-3	+0
7.	526,090	+31	+0
8.	526,105	+44	+0
9.	526,120	+42	+0
10.	526,001	-58	-0
11.	526,007	-52	-0
12.	526,111	+52	+0
13.	525,995	-64	-0
14.	526,143	+64	+0

MAXIMUM DEVIATION - 0.6%

106X

DISTANCE BETWEEN FURTHEST POINTS

<u>Democrat Plan</u>		<u>TAXPAC Plan</u>	
<u>District</u>	<u>Miles</u>	<u>District</u>	<u>Miles</u>
1	36	2	25
2	80	1	68
3	63	4	37
4	41	5	42
5	115	9	47
6	22	7	17
7	41	6	23
8	31	10	17
9	22	11	20
10	12	14	10
11	27	12	23
12	62	8	64
13	75	3	69
14	17	13	12
	<hr/>		<hr/>
TOTAL	644	TOTAL	474
WORST	115	WORST	69
OVER STD	234*	OVER STD	64

*nearly 4 times worse than the TAXPAC plan.

COUNTIES vs CONGRESSIONAL DISTRICTS

PLAN DEMOCRAT PLAN

DATE

County	District Number														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	
Atlantic		X													1
Bergen					X			X	X		X			X	5
Burlington		X		X									X		3
Camden	X			X									X		3
Cape May		X													1
Cumberland		X													1
Essex										X	X	X			3
Gloucester	X														1
Hudson										X	X			X	3
Hunterdon					X							X			2
Mercer				X	X		X								3
Middlesex			X	X		X	X								4
Monmouth			X	X			X						X		4
Morris					X			X			X	X			4
Ocean		X	X										X		3
Passaic					X			X			X				3
Salem		X													1
Somerset							X					X			2
Sussex					X							X			2
Union						X	X			X		X			4
Warren					X							X			2
	2	6	3	5	7	2	5	3	1	3	5	7	4	2	55

1801

County	District Number														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	
Atlantic			X												1
Bergen										X	X				2
Burlington		X	X		X										3
Camden	X	X													2
Cape May	X														1
Cumberland	X														1
Essex									X			X		X	3
Gloucester	X														1
Hudson											X		X	X	3
Hunterdon								X							1
Mercer					X			X							2
Middlesex						X	X	X							3
Monmouth				X	X										2
Morris								X	X						2
Ocean			X	X											2
Passaic									X	X		X			3
Salem	X														1
Somerset								X							1
Sussex									X						1
Union							X								1
Warren								X							1
	5	2	3	2	3	1	2	6	4	2	2	2	1	2	37

1991

COUNTIES vs CONGRESSIONAL DISTRICTS

PLAN	CURRENT	DATE														
		District Number														
County	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	Total
Atlantic		X														1
Bergen							X	X	X		X					4
Burlington		X		X		X										3
Camden	X					X										2
Cape May		X														1
Cumberland		X														1
Essex					X					X	X					3
Gloucester	X															1
Hudson									X	X				X		3
Hunterdon													X			1
Mercer				X	X								X			3
Middlesex				X	X										X	3
Monmouth			X	X												2
Morris					X								X			2
Ocean		X	X			X										3
Passaic								X			X					2
Salem		X	X													1
Somerset					X											1
Sussex													X			1
Union											X	X			X	3
Warren													X			1
Total	2	6	2	4	5	3	1	2	2	2	4	1	5	1	2	42
Non-Contiguous Count	0	9	0	1	5	1	0	0	0	0	2	0	4	0	0	22

1/10/11

JOINING OF NON-CONTIGUOUS COUNTIES

TAXPAC PLANDistrict 1 (5)

1. Cape May & Salem
2. Cape May & Gloucester
3. Cape May & Camden
4. Cumberland & Camden
5. Salem & Camden

District 4 (1)

6. Atlantic & Ocean

District 8,V2 (6)

7. Middlesex & Hunterdon
8. Middlesex & Morris
9. Middlesex & Warren
10. Mercer & Morris
11. Mercer & Warren
12. Somerset & Warren

District 9,V2 (1)

13. Essex & Sussex

TOTAL: 13

DEMOCRAT PLANDistrict 2 (9)

1. Salem & Cape May
2. Salem & Atlantic
3. Salem & Burlington
4. Salem & Ocean
5. Cumberland & Burlington
6. Cumberland & Ocean
7. Cape May & Burlington
8. Cape May & Ocean
9. Atlantic & Ocean

District 3 (1)

10. Ocean & Middlesex

District 4 (4)

11. Camden & Monmouth
12. Camden & Middlesex
13. Camden & Mercer
14. Burlington & Middlesex

District 5 (12)

15. Mercer & Warren
16. Mercer & Sussex
17. Mercer & Passaic
18. Mercer & Bergen
19. Hunterdon & Sussex
20. Hunterdon & Passaic
21. Hunterdon & Bergen
22. Warren & Passaic
23. Warren & Bergen
24. Sussex & Bergen
25. Morris & Bergen
26. Morris & Mercer

