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# Public Hearing

Before  
SENATE STATE GOVERNMENT, WAGERING,  
TOURISM AND HISTORIC PRESERVATION COMMITTEE

Senate Concurrent Resolution 188 (IR)

*“Proposes constitutional amendment to change membership of legislative Apportionment Commission; imposes certain requirements on Commission for process and legislative district composition”*

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**LOCATION:** Committee Room 7  
State House Annex  
Trenton, New Jersey

**DATE:** January 7, 2016  
10:00 a.m.

**MEMBERS OF COMMITTEE PRESENT:**

Senator Jim Whelan, Chair  
Senator Gerald Cardinale  
Senator Thomas H. Kean Jr.



**ALSO PRESENT:**

Raysa J. Martinez Kruger  
Frank J. Parisi  
*Office of Legislative Services*  
*Committee Aides*

Louis Couture  
*Senate Majority*  
*Committee Aide*

Christine Shipley  
*Senate Republican*  
*Committee Aide*

***Hearing Recorded and Transcribed by***  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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Chairman

SHIRLEY K. TURNER  
Vice-Chair

PETER J. BARNES, III  
STEVEN V. OROHO  
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**New Jersey State Legislature**  
**SENATE STATE GOVERNMENT, WAGERING,**  
**TOURISM AND HISTORIC PRESERVATION COMMITTEE**  
STATE HOUSE ANNEX  
PO BOX 068  
TRENTON NJ 08625-0068

**REVISED**  
**PUBLIC HEARING NOTICE**

**The Senate State Government, Wagering, Tourism & Historic Preservation Committee will hold a public hearing on Thursday, January 7, 2016 at 10:00 AM in Committee Room 7, 2nd Floor, State House Annex, Trenton, New Jersey.**

*The public may address comments and questions to Frank J. Parisi, Raysa Martinez Kruger, Committee Aides, or make bill status and scheduling inquiries to Brittany Hample, Secretary, at (609)847-3890, fax (609)777-2998, or e-mail: [OLSAideSSG@njleg.org](mailto:OLSAideSSG@njleg.org). Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.*

The public hearing is being held in accordance with Article IX, paragraph 1 of the New Jersey Constitution and Rule 24:3 of the New Jersey Senate on the following Senate Concurrent Resolutions:

- |  |   |
|--|---|
| *SCR-184 (1R)<br>Sweeney/Turner/<br>Greenstein | Proposes constitutional amendment to require payments by State to State-administered retirement systems and establish in Constitution right of public employees to pension benefit; provides for enforcement of funding obligations and benefit rights. |
| SCR-188 (1R)<br>Scutari                        | Proposes constitutional amendment to change membership of legislative Apportionment Commission; imposes certain requirements on commission for process and legislative district composition.  |

*Persons presenting written testimony are asked to provide 10 copies on the day of the hearing.*

Issued 12/30/15

\*Revised 01/04/2016 (SCR-184 (1R) added)

For reasonable accommodation of a disability call the telephone number or fax number above, or TTY for persons with hearing loss 609-777-2744 (toll free in NJ) 800-257-7490. The provision of assistive listening devices requires 24 hours' notice. Real time reporter or sign language interpretation requires 5 days' notice.

For changes in schedule due to snow or other emergencies, call 800-792-8630 (toll-free in NJ) or 609-292-4840.

[First Reprint]

**SENATE CONCURRENT  
RESOLUTION No. 188**

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**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

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INTRODUCED DECEMBER 14, 2015

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

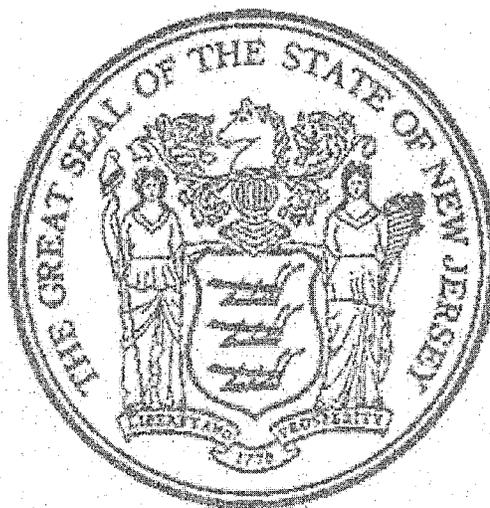
**District 22 (Middlesex, Somerset and Union)**

**SYNOPSIS**

Proposes constitutional amendment to change membership of legislative Apportionment Commission; imposes certain requirements on commission for process and legislative district composition.

**CURRENT VERSION OF TEXT**

As reported by the Senate Judiciary Committee on December 21, 2015, with amendments.



1 A CONCURRENT RESOLUTION proposing to amend Article IV,  
 2 Section III, paragraphs 1 and 2 of the Constitution of the State of  
 3 New Jersey.

4  
 5 BE IT RESOLVED by the Senate of the State of New Jersey (the  
 6 General Assembly concurring):

7  
 8 1. The following proposed amendment to the Constitution of  
 9 the State of New Jersey ~~'[are] is'~~ hereby agreed to:

10  
 11 PROPOSED AMENDMENT

12  
 13 Amend Article IV, Section III, paragraphs 1 and 2 to read as  
 14 follows:

15 1. After the next and every subsequent decennial census of the  
 16 United States, the Senate districts and Assembly districts shall be  
 17 established, and the senators and members of the General Assembly  
 18 shall be apportioned among them, by an Apportionment  
 19 Commission consisting of ~~[ten]~~ <sup>'[13] 11'</sup> members ~~[, five to be]~~,  
 20 ~~'[Twelve] Ten'~~ of the members shall be appointed as follows:  
 21 ~~'[two] three'~~ members appointed by ~~[the]~~ each chairman of the  
 22 State committee of each of the two major political parties whose  
 23 candidates for Governor receive the largest number of votes at the  
 24 most recent gubernatorial election; ~~'[two members] one member'~~  
 25 appointed by the President of the Senate; '[two members] one  
 26 member' appointed by the Speaker of the General Assembly; '[two  
 27 members] one member' appointed by the Minority Leader of the  
 28 Senate; and '[two members] one member' appointed by the  
 29 Minority Leader of the General Assembly. The Chief Justice of the  
 30 Supreme Court of New Jersey shall appoint the '[13th] 11th'  
 31 member of the Commission. Each [State chairman] person, in  
 32 making such appointments, shall give due consideration to the  
 33 representation of the various geographical areas of the State and to  
 34 ethnic and racial diversity. No member of the Commission shall be  
 35 a member of the Senate or General Assembly. [Appointments] All  
 36 appointments to the Commission shall be made on or before  
 37 November 15 of the year in which such census is taken and shall be  
 38 certified by the Secretary of State on or before December 1 of that  
 39 year. ~~[The Commission, by a majority of the whole number of its~~  
 40 ~~members, shall certify the establishment of Senate and Assembly~~  
 41 ~~districts and the apportionment of senators and members of the~~  
 42 ~~General Assembly to the Secretary of State within one month of the~~  
 43 ~~receipt by the Governor of the official decennial census of the~~  
 44 ~~United States for New Jersey, or on or before February 1 of the year~~

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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SJU committee amendments adopted December 21, 2015.

1 following the year in which the census is taken, whichever date is  
2 later.]

