
Public Hearing

before

ASSEMBLY JUDICIARY COMMITTEE

Assembly Concurrent Resolution 4 (1R)

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

LOCATION: Committee Room 12
State House Annex
Trenton, New Jersey

DATE: January 7, 2016
11:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John F. McKeon, Chair
Assemblyman Gordon M. Johnson, Vice Chair
Assemblyman Ralph R. Caputo
Assemblyman Joseph A. Lagana
Assemblyman Chris A. Brown
Assemblywoman Holly Schepisi



ALSO PRESENT:

Miriam Bavati
Rafaela Garcia
Office of Legislative Services
Committee Aides

Keith White
Assembly Majority
Committee Aide

John Kingston
Assembly 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



JOHN F. McKEON
Chair

GORDON M. JOHNSON
Vice-Chair

JOSEPH A. LAGANA
BENJIE E. WIMBERLY
MICHAEL PATRICK CARROLL
HOLLY SCHEPISI

RAFAELA GARCIA
MIRIAM BAVATI
Office of Legislative Services
Committee Aides
(609) 847-3865
(609) 292-6510 fax

New Jersey State Legislature
ASSEMBLY JUDICIARY COMMITTEE
STATE HOUSE ANNEX
PO BOX 068
TRENTON NJ 08625-0068

PUBLIC HEARING NOTICE

The Assembly Judiciary Committee will hold a public hearing on Thursday, January 7, 2016 at 11:00 AM in Committee Room 12, 4th Floor, State House Annex, Trenton, New Jersey.

The public may address comments and questions to Rafaela Garcia, Miriam Bavati, Committee Aides, or make bill status and scheduling inquiries to Denise Darmody, Secretary, at (609)847-3865, fax (609)292-6510, or e-mail: OLSAideAJU@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 compliance with Article IX, paragraph 1 of the New Jersey Constitution and Rule 19:3 of the General Assembly on the following Assembly Concurrent Resolutions:

- | | |
|--|---|
| ACR-1
Prieto/Wisniewski/
Singleton/Lagana | Amends State Constitution to dedicate all State revenues from motor fuels and petroleum products gross receipts tax to transportation system. |
| ACR-2 (2R)
Caputo/Prieto/Schaer/
Vainieri Huttler/Mukherji/
Lagana/Eustace/Caride/
Jimenez/Johnson/
McKeon//Giblin/Oliver/
Spencer/Jasey/Tucker/
Pintor Marin | Proposes constitutional amendment to allow Legislature to authorize by law establishment and operation of casinos in certain counties. |
| ACR-3 (1R)
Prieto | 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. |
| ACR-4 (1R)
Greenwald/McKeon/
Singleton | Proposes constitutional amendment to change membership of legislative Apportionment Commission; imposes certain requirements on commission for process and legislative district composition. |

Issued 12/24/15

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[First Reprint]

**ASSEMBLY CONCURRENT
RESOLUTION No. 4**

**STATE OF NEW JERSEY
216th LEGISLATURE**

INTRODUCED DECEMBER 14, 2015

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman TROY SINGLETON

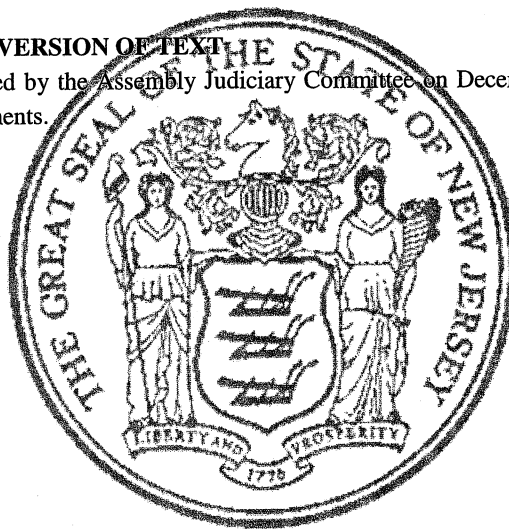
District 7 (Burlington)

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 Assembly Judiciary Committee on December 21, 2015, with amendments.