District 7 (3)

27. Union & Mercer
28. Union & Monmouth
29. Somerset & Monmouth

District 8 (1)

30. Morris & Bergen

District 10 (1)

31. Union & Hudson

District 11 (3)

32. Morris & Bergen
33. Morris & Hudson
34. Passaic & Hudson

District 12 (10)

35. Essex & Hunterdon
36. Essex & Somerset
37. Essex & Sussex
38. Essex & Warren
39. Hunterdon & Sussex
40. Hunterdon & Union
41. Somerset & Sussex
42. Somerset & Warren
43. Sussex & Union
44. Union & Warren

District 13 (2)

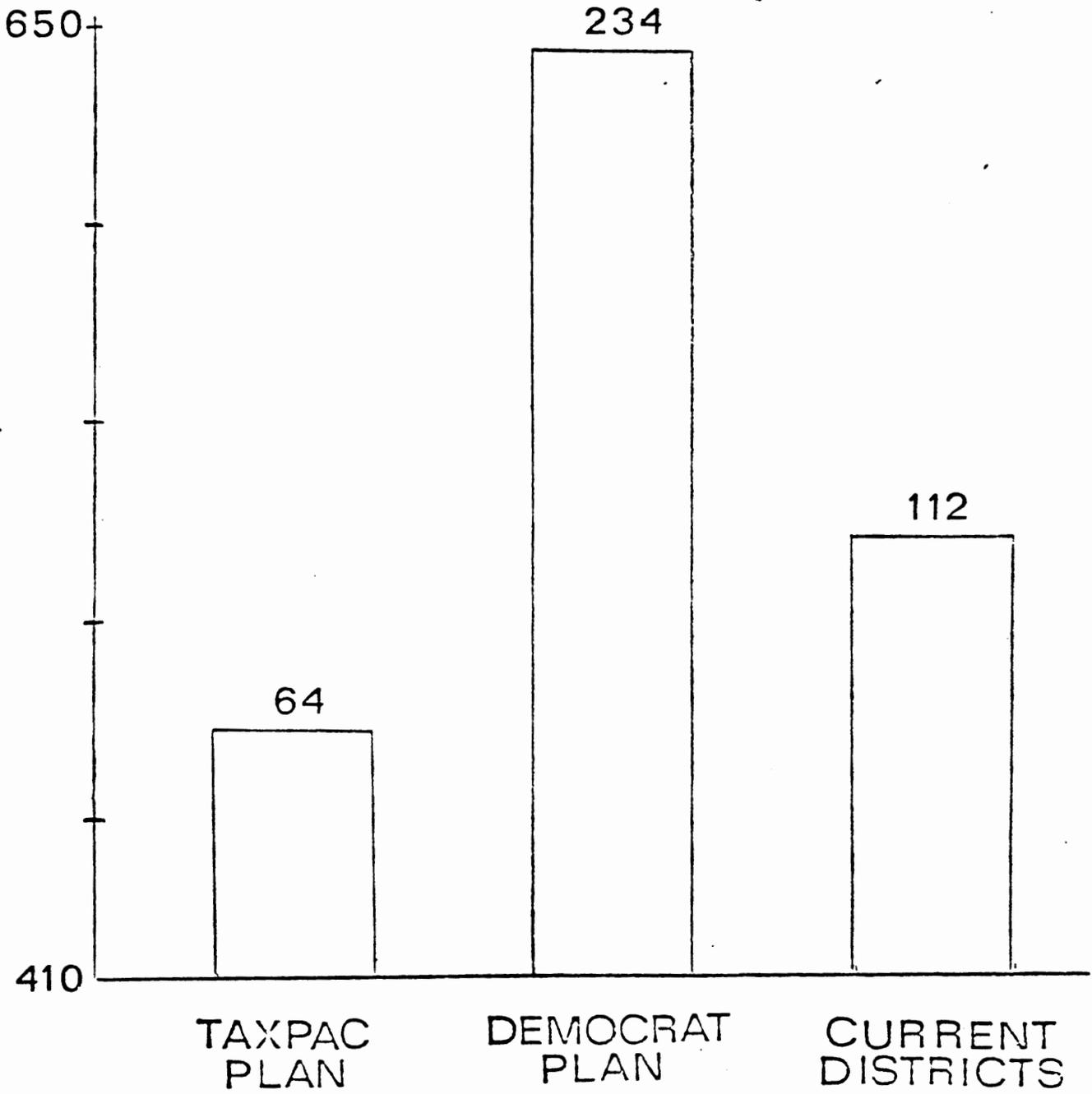
45. Ocean & Camden
46. Monmouth & Camden