3 (cf: Art. IV, Sec. III, par. 1; amended effective December 8, 1966)  
4

5 2. [If the Apportionment Commission fails so to certify such  
6 establishment and apportionment to the Secretary of State on or  
7 before the date fixed or if prior thereto it determines that it will be  
8 unable so to do, it shall so certify to the Chief Justice of the  
9 Supreme Court of New Jersey and he shall appoint an eleventh  
10 member of the Commission.] a. The Commission so constituted, by  
11 a majority of the whole number of its members, shall at a public  
12 meeting, within [one month] two months after the [appointment of  
13 such eleventh member] receipt by the Governor of the official  
14 decennial census of the United States for New Jersey, certify to the  
15 Secretary of State the establishment of Senate and Assembly  
16 districts and the apportionment of senators and members of the  
17 General Assembly.

18 b. Within the two-month period following the receipt by the  
19 Governor of the official decennial census of the United States for  
20 New Jersey, the Commission shall hold at least three public  
21 hearings in different parts of the State at times and locations  
22 convenient to the public. The Commission shall establish a  
23 website, to be administered by the Office of Legislative Services, or  
24 its successor, starting on January 1 of the year following the year in  
25 which the census is taken. By January 1, the website shall describe,  
26 in plain language, the process of the Commission; provide the total  
27 votes received in each municipality by candidates in all Statewide  
28 general elections in the preceding decade for the offices of United  
29 States President, United States Senator, and Governor; and provide  
30 a process for members of the public to submit written plans for the  
31 establishment of legislative districts and more general comments to  
32 the Commission. The website shall also provide access to the  
33 transcripts and recordings of the public hearings and the materials  
34 submitted to the Commission, and provide such other information  
35 as the Commission deems appropriate.<sup>1</sup> The Commission shall  
36 provide the public with at least 48 '[hours] hours'<sup>1</sup> notice on the  
37 website of the public meeting of the Commission at which a plan is  
38 certified to establish legislative districts, including with the notice  
39 the final proposed plan of legislative districts produced by each  
40 political party, and shall provide the public an opportunity to  
41 comment at the public meeting.

42 c. The Commission shall only certify a plan to establish  
43 legislative districts that ensures fair representation such that each of  
44 the two major political parties has an equal number of districts more  
45 favorable to that party. A district shall be more favorable to a  
46 political party if the percentage of total votes received in that  
47 district in all Statewide general elections by that party over the  
48 preceding decade for the offices of United States President, United

1 States Senator, and Governor exceeds the percentage of total votes  
2 that party received in the average district in the plan, weighting  
3 each district equally.

4 d. The Commission shall only certify a plan to establish  
5 legislative districts that ensures that at least 25 percent of all  
6 districts are competitive districts, which shall mean a district that is  
7 more favorable to either major political party by no more than five  
8 percentage points of the average district in the plan. For each  
9 competitive district in which the percentage of total votes for a  
10 major political party exceeds that party's percentage of total votes  
11 in the average district, there shall be a corresponding district in  
12 which that party's percentage of total votes is less than the other  
13 major party's percentage of total votes in the average district by  
14 approximately the same percentage.

15 e. In certifying a plan, the provisions of subparagraphs c. and  
16 d. of this paragraph shall supersede all other considerations, except  
17 that the Commission, in all circumstances, shall only certify a plan  
18 in which all districts comply with federal law, including but not  
19 limited to any requirements on population deviation and of the  
20 Voting Rights Act or any successor act, all districts are comprised  
21 of contiguous territory, and all districts comply with the limitations  
22 on division of municipalities set forth in Article IV, Section II,  
23 paragraph 3 of this Constitution.

24 f. In deciding among multiple plans that meet the provisions of  
25 subparagraphs c., d., and e. of this paragraph, the Commission shall  
26 consider which plan best preserves communities of interest within  
27 the same district. A community of interest shall mean a  
28 geographically contiguous population sharing common interests  
29 relevant to the legislative process such as trade areas,  
30 communication and transportation networks, media markets, or  
31 social, cultural, or economic interests.

32 (cf: Art. IV, Sec. III, par. 2; amended effective December 8, 1966)

33  
34 2. When this proposed amendment to the Constitution is finally  
35 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it  
36 shall be submitted to the people at the next general election  
37 occurring more than three months after the final agreement and  
38 shall be published at least once in at least one newspaper of each  
39 county designated by the President of the Senate, the Speaker of the  
40 General Assembly and the Secretary of State, not less than three  
41 months prior to the general election.

42  
43 3. This proposed amendment to the Constitution shall be  
44 submitted to the people at that election in the following manner and  
45 form:

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

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

1 If you favor the proposition printed below make a cross (X), plus  
2 (+), or check (✓) in the square opposite the word "Yes." If you are  
3 opposed thereto make a cross (X), plus (+) or check (✓) in the  
4 square opposite the word "No."

5  
6  
7

b. In every municipality the following question:

YES	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT REQUIRING STANDARDS AND A PUBLIC PROCESS IN ESTABLISHING LEGISLATIVE DISTRICTS</p> <p>Do you approve changing the Constitution to change the membership of the Apportionment Commission, require public hearings, and set standards for the way it creates legislative districts?</p> <p>Do you approve adding <u>'[two more members, one from each major political party and] to the commission'</u> an independent member <u>'at the beginning of the process'</u>, <u>'[to the commission] and changing who appoints some of the members'</u>? Do you approve banning legislators from serving on the commission?</p> <p>Do you approve requiring the commission to provide information to and take comments from the public? The amendment would also require the commission to hold at least three public hearings.</p> <p>Do you approve requiring the commission to establish districts that are competitive and fairly represent voter preferences? This amendment would also require preserving communities of interest within the same district.</p>
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## INTERPRETIVE STATEMENT

Districts for the New Jersey Legislature are established by the Apportionment Commission every 10 years after the federal national census is taken. This ensures that each district has approximately the same number of people.

This amendment to the Constitution would increase from 10 to '[13] 11' the number of members of the commission, none of whom could be a member of the Senate or General Assembly. This amendment would require an independent member of the commission to be appointed from the start of the process by the Chief Justice of the Supreme Court. This amendment would require each of the leaders of both major parties in the Senate and General Assembly to appoint '[two members] one member'. Presently, all the members are appointed by the chairs of the two major political parties. Under this amendment, each chair would appoint '[two] three' members.

The members of the commission would be appointed with regard to ethnic and racial diversity, as well as geographical diversity which is already required.

This amendment would require the commission to hold at least three public hearings in different parts of the State. The commission would also be required to provide information to the public, and accept district plans and comments from the public.

This amendment would require the commission to vote to establish the legislative districts at a public meeting. The commission would be required to take comments from the public at that meeting.

This amendment would prohibit creating a plan in which more than half of the districts favor either major political party compared to the average district. It also would require at least 25 percent of the districts to be competitive. The amendment would also require communities of interest within districts to be preserved.

This amendment would require districts to comply with federal law and be comprised of contiguous territory. This amendment requires the districts to follow the limit on dividing municipalities already set forth in the Constitution.

NO

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**SENATOR JIM WHELAN (Chair):** Good morning, still.

Ladies and gentlemen, we come back to order for the constitutional amendment on redistricting.

The way this will work will be similar to what we just did. If you just joined us, there is no vote of the members today. This is just a public hearing; we want to get your public input. We will try to get the public members -- you folks, seated there, to come up. We will probably bring you up in twos and threes, just to facilitate time. And then, at the end, if the members have comments or questions, or if they are dying for a question from a particular individual who may testify, we'll deviate. But we do want to move this along, because there is other business that we're doing here in Trenton.

So can we have a reading of the legislation, please?