(Sponsorship Updated As Of: 12/18/2015)

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 General Assembly of the State of New
6 Jersey (the Senate concurring):

7
8 1. The following proposed amendment to the Constitution of
9 the State of New Jersey ¹[are] is¹ 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]~~ ¹[13] ¹¹ members~~], five to be]~~ .
20 ¹[Twelve] Ten¹ of the members shall be appointed as follows:
21 ¹[two] three¹ 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; ¹[two members] one member¹
25 appointed by the President of the Senate; ¹[two members] one
26 member¹ appointed by the Speaker of the General Assembly; ¹[two
27 members] one member¹ appointed by the Minority Leader of the
28 Senate; and ¹[two members] one member¹ appointed by the
29 Minority Leader of the General Assembly. The Chief Justice of the
30 Supreme Court of New Jersey shall appoint the ¹[13th] 11th¹
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 ¹[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:

¹Assembly AJU 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. The Commission shall
36 provide the public with at least 48 '【hours】 hours' 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:

- 1 a. In every municipality in which voting machines are not used,
 2 a legend which shall immediately precede the question as follows:
 3 If you favor the proposition printed below make a cross (X), plus
 4 (+), or check (✓) in the square opposite the word "Yes." If you are
 5 opposed thereto make a cross (X), plus (+) or check (✓) in the
 6 square opposite the word "No."
 7 b. In every municipality the following question:
 8

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 'two more members, one from each major political party and] to the commission' an independent member 'at the beginning of the process', 'to the commission] and changing who appoints some of the members'? 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
NO	<p>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.</p> <p>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] <u>one member</u>'. Presently, all the members are appointed by the chairs of the two major political parties. Under this amendment, each chair would appoint '[two] <u>three</u>' members.</p> <p>The members of the commission would be appointed with regard to ethnic and racial diversity, as well as geographical diversity which is already required.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY CONCURRENT RESOLUTION No. 4

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 21, 2015

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Concurrent Resolution No. 4.

This proposed constitutional amendment would increase the membership of the legislative Apportionment Commission and impose certain requirements on the process and composition of the districts established by the commission for the New Jersey Legislature. Every ten years after the federal national census, the commission uses information from the census to establish new legislative districts. The commission does this to ensure that each district has approximately the same number of people.

As amended by the committee, this constitutional amendment would increase the number of members of the commission from 10 to 11 members. Currently, the chairs of the State Committees of the two major political parties each appoint five members to the commission. This constitutional amendment as amended by the committee would require the chairs of both State Committees to each appoint three members to the commission. This amendment would also require the four legislative leaders from both major political parties to each appoint one member. The legislative leaders are the President of the Senate, the Speaker of the General Assembly, the Minority Leader of the Senate, and the Minority Leader of the General Assembly. The Chief Justice of the Supreme Court of New Jersey would appoint the 11th member. Members would be appointed with due consideration to geographic, ethnic, and racial diversity. No member of the Senate or General Assembly would be allowed to be a member of the commission.

Currently, if the commission fails to complete its work, the Chief Justice appoints one additional member. This amendment would require that member to be appointed from the start of the process, and provide a two-month period for the entire process to occur after that appointment, instead of one month as required currently.

Within that two-month period, the commission would be required to hold at least three public hearings, in different parts of the State and at times and locations convenient to the public. The commission would establish a website, to be administered by the Office of Legislative Services, a nonpartisan State agency, to inform the public

about the commission's work. This website would also allow members of the public to submit plans and comments. The commission would be required to provide at least 48 hours' notice of the public meeting at which a plan is certified to establish legislative districts, including notice of the final proposed plan of legislative districts produced by each political party. The commission would be required to certify the new legislative districts at a public meeting. The public would be given an opportunity to comment.

The commission would be required to certify a plan establishing legislative districts that ensures fair representation. This means that each of the two major political parties is required to have an equal number of districts more favorable to that party, utilizing standards for fair representation originally established by Dr. Donald E. Stokes when he served as the independent member of the commission in both 1981 and 1991. Dr. Stokes described these standards in "Legislative Redistricting by the New Jersey Plan," published in 1993 by the Fund for New Jersey. A district would be more favorable to a political party if the percentage of total votes received in all Statewide general elections by that party for the offices of United States President, United States Senator, and Governor exceeds the percentage of total votes received by that party in the average district in the plan.