MINORITY REPRESENTATION

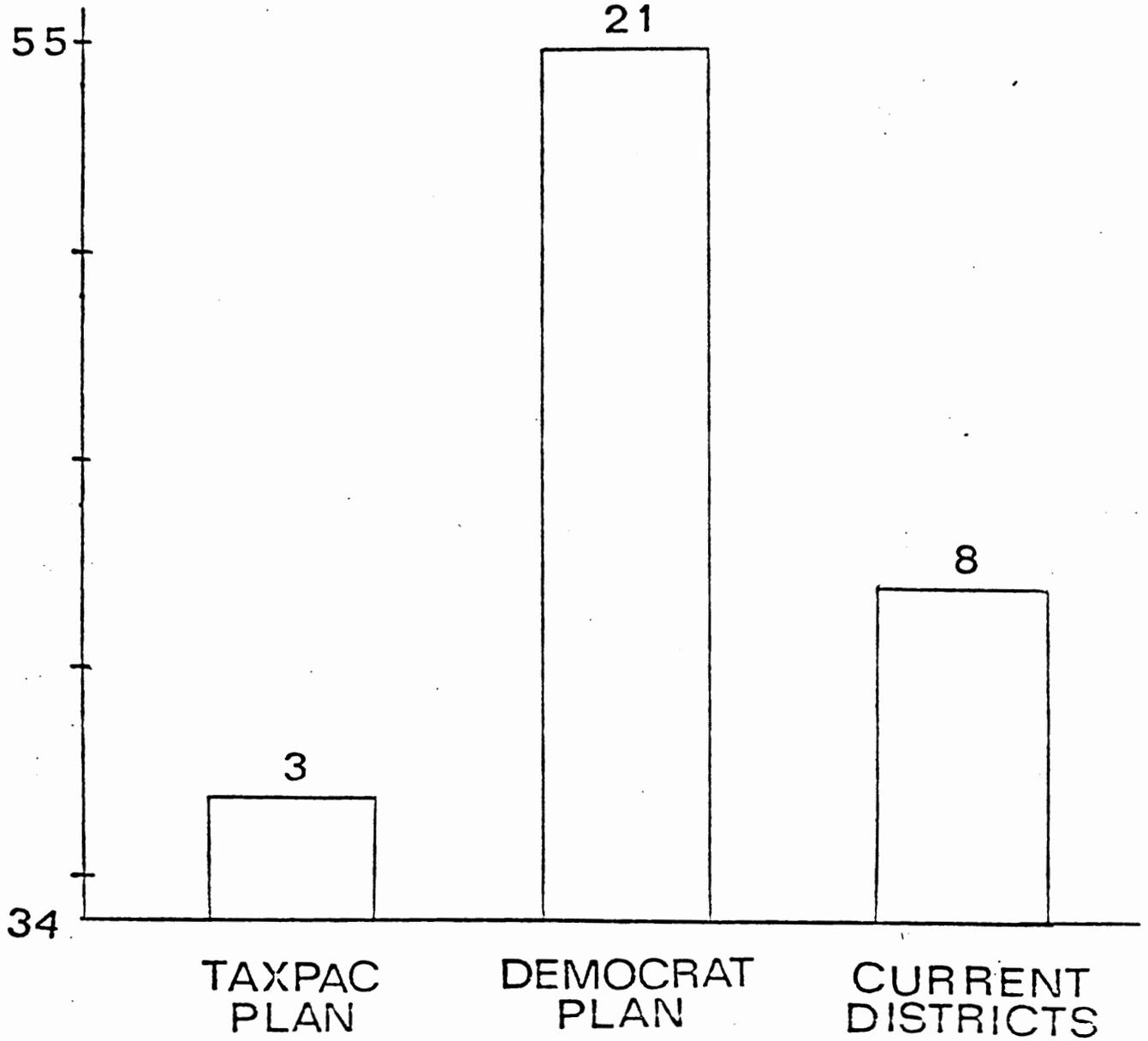
	<u>Democrat District 10</u>			<u>TAXPAC District 14</u>		
	<u>TOTAL</u>	<u>BLACK</u>	<u>SPANISH ORIGIN</u>	<u>TOTAL</u>	<u>BLACK</u>	<u>SPANISH ORIGIN</u>
<u>Essex</u>						
East Orange	77,690	64,626	1,793	77,690	64,626	1,793
Glen Ridge	7,855	135	134	—	—	—
Irvington	61,493	23,397	5,181	61,493	23,397	5,181
Newark	329,248	191,743	61,254	329,248	191,743	61,254
Orange	—	—	—	31,136	17,840	1,804
South Orange	15,864	1,593	283	15,864	1,593	283
<u>Union</u>						
Hillside	21,440	6,381	1,359	—	—	—
<u>Hudson</u>						
East Newark	—	—	—	1,923	9	480
Harrison	12,242	28	2,515	12,242	28	2,515
TOTAL	<u>525,832</u>	<u>287,903</u>	<u>72,519</u>	<u>529,596</u>	<u>299,236</u>	<u>73,310</u>
PERCENT		54.7	13.8		56.5	13.8

Extra Black in TAXPAC plan = 299,236 - 287,903 = 11,333
 Extra Spanish origin = 73,310 - 72,519 = 791

COMPACTNESS



TOTAL COUNTY FRAGMENTATION COUNT



JOINING OF NON CONTIGUOUS COUNTIES