**MR. PARISI (Committee Aide):** Certainly, Mr. Chairman.

Senate Concurrent Resolution No. 188, First Reprint, the synopsis reads: Proposed constitutional amendment to change membership of legislative Apportionment Commission; imposes certain requirements on Commission for process and legislative district composition.

**SENATOR WHELAN:** Okay.

Patrick Murray, from Monmouth University Polling Institute; and Mike Egenton, from the New Jersey State Chamber of Commerce.

Most of our speakers -- I think all of our speakers are opposed, so this may not be as popular as some may think.

But welcome, Mr. Murray.

**SENATOR KEAN:** It's not popular with Senator Cardinale, I know that. (laughter)

**P A T R I C K M U R R A Y:** Mr. Chairman, members of the Committee, thank you very for the opportunity to be here. I would have liked to have had the opportunity before it actually had a vote in a Committee, but I appreciate the ability to speak to the Senate here.

I am Patrick Murray, Director of the Monmouth University Polling Institute. I usually don't read my remarks, but in this case I want to make sure that I hit all the points that I wanted to make.

Although I have been known, from time to time, to comment on the efficacy and responsiveness of the internal workings of State government in New Jersey, I rarely take a public position on a piece of legislation. And when I do, it is largely because the process by which the legislation was drawn up does not adhere to principles of good government. And it is for this reason that I appear before you today to express my strong opposition to SCR-188.

This proposed constitutional amendment will not achieve its stated aim of designing a fair legislative map with at least 10 competitive districts. Furthermore, the wording of the ballot question and the interpretive statement seems to be deliberately designed to fool New Jersey voters into supporting a constitutional change against their own interests.

First, let me say that I endorse the provisions in this amendment that call for the immediate appointment of the public member of the Apportionment Commission, and the provisions that codify a public access process while still giving the Commission the flexibility for negotiating in private. I also agree with the wisdom of granting legislative leaders the power to appoint Commission members, in return for barring current legislators from serving on the Commission.

However, I must object to the entire amendment because of the language in paragraphs 2c and, especially, 2d.

Let me start with the “fair representation” provision in 2c. According to the Judiciary Committee statement, this provision utilizes the standards established by Dr. Donald Stokes, who served as the Commission's public member in both 1981 and 1991. And on closer examination, though, it does not.

Stokes’ fairness doctrine states that the number of seats a party holds in the Legislature after each election should correlate to its share of the vote in that election. For example, if the statewide vote splits 50-50 between the Democratic and Republican candidates for office, then the share of legislative seats should also be evenly divided. However, according to projections Stokes included in his 1993 monograph, if a party wins 60 percent of the vote it would be reasonable to see that party take as many as 75 percent of the seats.

That’s fair enough; but Stokes’ test must be applied to the map as a whole, after the fact. You cannot *a priori* set aside 30 evenly divided safe districts, and then work on 10 so-called *competitive districts* and guarantee that you will come up with a fair correlation of seats to the statewide vote share.

More importantly, though, the crucial metric used by Stokes is whether the seats in the Legislature correlate to the total vote for the Legislature, not how these seats correlate to the vote for a variety of unrelated offices, such as Governor, President, or U.S. Senate.

The linkage in that paragraph is truly bizarre. As we know, voters use a different set of criteria when evaluating who to support in elections for Federal offices versus State offices, and for executive positions versus legislative ones.

If gubernatorial elections told us what type of representation New Jersey voters want in their Legislature, I would be directing my remarks today to the *Republican* Chairman of this Committee. By the same token, if presidential elections told us what the voters wanted in their Legislature, there would be no more than one Republican sitting on this Committee today.

However, even if Stokes' fairness doctrine was applied correctly -- using the legislative election results -- it would still be unfair, in practice. In determining the legislative vote share of the two parties, Stokes did not employ a straight tally of the statewide vote, but used a district-based vote share average, which has been codified in paragraph 2c. In other words, instead of using millions of data points -- i.e., individual votes from voters across the state -- to determine the New Jersey electorate's intent, Stokes used only 40 data points -- the two-party percentage margin in each district. Stokes claimed that, due to widely varying voter registration and turnout rates in each district, this formula would be more representative of the will of all constituents in that district. And that assumes that non-voters have the same preferences as those who actually showed up to vote.

This may be true in theory, but it is not supported by the data in practice. I examined election results from the past five legislative cycles, which is exactly what Stokes would have done. I found 19 instances where one party or the other did not field a full slate of candidates for either the

Senate or the Assembly, which represents a not insignificant 6 percent of all the legislative races during that period. And moreover, of those 19 cases, 14 of them were instances where the Republicans did not field a full slate. In other words, that means that 14 of the data points that would be used in the Stokes' fairness test would produce a result at or near a 100 percent result for Democrats, compared to only 5 cases where we'd get the same result for Republicans.

This would falsely skew the overall vote share result towards the Democrats -- unless you actually believe that there were no minority party votes in those districts at those times when the slates were not filled.

Even if the proposed formula did not face these problems, trying to codify this fairness doctrine in constitutional language is akin to making the ghost of Dr. Donald Stokes a member of this Commission in perpetuity. This is simply not something that should be written into the Constitution. In fact, recent changes to Ohio's legislative redistricting process -- which were approved by voters there just a couple of months ago -- include a fairness provision that provides sufficient leeway for the members of their commission. It states simply that, "The statewide proportion of districts whose voters, based on election results during the last 10 years, favor each political party shall correspond closely to the statewide preferences of the voters." And while that full provision does use what I believe to be a false metric by including non-legislative elections, the language is broad enough that it allows for each decennial commission to negotiate its meaning while incorporating emerging standards, such as the principle of communities of interest, which has been largely ignored in New Jersey's process.

More importantly, the Ohio standard also states quite clearly, and I quote, “No general assembly district plan shall be drawn primarily to favor or disfavor a political party.” And it is on this standard that SCR-188 fails miserably.

Because this resolution was introduced less than four weeks ago, I have not had the same opportunity to run vote simulations on potential outcomes, as I am sure its supporters have been doing for the past few years. However, I have been crunching numbers in New Jersey for long enough to know when something smells fishy.

The process in paragraph 2d claims to create competitive districts, but actually entrenches a permanent Democratic majority by using a tortured definition of the word *competitive*. In reality, competitive districts drawn using this provision in the 2021 process would almost certainly range from a smaller but definite Democratic advantage, to an absolutely solid Democratic advantage.

I had the opportunity to run a few numbers this morning, and I looked at the statewide totals for those statewide races over the past 10 years. Statewide, there is an 8-point Democrat advantage. However, the formula that is defined in paragraph 2c can be manipulated to create an average district standard as high as 12 percent as a Democrat advantage. Which means a competitive district, as defined in paragraph 2d, would be anything that produces from between a 7 percent Democrat advantage to a 17 percent Democrat advantage. That would be defined as *competitive*.

I should say, while this could actually be aligned with the fairness doctrine, it defies any commonsense usage of the term *competitive*. For most voters, the word *competitive* means that either party has a decent

shot of winning the seat. It does not mean that one party simply won't lose as badly as the candidates across the rest of the state.

Over the past two decades I have had the privilege of hearing the opinions of hundreds of thousands of New Jerseyans. And I can say, with certainty, that our state's residents want a truly competitive legislative map. Indeed, you need look no further than election returns, which consistently show that competitive elections produce higher turnout.