The commission would be required to certify a plan with at least 25 percent competitive districts. A competitive district would be described as a district within five percentage points of the average district in the plan. For each competitive district in which a major political party's percentage of total votes exceeds that party's percentage of votes in the average district, there would be required to be a corresponding district in which that party's percentage of total votes is less than the average district by approximately the same amount.

The amendments would require that all districts comply with federal law, in all circumstances, including but not limited to the requirements on population deviation and of the Voting Rights Act or any successor act, and be comprised of contiguous territory. Districts are required to meet the limitations on the division of municipalities as already set forth in Article IV, Section II, paragraph 3 of the New Jersey Constitution.

In deciding among multiple plans that meet the preceding requirements, the commission would be required to consider which plan best preserves communities of interest within each district.

COMMITTEE AMENDMENTS:

1. Change the total number of members of the commission from 13 members in the underlying bill to 11 members.
2. Change the number of members to be appointed by each of the party chairs from two members in the underlying bill to three members, for a total of six.

3. Change the number of members appointed by each of the four legislative leaders from two members each in the underlying bill to one member each, for a total of four.

4. Emphasize that the 11th member is appointed by the Chief Justice of the New Jersey Supreme Court at the beginning of the redistricting process, instead of after the 10-member commission deadlocks in its work, which is what occurs if there is a deadlock under the existing process.

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ASSEMBLYMAN JOHN F. McKEON (Chair): Please open the public hearing on ACR-4.

Roll call.

MS. BAVATI (Committee Aid): Assemblyman Brown.

ASSEMBLYMAN BROWN: Here.

MS. BAVATI: Assemblywoman Schepisi is present.

ASSEMBLYMAN McKEON: I heard a “yes.”

Present; right, Holly?

ASSEMBLYWOMAN SCHEPISI: (off mike) Present.

ASSEMBLYMAN GORDON M. JOHNSON (Vice Chair): I found her, Chair. (laughter)

ASSEMBLYWOMAN SCHEPISI: We were caucusing. (laughter)

ASSEMBLYMAN CAPUTO: Was it a secret?

ASSEMBLYMAN McKEON: Well, now we know how you know what’s going on in a Democratic caucus room.

ASSEMBLYMAN CAPUTO: Was it a secret caucus?

ASSEMBLYMAN McKEON: That mystery is solved.

ASSEMBLYMAN CAPUTO: I hope it wasn’t behind closed doors.

UNIDENTIFIED MEMBER OF COMMITTEE: I knew it was you; I knew it was you, Gordon. You broke my heart. (laughter)

ASSEMBLYMAN JOHNSON: I’ve been discovered.

MS. BAVATI: Assemblyman Caputo.

ASSEMBLYMAN CAPUTO: Here.

MS. BAVATI: Assemblyman Lagana.

ASSEMBLYMAN LAGANA: Here.

MS. BAVATI: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Here.

MS. BAVATI: Chairman McKeon.

ASSEMBLYMAN McKEON: Present.

Okay, ACR-4; Minority Leader Jon Bramnick.

Jon.

Assembly Leader, before you start -- I mentioned it to all of our colleagues when we gaveled out the last time. Relative to this particular ACR, if there are questions of any witnesses, everybody feel free to do so.

A S S E M B L Y M A N J O N M. B R A M N I C K: Thank you, Mr. Chairman.

Good afternoon, members of the Committee.

With all due respect to the friends I have across the aisle, on this one you've gone too far. And those are not my words; those are the words of your friends in the media. And let me quote, for the record, some of the editorials that have been written about this so-called *redistricting plan*.

Our friends at the *Star-Ledger* called it, "A power play that should offend all of us." *Asbury Park Press* wrote, "It is an utterly shameless effort to advance a Democratic cause." And this morning -- and you're going to hear from him soon -- is Patrick Murray, who said, "I'm left with one conclusion: This is a bald-faced attempt to pull the wool over the voters' eyes."