So I am left to wonder why the drafters of this resolution would use the word *competitive* to describe an outcome that is not competitive according to voters' vernacular. And I am left with only one conclusion. This is a bald-faced attempt to pull the wool over voters' eyes, making them complicit in a process that will only serve to increase their cynicism about politics. Anyone reading the ballot question and the interpretive statement about creating competitive districts would come away with a far different interpretation of what that means than what the proposed constitutional language will actually produce.

I fully endorse revisiting how our Legislative Redistricting Commission operates. But if a fuller process for public input is a good idea for the Commission, then it should also be a good idea for the legislative process by which these constitutional changes are proposed. And therefore, I hope the Senate will table this resolution when it comes up for a vote.

Thank you very much.

SENATOR WHELAN: Thank you.

Mike.

**MICHAEL EGENTON:** Thank you, Chairman.

For the record, Michael Egenton; I'm the Executive Vice President with the New Jersey State Chamber of Commerce.

Patrick laid out, in very great detail, many of the concerns of the State Chamber. I'll summarize.

We have concerns on the process and the uncertainties; a lot of questions. You heard from our President, Tom Bracken, earlier that we and our organization -- as do the citizenry of the State of New Jersey -- consider the Constitution as the Holy Grail. And an issue like this should not be embedded in the Constitution.

I'm a public policy wonk, much like my colleague, Patrick here, and my friend Ingrid Reed. When I see issues like this, it really raises the red flag. I have a lot of concern where we have our legislative body, that should methodically have a process in place, to take the time to discuss, dialogue, and debate issues of this nature, respectfully, Chairman. It's too important. And to be doing an issue of this magnitude -- to some of the concerns and uncertainties that Patrick pointed out -- during the waning days of lame duck is of great concern to our organization.

With regard to the uncertainties, we believe that no other state draws districts using a competitive or more favorable-to-a-political party standard like those in this proposal. Since these new standards have never been used in practice, how they will work and who they will fete is the underlying question. It is also unclear how these standards were developed, and why New Jersey's redistricting rules should be so much different from those in other states.

So Chairman, respectfully, we have a lot of concerns, a lot of uncertainties. We're, as I said, disappointed in the process and the

expediency of something that really needs the deliberate process of this body and the State Legislature on an issue of this magnitude.

So respectfully, we oppose SCR-188.

Thank you, Chairman.

SENATOR WHELAN: Thank you.

Patrick, have you been able to give us copies of your statement?

MR. MURRAY: Yes.

SENATOR WHELAN: You went into great detail.

Okay; we have that?

MR. PARISI: Yes.

SENATOR WHELAN: Okay, thank you.

I appreciate you being here.

Greg Quinlan and Gayle Casas.

UNIDENTIFIED MEMBER OF AUDIENCE: (off mike)

She's up at the other hearing.

SENATOR WHELAN: She's at the other hearing; okay. Well, she's opposed.

James Simonetti.

Greg.

UNIDENTIFIED MEMBER OF COMMITTEE: It didn't turn on. (referring to PA microphone)

**REVEREND GREGORY QUINLAN:** It didn't turn on?

UNIDENTIFIED MEMBER OF COMMITTEE: There you go.

REVEREND QUINLAN: Ah, now red means go; okay, good.

Just trying to find my testimony here.

Very quickly, I'm with the Center for Garden State Families, and also with the new political action committee called New Jersey for a Conservative Majority.

SCR-188, to amend New Jersey's, what I call, *New Deal Constitution*, is highly irregular and actually alienates the voters.

The biggest problem I have with this bill -- which was so succinctly talked about already by the two gentlemen earlier -- is, fundamentally it seems to be lockstep following a leader that we had in the last century. When he took over his country, he didn't do it with guns; he did it with devices like SCR-188 and other means of manipulation in his government before he became a threat to all of Europe and the world. That was Adolf Hitler.

This SCR-188 is fascist. It is a one-party rule. And I would really urge the Democratic Party in this state to truly act like Democrats and support the democratic process, and actually have a fair and open process where redistricting takes place. Other states do it; Iowa does it. Iowa makes many of its districts swing districts on purpose. But here in New Jersey it's about power and control. It's not about the citizenry.

And in case you haven't noticed, most of the people who are registered to vote in New Jersey don't acknowledge a party whatsoever. The vast majority of registered voters are unaffiliated. And it hasn't hurt the Democratic Party in the process we have now. Look at the majorities you have.

I'm deeply disappointed in the Republican response because, quite frankly, the Republican Party, in this last election, ignored its own voters, its own membership.

But I believe that right now what this has done -- Mr. Scutari's bill, which he is doing on behalf of Senator Sweeney -- is a takeover for one-party rule. That is antithetical to any Constitution, including New Jersey's and our Federal Constitution.

So, therefore, we oppose ACR-188. (applause)

SENATOR WHELAN: Thank you.

James.

**JAMES SIMONETTI:** Good morning, Chairman; good morning, Senators.

My name is Jim Simonetti; I'm a 32-year career law enforcement veteran. I'm a PBA member; I'm a Chief of Police.

My wife and I run Antler Ridge Wildlife Sanctuary, a nonprofit wildlife sanctuary in Warren County, New Jersey. I'm not a political person; I've never run for office, I've never gotten involved in party politics.

But I got involved this year to run for Sheriff in my home county because I see so much wrong with the political process. SCR-188 is just more evidence of what is wrong.

Legislative seats should be (*sic*) cut in a way to favor one party. That's wrong. Every citizen should have the choice of candidates from several points of view, and every district should reflect that.

I'm just a layman talking, but there is a perception out there that the Republican Party is tougher on crime than the Democrats. Maybe that's the case; maybe it isn't. But the perception comes from things like Megan's Law, passed when Republicans ran the Legislature; and then Jessica's Law, whose passage was delayed for years in New Jersey by the Democratic leadership. Our state, which has led with Megan's Law, ended

up being almost last in America to pass the Jessica Law. It should be easy issues to understand protecting the children from violent sexual predators.

The death penalty was scrapped under the Democratic Administration by a Democratic Legislature. Last year, the Democrats in the Assembly passed legislation that, had it not been corrected in the Senate, would have prevented employers from knowing criminal backgrounds of prospective employees. This is a dangerous legislation. Employers have been victims of home invasion because they didn't realize who they were dealing with. People have the right to know.

That is why I'm concerned with this change in our process of representative democracy that doesn't treat both parties neutrally. And especially the process that favors the party perceived being softer on crime, whether or not that perception is justified.

Thank you for allowing me to address you; and I'm opposed to the bill.

SENATOR WHELAN: Thank you.

MR. SIMONETTI: Thank you, sir.

SENATOR WHELAN: Thank you, gentlemen.

Ingrid Reed and Richard Miner.

**I N G R I D W. R E E D:** Hello, my name is Ingrid Reed; I'm pleased to be here with you today. This is a very important topic.

I was previously the Director of the New Jersey Project at the Eagleton Institute of Politics at Rutgers. And we spent a lot of effort and time -- it was quite engaging for the students to study redistricting and produce the most up-to-date book on redistricting, including a long chapter on New Jersey.

I'm here to say that if we had had more chance to discuss this, the first part of this proposed Constitutional amendment should definitely be on the agenda for voters to approve. They need to know that we are now in the 21st century and have a modern process, that includes the public, for conducting this important apportionment matter.

I also think that it could have been very easy to add *competitiveness* to the paragraph that really outlines the values -- the kinds of things that we want to see addressed in a fair plan for redistricting. It's the middle part that I think undermines the, really, reform effort in New Jersey that we should all be proud of -- that this decision about who draws the districts is a joint effort of the two parties, and no formula is provided for how it should be done. It's up to them to negotiate it and respect that negotiation.

They use data, obviously: election results, geographic lines, concern for diversity -- all of those are set out as what should be part of the process. But nobody dictates the formula of how to do it. And I think that this reform effort, that New Jersey should be very proud of -- a Commission equally Republicans and Democrats that decides how these values play out in the districts -- is really undermined by what is set out in the second part of this proposed amendment to the Constitution.

So this could be a very positive result for New Jersey -- to have the Commission modernized and made much more favorable to public input. And to put competitiveness -- which is a problem, we all know it -- if we could all discuss it and what the result is if we don't have competitive districts.

But to provide this kind of instruction to the Commission undermines, I think, what it was intended to do and its value of being able to have both objective and subjective deliberations.

So whatever party benefits -- that's not the point. The point is how the process is conducted; and I think this very specific information about how competitiveness should be determined really undermines the process.

And I have my testimony here for you.

SENATOR WHELAN: Thank you.

Richard.

**RICHARD T. MINER:** Thank you for holding this hearing.

I only heard about the Senate version at about 8 o'clock this morning.

I want to say I support the people who feel that this was designed to create a one-party system in New Jersey, and we feel there should be a competitive two-party system.

I think the comments by the police officer -- that some very important things have passed under Republican control in the past, and the Democrats have various issues they want to put through--

The point I want to make that's slightly different is, one of the most fundamental principles of our Constitution -- really adopted before the Constitution by all 13 of the colonies as they turned into states -- was called separation of powers, which came from Montesquieu. And bringing the Chief Justice of the Supreme Court in might sound like it's making it unbiased and making the system more fair. But he was appointed by a particular party, and it really destroys separation of powers to have the

Chief Justice get involved, in the beginning, to appoint the tie-breaker -- to assure that his party will get the better result. And I think this is a breach of one of our fundamental principles that both the Federal and the State Constitution were based on.

I agree with the speakers that we should have a very competitive system so that we have a lot of competitive districts, with either party having a chance of winning.

Thank you very much.

SENATOR WHELAN: Thank you; thank you, both.

William is not here?

**BARBARA EAMES:** He's upstairs.

SENATOR WHELAN: Okay.

John Tomicki; want to come up, John?

Go ahead, Barbara.

MS. EAMES: Good morning. Thank you for an opportunity to speak this morning.

I'd like to echo some of -- about the blatant attempts to create an unbalanced system here, where one party will have dominance over another. It's the same thing I spoke to in my earlier remarks about George Washington and factions, and that's clearly what's going on in New Jersey. And Patrick Murray underlined it even more strongly than I could have this morning.

As a member of the public, not one of the special interest groups, we are just beyond expression of our frustration with the political control in New Jersey. It's not about the people. And if I had a message to speak this morning, it would be the language of liberty -- which no longer

exists in this state, which is so corrupt and so wound up with a political partisan party process. And it seems to be getting worse and worse rather than any better in New Jersey.

And as a conservative, I feel I have no voice in this state anymore. And the Republican Party in New Jersey has been so marginalized for such a very long time -- we have a Republican Governor, but the policies as were spoken to -- taxes and people leaving the state -- it seems to get worse and worse no matter which party is in power.

So the fact that we have a Chief Justice who is the tie-breaker is ridiculous, when he is -- we know he's not Republican or a conservative. So when you appoint him as the tie-breaker, which way do you think it's going to go?

I speak personally as someone who lives in Morris County. And in 2011, after the recent redistricting, my town and five others -- six towns altogether in Morris County -- were taken into a district -- 27 -- which now is represented by Democrats. And in two intervening elections, Republicans have attempted to run, and have been unsuccessful. And so we are now in one of those new districts that was gerrymandered to support Democrats. It seems a rather futile purpose to try to run Republicans in our district.

And I speak from personal experience, because my husband ran for State Senate against Dick Codey in the first election of 2011. And trying to unseat a 40-year incumbent is obviously very difficult.

But the people don't have a role in here anymore; it's a fight between the parties, and we're just marginalized. The public doesn't have any participation in this process. It's the parties who are deciding.

So I would just like to say that if you go back to the 1844 Constitution -- the second Constitution of this State -- the districts were actually aligned by county, so that Republican -- largely Republican, almost overwhelmingly Republican -- Morris County would remain so. But with the 1966 Voter Rights Act, then you had to balance districts, and so now we've been grabbed into a Democratic district. And so we are now controlled by the other party, and probably will forever more be done so.

This should not be in the Constitution, as with the pension issue. There are important issues here. Constitutionalizing this-- As George Washington spoke in his remarks about, "Changing the Constitution forever after binds the hands of the legislature." And the three branches of our government were set by our founding fathers to be independent; they no longer are. But by having the Supreme Court Justice have ultimate veto after you have a gerrymandered system set up by the Democrats -- it's a farce to say we have impartial redistricting in this state. Putting it in the Constitution is bad public policy.

I thank you for your time.

SENATOR WHELAN: Thank you.

John.

**J O H N T. T O M I C K I:** Good afternoon, Mr. Chairman and members of the Committee.

My name is John Tomicki, Executive Director of the League of American Families. We represent about 100,000 households in the State of New Jersey.

We wish to be fully associated with the remarks of Mr. Murray. We're not going into the detail that he did; you'll have his statement. It is

extremely correct. I would hope that in the rush of trying to get this on the ballot for November 2016 -- is a huge mistake.

This proposal, as we have testified, first, at the Assembly Judiciary Committee-- We were the only organization that was there on that particular day. It only took 17 minutes to have that thing go running through. As I told most of the legislators at the Assembly, "You're all better than this."

This morning's discussion or colloquy between the Minority Leader and the Senate President-- I'm glad to see a country where we can have differences; we can debate them with vigor and passion, but there is, at least, mutual respect -- and I would even say *love*. You serve here because you enjoy it; you want to serve, not rule. This is a mistake. This particular proposal does not match with *Baker v. Carr*. You're dealing with a Supreme Court decision that may change (indiscernible), in *Evenwel v. Abbott*. It's a mistake to even move it, at this point in time.

Senator O'Toole was correct at the Senate Judiciary Committee meeting when he, in effect, looked at it and said, "Why, if we're going to go in this direction--" I'm saying, right now, why the rush? This is years away. We have time to deal with it. If we really want to look at ways to make the system better and fairer -- the current map is unfair; prior maps-- I've been here through four maps. It's unfair; it doesn't work. They are politically gerrymandered.

Now, the maps that Mr. Murray drew and the Bayshore Tea Party drew try to respect county lines, try to respect community interests. They weren't looking at parties. So what you're doing right now -- this is a

massive mangling of principles, constitutional and fairness. It is wrong, it's wrong-minded. You're all better than that.

I would hope if the Senate President decides to post it for a vote that you will abstain. You will say, "What we should do, at this point in time, is, one, wait for the Supreme Court decision. We don't know what's going to happen; we kind of think we know what's going to happen. How does it match *Baker v. Carr*?"

The point Mr. Murray made was exactly correct. Believe it or not, nonvoters have an interest. So right now, you're basing your current breakdown based upon population. Well, what do we mean by *population*? Are we talking about citizens? Are we talking about undocumented visitors? What are you really doing? So now, all of a sudden, we're shifting it over to voters. And I don't have a statistician as good as Mr. Murray to try to work it out. I have lawyers looking at it; we think this thing is subject to a complete attack on the Constitution -- within the State and the Federal Constitution.