When we discuss bills and we discuss policy on the floor of the house, there are disagreements; and most of the policies have short-term consequences. Redistricting, in this way, has an extremely detrimental long-

term consequence to the voters -- and that is permanent, one-party rule in this state.

And of course, I guess politics is a tough profession; and I can understand why the Democratic Party would like to dominate the Legislature forever under a constitutional amendment. But I would ask all of you to consider what almost everyone in the media said: This is bad public policy, and it no longer gives the public the opportunity to change the Legislature if they believe it's necessary and they disagree with the policies.

I know you're not going to answer questions, but let me pose these questions; and at some point -- hopefully, during the floor of the Legislature, or today -- we'll get some answers.

If competitiveness is the true of goal of this policy, why not call for the most number of competitive districts possible, and allow a Commission to determine which map creates the most competitive map for redistricting purposes?

I would also ask the Democrats: Have you seen any models -- any computers models that have indicated that a true competitive map can be created based on the process set forth in this constitutional amendment? And if you have, and you believe there is a competitive outcome, please provide that to us. I suspect -- because my friends across the aisle are pretty good politicians. And I suspect that you've looked at this every which way but loose. And I suspect that if there was any opening for real competition, this would not be the constitutional amendment you would propose.

I would suggest that politics is the sole reason for this constitutional amendment, and policy is the last possible reason.

I have proposed, early on, a constitutional amendment that actually, in my judgment, would make competitiveness real. And I would ask you, if you somehow post this constitutional amendment for the voters, post my constitutional amendment right next to it, and let them choose between your competitiveness and my competitiveness.

On that, I do want to compliment Patrick Murray for his outstanding writing on this issue. He has testified before the Senate Committee, and I expect him to testify, shortly, here.

In conclusion, Governor Kean once said that 70 percent of the people in New Jersey want us to govern from the middle. If you gerrymander these districts where there is no hope for real competitiveness, we will never have government from the middle -- and that's what I think the people of New Jersey really want.

Thank you very much.

ASSEMBLYMAN McKEON: Leader, thank you very, very much for being here.

And I'm sorry we couldn't call you earlier; we were just going in that order.

ASSEMBLYMAN BRAMNICK: Oh, no; I understand. Thanks for the opportunity.

ASSEMBLYMAN McKEON: All right; thank you.

There are a number of people who have signed up who had no need to testify. But for the record, I'm going to denote that being the case.

Kevin McCarthy of the IFPTE Turnpike Local 194, in favor, no need to testify; Frank J. Walits, opposed, no need to testify; Nancie

Shauger, opposed, no need to testify; Greg Quinlan of the Center for Garden State Families, opposed.

Greg.

REVEREND GREGORY QUINLAN: (off mike): Are you calling me up?

ASSEMBLYMAN McKEON: Yes, sir.

REVEREND QUINLAN: Okay.

Hello. I'm Reverend Gregory Quinlan; I'm with a -- there are two new organizations that have formed: one is the Center for Garden State Families, a foundation; the other one is a political action committee, New Jersey for a Conservative Majority.

ASSEMBLYMAN McKEON: Reverend, I'm sorry. You didn't note as *Reverend*, so I didn't mean to be disrespectful.

REVEREND QUINLAN: Oh, that's fine; no, that's fine.

ASSEMBLYMAN McKEON: Okay.

REVEREND QUINLAN: That's fine. I know who I am; it's okay. (laughter)

All right. I'm here to testify on ACR-4. I'm deeply disturbed by this piece of legislation; deeply disturbed.

To amend New Jersey's New Deal Constitution -- because that really is what the Constitution of New Jersey is, is a *New Deal Constitution* -- it reminds me of something very frightening from our history not so long ago. There was a leader in Europe -- who, without a gun, but through instruments like ACR-4 and SCR-188 and others -- took over his government and made it a one-party government; and his name was Adolf Hitler.

This bill is fascist on its face. This is completely outside the ideals of a democratic society, that operates this Republic with democratic ideals. I would urge this Assembly -- both houses, both chambers, both parties -- to act like they believe in a constitutional democracy and allow democracy to happen, and stop the idea of one-party rule.