So now we're going to move over to -- what are we doing with citizens, what are we doing with undocumented? Now we're going to have this formula which you can manipulate based upon who votes. Who is going to start putting more money into certain campaigns, under Citizens (indiscernible), to start influencing voter changes in certain maps? This is just wrought with changes.

Then we look at the other issue. Your former map was supposed to be compact. It didn't turn out to be that way. It's unfair; that's why the gentleman who came up here on his own saw something, and

said, "This isn't right." You're building cynicism. You're all better than that.

Now, the members -- and I'd like to point out, because I'm thinking of a particular Senator from Essex County who should be upset about this because it says, "The members should be ethnically and racially balanced." So are the Minority and the Majority Leaders going to sit down, "Hey, make sure that we have the right kind of ethnic make-up." But what about gender? Gender was left out. Are we going to now say that maybe that should be put in?

Now I'd like to read the section where you talk about community interest. Just listen. A community of interest shall mean "a geographically contiguous population sharing common interests relevant to a legislative process" -- what does that mean? I don't know what it means -- "such as trade areas." What does that mean? I don't know what it means. I don't know how to break this down. "Communication and transportation networks." So I guess we have to think about Amtrak and buses. You know, what standards are you now beginning to set. "Media markets or social, cultural, and economic interests." So I guess, since I happen to be a lover of kielbasa, I better find a Polish area I can get into -- into a district, so I can get decent kielbasa, which I normally can't get. But my wife doesn't want to eat pork anymore; and one of our members is a vegan. So what am I going to do with that? I do not understand.

It is so hard-- And I like to throw this out, because I remember it from my Jesuit education -- Pliny the Younger -- "A super abundance of laws is the sure sign of a decline of a civilization." (*sic*) And by God, we're here; but we're all better than this.

I've been down here-- And I'm going to keep using-- I'm now 82; I don't know how much time I have left. I hope I have a hell of a lot more fun, because I enjoy the public policy debates -- and you all do. There's a mutual respect here, even though we compassionately decide what we're going to do.

And what Mr. Murray pointed out is exactly correct. The interpretive statement-- Now, you tell me who's going to come into the voting booths-- I haven't been to enough of the voting booths to know how they're configured with the new computers. Remember, I thought an *Android* was a comic book character; I didn't understand what it was, because I'm still in the paper-and-pencil stage. You'll have to just deal with it.

But when I read the interpretive statement of 11 paragraphs -- who is going to go into a booth and read that, or understand that? If they're doing it, did they get the paper ballot ahead of time to read it and evaluate it? But let's read about it. This is a sucker language -- I hate to use that, but I don't know who drafted it. I can't believe any one of you, including the Assembly Committee members, had anything to do with the drafting of this. But listen to it.

"Do you approve requiring the Commission to establish districts that are competitive and fairly represent voter preferences?" Well, sure, I want that; I absolutely want that. But that's not what this does. That's disingenuous, it's dishonest, and it probably-- I don't know-- I have two lawyers right now -- volunteering, thank God -- to analyze: Can we challenge this even if you decide to move forward? So I really urge you not to do this.

Separation of power? Definitely there. The Chief Justice should not be involved in any matter. It looked like a nice compromise-- And, by the way, Barbara, I'm very glad you have the 1844 Constitution. I have a copy at home, and I've also gone through the 1947. (laughter)

Ladies and gentlemen of the Legislature, you took an oath of office to support the Constitution of New Jersey. That has a pledge at the beginning of it that you are going to try to pass what rights we have, unimpaired, to succeeding generations. This destroys it. It becomes one-party control. And I don't want it Republican-controlled; I don't want it Democrat-controlled. You want people who-- And as I work certain times helping candidates develop positions, I said, "If you tell me you're running for office, I'm not going to help you. If you're standing to serve--"

And I know almost all the legislators except some of the new gentlemen-- I've had a chance to meet with one of them who is of the other party; and he's already interested in what we're doing on a particular piece of legislation. Many of these issues -- there is no Republican answer or Democrat answer. There is just a commonsense answer based upon the traditions and cultures of our country and the State. This proposal does not (*sic*).

I really beg -- this time I'm begging, Mr. Chairman, more so than ever. Because I know you; you are an educator. We also know, from my days-- I never made the Olympics; but I wish I could have, because I just couldn't handle the (indiscernible).

SENATOR WHELAN: Neither did I, John. But go ahead.

MR. TOMICKI: But it's like -- I wish I had been able to go to participate at that level, because we both had the same swimming coach,

way back. And by the way, my record -- this is an aside; you're going to put up with me for 30 seconds more -- in the City of Philadelphia, in the individual medley, can't be broken again because they took the pool down; there are no more 20-yard pools. That's the way you want to keep yourself in the record book. (laughter)

But I really urge you -- don't move on this. You are all better than that.

I wish I could have time; I wish the Senate President had been here, because he's better than this. He did not get involved in the drafting of this. I don't know who did; I don't know where this came from. I hope some day we find out who it is and ask them to take a new course on constitutional principles. But I really urge you and beg you -- this is wrong-sided, it's the wrong time, and it mangles our process which I think all of us want to be proud of.

And I thank you for listening to me.

SENATOR WHELAN: Thank you; thank you, both.

Dr. Maria Teresa Montilla.

And Gail Miner signed up, opposed, no need to testify.

I think that's it. If there is anyone else who wants to sign up, they can come up and sit with Dr. Montilla.

**M A R I A T E R E S A M O N T I L L A, M.D.:** So I'll do the closing remarks. (laughter)

Good morning -- afternoon, I think, Mr. Chairman, Minority Leader, members of the Committee. I thank you for the opportunity.

Should I repeat--

SENATOR WHELAN: Go.

DR. MONTILLA: I thank you for the opportunity to address you on this very important issue.

I'm Dr. Maria Teresa Montilla, President of the Latino Leadership Alliance, which is the advocacy organization for Latinos in New Jersey.

Today we are appearing before you opposing SCR-188, for various reasons.

The first one was the one eloquently exposed by political scientist Patrick Murray in his statistical analysis of why this formula is not right; and also including his invoking of the ghost of Donald Stokes.

But we oppose this amendment -- this resolution because it disenfranchises 75 percent of New Jersey's registered voters. It literally alienates New Jersey's independent, unaffiliated voters, who are the majority, and the nicest shot of fair representation to the Latino community in New Jersey. That should not be constitutionalized.

See, despite their status as the largest minority group in the United States, Latinos are dramatically underrepresented in elected office. Although with a population of approximately 55 million-plus in the United States, making up 17 percent of the nation's population, there are only 28 Latinos out of 535 members of Congress. And this pattern of underrepresentation extends to the State level. In New Jersey, Latinos are approximately 18 percent of the population, but only hold 1.2 percent and 10 percent of State offices. That's 3 out of 40 Senators and 8 out of 80 Assembly members who are Latino.

This level of representation, however, is a high point for Latinos, since most of 1980s and 1990s the representation in Congress, for

example, lingered in the single digits. The increase of Latino office-holding during the 1990s and later on can be attributed, in part, to the passage and implementation of the Voting Rights Act, which facilitated the establishment of numerous majority-minority districts, in which minority voters constitute a majority of the relevant population, be it total population, voting-age population, or citizen voting-age population.

The majority-minority districts remain the primary means through which Latino communities can elect their preferred candidates. And at the center of this decision, or this principle, is fair representation of all communities -- which is, by definition, the aim of the redistricting process every 10 years when it adjusts to reflect the changes in population.