In case you haven't noticed, those who do register to vote in the State of New Jersey -- most of them are unaffiliated. They don't care to identify with either party, Democrat or Republican. The voters in this state, as I talked to for years -- for the eight years I've been here in New Jersey -- feel disenfranchised from the government. They have no voice, no place, and no one is listening, because it is all about power.

So I would really urge this body to stop this nonsense, to stop this government takeover, to stop this one-party rule, to stop this fascism. This should not be happening. It is shameful, and you should be embarrassed.

Thank you.

ASSEMBLYMAN McKEON: Any questions for the Reverend?

(no response)

Gayle Casas.

Gayle. (no response)

Gayle signed up to testify, but isn't present.

Gail Milner (*sic*).

UNIDENTIFIED MEMBER OF AUDIENCE: *Milner* or *Miner*?

ASSEMBLYMAN McKEON: Oh, I'm sorry; Miner.

G A I L R. M I N E R (off mike): Gail Miner is here.

UNIDENTIFIED MEMBER OF AUDIENCE: Yes, Gail Miner.

ASSEMBLYMAN McKEON: Opposed.

UNIDENTIFIED MEMBER OF AUDIENCE: No, that is you, Gail.

MS. MINER: I'll defer.

UNIDENTIFIED MEMBER OF AUDIENCE: She defers.

ASSEMBLYMAN McKEON: Oh, okay.

Jennifer Reppert.

Welcome back, Jennifer.

J E N N I F E R R E P P E R T: (off mike) Thank you -- for the pleasure, I might add.

ASSEMBLYMAN McKEON: It's a pleasure to have you.

MS. REPERT: (off mike) Yes, thank you.

I always thought that all politicians were all, like, nasty and would bite my face off. So thank you. (laughter)

ASSEMBLYMAN McKEON: No, we're just that way to each other. (laughter)

MS. REPERT: Just kidding.

Okay, all right. So I oppose ACR-4. This amendment is probably the worst for the citizens and the Republic. It has immense impact on who gets elected; it definitely favors one party. The citizen is completely shut out of the process. It gives feelings of bias.

And also, having the Chief Justice of the New Jersey Supreme Court as a tie-breaker is a complete and utter breach of jurisdiction of authority. The Court's whole reason to exist is to act independently and to evaluate constitutional issues and laws that were created by the Legislature

-- which were elected by the people to represent the people. They should not be involved in party manipulation.

Thank you.

ASSEMBLYMAN McKEON: Thank you very much, Jennifer.

MS. REPPERT: Yes.

ASSEMBLYMAN McKEON: Richard Miner.

RICHARD T. MINER: Thank you, Mr. Chairman.

ASSEMBLYMAN McKEON: Welcome back, Richard.

MR. MINER: The Constitution provides that the courts and judges are to decide cases and controversies as a neutral arbitrator, not as political participants. This amendment will mean that the party of the Chief Justice will always determine the winner of the electoral map.

It violates the fundamental principle of separation of powers. The basic separation of powers really goes back to Montesquieu, and was adopted by all of the 13 colonies as they became states; and then later adopted by the Federal Constitution. The idea is to have three branches of government with checks and balances. The Chief Justice of the Supreme Court should not get involved in these political squabbles over districting.

I think anybody who looks at this interprets it as meaning that one party plans to run the state as a one-party state, as other witnesses have pointed out.

The idea is to give the appearance of impartiality by having the Chief Justice appoint a theoretical unbiased tie-breaker; while, in reality, it is breaching the principles of separation of powers.

Over the past decades, the various changes have benefited one party, but the citizens do not get a right to choose fairly their

representatives to meet their needs. The continuing practice of involving the Chief Justice of the New Jersey Supreme Court as a--

ASSEMBLYMAN McKEON: Richard, I don't mean to stop you. Would you make sure your button is depressed? (referring to the PA microphone)

MR. MINER: Oh, I leaned on it; it was pressed.

ASSEMBLYMAN McKEON: Yes, it was back-and-forth. We lost you for a moment there.

MR. MINER: Oh, yes. I had my hand on it. Sorry.

ASSEMBLYMAN McKEON: Well, no worries.