See, following the 2010 census, there was much anticipation surrounding the tremendous growth of the Latino community in the state and in the nation, and the changes that this would cause to the political map of the state. The boundaries of the 13 Congressional districts and the 40 State Legislative districts would almost certainly be re-drawn to make them more equal in population. County freeholder districts in three counties and municipal wards in over 60 communities would be re-examined and revised for equal representation. In addition, the distribution of seats of 70 regional boards of education would have to be revised and, ultimately, the local election districts throughout the state would have to be re-drawn to conform to all of the other new boundary lines so that elections could be run efficiently.

That would not be; it would not be.

There was much hoopla made by the Reapportionment Commission about communities testifying, and its commitment to ensuring

that the new legislative districts would reflect the changes in population and would conform to the principles of being contiguous, compact, and not divide communities of interest. There was much discussion about *packing* and *cracking*; and there were even advocacy organizations like the Latino Leadership Alliance of New Jersey, the Dominican American National Roundtable, and the Bergen County League of Women Voters who proposed maps and testified before the Commission in justification of such maps. Pretty much the same issues that were grappled with in 2001, when Democrats took heavily minority districts and distributed their mostly Democratic voters into whiter, more Republican districts, giving the party an electoral advantage. Republicans took Democrats to court, if you remember, accusing them of diluting minority voters' clout. But the Democrats successfully argued that doing so would help elect more minorities to the Legislature.

In the end, instead of redistricting being for the purpose of reflecting the changes in population to guarantee compliance with *one person, one vote* requirements, it became a tool for political parties to maintain or obtain jurisdictional control. The parties settled on maps that protected their controlled districts.

Latinos remained grossly under-represented in the State of New Jersey.

Now comes Census 2020, and the next round of the redistricting process. And we begin by plotting how we will take control again.

Regarding constitutional amendment SCR -- or, in the case of the Assembly, ACR-4, Assembly Majority Leader Louis Greenwald said,

“New Jersey is a diverse state with continually changing demographics, and we want to make sure this uniqueness is respected and represented. Ultimately, these changes will create a more fair and transparent process, one that is truly representative of the people, and even more inclusive.”  
End of quote.

That is not so. That is not what this constitutional amendment will do. The proposed amendment would increase the membership of the legislative Apportionment Commission -- which we agree with -- and will impose certain requirements on the process and composition of the districts established by the Commission for the New Jersey Legislature, supposedly. We agree with an increase in the members; we agree that the independent member will be appointed early; and we agree that competitiveness should be at the heart of this process.

But this is not exactly what this amendment does. This amendment would make redistricting occur based on averaged polling data from statewide elections in a way that, very eloquently, Mr. Murray pointed out: It brings back politicians into the process, something that we thought we were done with in 1966. And by saying that elected officials will now be members, but assigning the political leadership -- the party leadership members to appoint members to the Commission, it brings them back with a force. It would literally disenfranchise 75 percent of the voters that would be predetermined in districts that already are controlled by one party or the other. And this is not even mentioned -- what it would do to independent voters who are the majority in this state, at 2.1 million in this state.

Fortunately, the proposed amendment is being introduced at a time when the U.S. Supreme Court is considering a case that well might

affect State legislative redistricting with a ruling that could kill this bill in the water. Chances are, we hope, that the U.S. Supreme Court will continue to apply the total population method, articulated in the 14th Amendment, to State legislative redistricting, and reject the Evenwel challenge -- we hope.

In any event, redistricting suddenly has occupied center stage, four years in advance, and will be on the voters' minds this year. If the outcome of this process is more competitive legislative elections and more opportunities for underrepresented communities, it may drive up voter interest and turnout. If it fails to reflect the fastest-growing community in the nation -- Latinos -- with opportunities for fair representation, it will end up in court.

I'm going to end. I have included some suggestions as to what we could do. But in the interest of time, I will just submit my comments to you.

But I would end up with comments made by Monmouth University political scientist and pollster Patrick Murray, who put it in a testimony back in 2011. "I speak to you as an independent voter. In competitive districts, we would make the difference. Your absolute rule is not to diminish the standard of competitiveness. A competitive map is a fairer map in every sense of the word."

I urge you to consider a more proactive definition of *competitiveness* -- one that creates the highest possible number of competitive legislative districts with just representation of New Jersey's population.

Thank you.

SENATOR WHELAN: Thank you very much.

Dominick Cuzzo has signed up to testify -- or not to testify, but indicate he's opposed to the bill, but no need to testify.

And I think you signed up, and we called you, and you were not here.

So what was your name, please?

**GAIL MINER:** Gail Miner.

**SENATOR WHELAN:** Okay; Gail, please.

**MS. MINER:** Okay, sure.

Thank you. I'm Gail Miner--

**MR. PARISI:** Do it again. (referring to PA microphone) Press the button again.

**SENATOR WHELAN:** There we go.

**MS. MINER:** Got the light; thank you.

I'm Gail Miner, and I'm here just representing myself.

I want to say that I was so surprised when somebody presented this proposed legislation to me, and I read about the redistricting amendment to the Constitution. And I didn't know whether to laugh or cry, let me tell you.

I'm going to be very brief; I just wanted to make a short comment.

It was so-- Anybody who has paid attention to the State Courts in New Jersey can see this is just a -- you're just thumbing your noses at the taxpayers. And you are taking the fox -- he's not watching the henhouse, you're putting him in the henhouse.

So I urge you, respectfully, to drop this ill-conceived legislation to amend the Constitution of the State of New Jersey.

SENATOR WHELAN: Thank you very much.

I don't think we have anyone who--

UNIDENTIFIED MEMBER OF AUDIENCE: Yes, there was.  
There was a woman who was called; she was upstairs, Senator.

SENATOR WHELAN: Okay.

And what was your name, ma'am?

GAYLE CASAS: Hi, my name is Gayle Casas.

SENATOR WHELAN: Okay.

MS. CASAS: I was upstairs, because there's an identical bill,  
ACR--

SENATOR WHELAN: We all know the feeling -- running  
back and forth.

Go right ahead.

MS. CASAS: Thank you for letting me speak.

Good morning, esteemed members of this Senate State  
Government Committee. I'm here today to urge you not to let SCR-188  
leave your Committee -- as it promotes partisanship, as opposed to  
bipartisanship; and as it leaves your constituents and all of New Jersey's  
citizens with much less of a political voice.

SCR-188 gives unfair advantage to whichever party maintains  
the majority, and that is not equitable. The people of New Jersey should  
not be limited to influence the elections of Assembly and Senate members  
in only 25 percent, equaling 10 of the 40 districts, in the state. They  
should have influence over the elections of their State representatives in all  
40 districts.

New Jersey voters deserve and should have as large of a voice in their government as they desire, and no legislation should seek to reduce their voice.

SCR-188 adds an automatic 11th member to the Apportionment Commission, in addition to the usual 10 members -- the 11th to be chosen by the Chief Justice of the Supreme Court of New Jersey. Presently, an 11th member is only brought in to overcome deadlocks in decision-making, and this type of arrangement puts more pressure on the bipartisan group of 10 to reach a fair and properly vetted conclusion. The automatic addition of the 11th member, as proposed by SCR-188, will tip the scale in the direction of the dominant political party in an unfair way from the very outset of any discussion of redistricting; and it will fix and assure the outcome before any meaningful debate can occur.

The number of members chosen by each party's State Committees is being reduced to three from the usual five to allow legislative leaders from both major parties to each appoint one member -- which will lead to additional bias in the member selection process.

Additionally, giving only 48 hours' notice to the public about public meetings regarding redistricting is insufficient. The public should be given at least five business days' notice of any committee meetings so that they can plan to attend, if they are able.

Please reject SCR-188 because the people of New Jersey, your constituents, deserve to have a very strong say -- as opposed to a greatly diminished say -- in which representatives are elected to represent their interests.

Thank you very much.

SENATOR WHELAN: Thank you.

Again, I don't think anyone else has signed up. We appreciate everyone who has testified. I'm sure some of my colleagues, here, may have a comment or two.

Senator Cardinale.

SENATOR CARDINALE: Thank you, Mr. Chairman, through you.

This SCR is defective, on both a process basis and a policy basis. A number of witnesses have indicated, "Why are we in a hurry? We're not scheduled to do this again for another four years." What is impelling this urgency, in just a few days-- Yes, we have had some hearings; and at today's hearing we did have more people who came in to testify than at the prior hearing, where only a few people came to testify. I was there; it was at the Judiciary Committee.

But it is very interesting to note that among the people who came to testify, I don't recall there being any here today who testified in favor. And it's well-known that there was a particular group -- an interest group that drafted this. It was not the sponsor who drafted it; I know him, he's a good guy. He would not have drafted this kind of piece of crap.

Does that interest group -- are they ashamed of their work? Are they ashamed of their attempt to lead New Jersey down the path of a banana republic? They should have put in this, "We're going to exhume King George; make him into the 11th person, so that he can make all the public policies." This country was established because the people did not want to be ruled by King George; they wanted representative democracy. It wasn't over taxes; it wasn't over tea. It was over representation. And what

this blatantly says is, 75 percent of the people -- their votes won't count; 75 percent of the people in the State of New Jersey -- their votes won't count. We're going to predetermine the outcome of those elections. And you know, technically, even in the other 25 percent, the terms of this -- which Mr. Murray so eloquently described -- can be manipulated to determine the outcome just as well.

This process should be an honest one, where we tell the people what they're going to vote on. But if one reads these statements attached to this bill, they're misleading. I favor competitive districts. When I first ran for the Legislature in 1977, I ran in the 39th District for the Assembly, and I lost. The District was represented by three Democrats. In 1979, two years later, under the same map, I ran again -- and I won. And what was the difference? The difference was not a big demographic change in the District. The difference was, the people got to see the policy votes of the folks they had elected, and the people decided they didn't like those policy votes and they got an opportunity to vote for a different policy. And that's the essence of democracy. The people have to be able to effect policy by their votes.

This bill is designed to produce the opposite. It's designed to insulate legislators from people's voting with respect to the policies that they have been following, that they have been voting for. We do not own the votes that we make on the floor. Those votes are owned by the people who send us here. And when we say to those people-- You know, interesting experience. I've served on many Committees. I'm not going to name the colleague. But we were dealing with a vote, and I turned to a colleague from the opposite party, and I said "How can you vote this way?"

It doesn't really -- your constituents wouldn't even like this. Your constituents would probably--" You know what he said to me? He said, "My constituents-- I said, "When they read about your vote, they're going to be angry with you." And he said, "My constituents don't read."

Now, that's a sad kind of statement by an elected representative of the people. But it pales by comparison to this SCR. This SCR will enshrine in our Constitution an insulation from the people who dislike how you have voted, because their vote won't count.

I will hope that the Senate President, who I do believe is an honorable man, will see fit to remove this from the agenda. And let's go back and really work at something that can improve the present the system; because the present system is skewed. Where do we find the honest 11th member? Where do find the honest 11th member -- we haven't found him yet.

Stokes wasn't too terrible; Stokes was dishonest to a little bit. (laughter) But the next two -- they were blatantly dishonest in how they made their determinations, and they said so. They are on the record, publicly stating what they were trying to do. They were not trying to produce competitiveness; they were trying to produce one-party rule. And that's unfortunate.

And that's what we need to address -- if we need to address anything -- is how do we find that 11th member. I haven't got the answer, but perhaps, collectively, if we were honest with one another, we could find a way to come up with a process that would lead to competitive legislative districts.

And I thank you very much for your indulgence.

SENATOR WHELAN: Thank you, Senator.

Senator Kean.

SENATOR KEAN: Thank you, Mr. Chairman.

There are many things that we do in this Legislature that impact the people of the State of New Jersey. And when you vote and this Legislature and the Administration get it right, it's of great benefit to people. If there's a mistake that is made legislatively, it can be corrected legislatively or by the court. If there's a mistake-- But it can be done within a month's time to a year's time; we are talking that timespan.

The map in the last instance and the current instance are flawed maps; that is true. Senator Cardinale explained that. But those can be corrected over the course of a decade. In this instance, however, this is a lifetime decision. This is not a 10-year issue. This will impact the citizens of the State of New Jersey for generations to come. This Democratic scheme would give lifelong tenure to at least 90 of New Jersey's 120 legislators, Republican or Democrat.

It would give, as Senator Cardinale so fundamentally expressed, 75 percent of the Legislature a free pass to fail their constituents, as voters no longer have the basic democratic ability to hold them accountable for their votes, for their decisions, for their constituent services. This is fundamentally against every single tenant of American democracy. No other state in the country has a system that guarantees safe districts for any political party. No Constitution defines *fairness* as unfairly as this amendment process would. This is an amendment that is flawed, not only amongst State law, but among the Federal law. We had individuals testify here where communities would be disadvantaged.

The purpose of our democracy is a bottom-up process. Voters, citizens, constituents, residents come together to determine their future. This would disenfranchise individuals in probably every single community of the State of New Jersey, and it's the exact wrong direction for the future of the State of New Jersey.

I oppose this measure; I know that we will do everything in our power to make sure that the citizens of New Jersey are not subjected to this anti-democratic and unconstitutional provision.

SENATOR WHELAN: Thank you, Senator.

I'm just going to make very brief remarks, just to set the record straight on a few things.

And I hear the concerns that have been raised today, and certainly will consider them going forward.

Let's not kid ourselves. You're not going to have 40 competitive districts. I'm from what could arguably be the most competitive district in the state. And there are, in any given election, a handful of districts that are *targeted* districts and the rest are viewed as *safe* districts, be that Democrat or Republican. So any system you have is going to have, just by the reality of where people live--

It's a pretty safe bet, for example, that in Newark you're going to have Democratic legislators, and in Sussex County you're going to have Republican legislators. That's just the reality; I'm taking two examples, but over-- Probably 30 or more of our districts are consistently going to be in that pattern.

Secondly, this is a constitutional issue. Now, you may not like this bill, but this is in the Constitution now. So if we're going to address this issue, you have to address it in the Constitution.

We also need to acknowledge, just for the record, that the Supreme Court Chief Justice appoints the tie-breaker. Now, whether that appointment comes in the form that this bill suggests, where he's part -- he or she, whoever is appointed -- is part of the Commission from the get-go, or whether he comes in as a tie-breaker, the fact is, we've always used a tie-breaker. So we have always had that.

Again, I will pledge to review the remarks that have been made here today by so many people, including my colleagues, as this moves forward. But I just want to set the record straight on some things. And I don't believe we're going to come out of whatever process this may be and, all of a sudden, every district is going to be competitive. It's just not going to happen.

And with that, we are adjourned. Thank you, all.

**(HEARING CONCLUDED)**