MR. MINER: But my basic point is that involving the Chief Justice of the New Jersey Supreme Court in a purely political endeavor is a breach of their judicial purpose, and it is very poor public policy. The courts are there to decide independently and evaluate constitutional issues, and not to be a party involved in the political manipulations.

So I think this amendment should not be posted because the explanation will not adequately inform the public of what they are voting on.

Thank you.

ASSEMBLYMAN McKEON: Thank you, Richard.

Any questions for Mr. Miner? (no response)

Seeing none, I'll call upon Albert French (*sic*), Citizens for Positive Change-Passaic County; opposed.

Welcome, Mr. French.

A L B E R T G. F R E C H: Thank you. It is *Frech*, by the way. (indicating pronunciation)

ASSEMBLYMAN McKEON: You know what? Either I can't-- I need glasses, which is probably true, or everybody needs to write better.

ASSEMBLYMAN JOHNSON: Or both.

UNIDENTIFIED MEMBER OF COMMITTEE: There you go.

MR. FRECH: Okay. Am I on here? (referring to PA microphone)

HEARING REPORTER: Yes, sir.

MR. FRECH: Yes; now I'm on, right?

Anyway, thank you. I'm glad to be here.

It's very interesting. I've heard a lot today; very interesting information coming out -- unfortunately, most people, like (*sic*) myself, can't be here. They're working, so they don't get to hear some of this. So they're in the dark; they're confused.

But I did hear, and I've heard a number of times, that this is a grave undertaking -- amending the Constitution. It's grave, because it binds future Legislatures and it impacts people -- directly or indirectly -- on taxes, voting, political control, etc.

And I will share with you-- When I told people I was coming down here in the last couple of days -- these are people who are affiliated, unaffiliated, etc. -- and I said to them, "Hey, here's the story; this is what's going on. And I'm going down and voice my opinion." And they said, "Why? It's probably a done deal. They're going to do it anyway. And we know very little about it, but it seems kind of confusing."

So I said, "Well, I think it's my civic obligation to go down there and say what I have to say." And they said, "Okay." And they said,

“But you should go now, because it’s likely to be cheaper in gas money now than it will be a while from now.” (laughter)

So I’m here to say a couple of things; and I don’t want to repeat myself -- but I guess the Assembly Leader before mentioned the media. But the people who voice that skepticism were really very, very disturbed by what they thought was a dismissal of their input and a dismissal of caring about what was going to happen to them. They don’t believe that you really, really want them involved; they don’t believe it.

And there are two things that happen when this is happening. One, that’s a definition of *alienation*. You get a voter base that’s alienated from its so-called representatives. And then you have the other thing -- when people get alienated -- in spite of what you’re supposedly hoping to do with this bill, this proposal is to create competitive districts -- when people get alienated, you know what? Do they vote, or do they not vote? They tend to throw their hands up and say, “Well, if this particular seat is now dedicated to a particular party; and I’m of that party, well, I shouldn’t have to vote because it’s probably -- I’m probably going to win it anyway. And if it’s not, why should I vote; because it’s already doomed to the other party.”

That’s alienation; that’s voter suppression. Not by design -- maybe not by design; we hope not.

But I would like to share one thing -- because I would think, and I didn’t hear it -- that when this is developed -- this proposal was developed, that there would be some experts that would come in to discuss this. But I didn’t hear anything, except what I heard and read from *POLITICO*; and here’s what they said. “This idea was floated to Democratic members of the State Senate and Assembly during a closed-

door meeting Tuesday afternoon at an East Brunswick conference center. The plan is backed by the New Jersey Working Families Alliance, a liberal advocacy group” -- now, liberal advocacy -- I would say very liberal advocacy group -- “that has become increasingly influential in New Jersey’s Democratic politics. Its executive director helped present the idea to Democrats.”

Now look, you have the right -- if you are a Democrat, you have a right to bring in a liberal advocacy group. But I would think you’d also want to bring in another group that might have a different position on it. But apparently, that did not happen.

Now, I will just say this. When I go back and I talk to a lot of people -- and I do know a lot of people, and I knock on a lot of doors, and I talk to a lot of people -- my theme, when this comes up, should this pass -- and I hope it doesn’t, but as most people have advised me, it’s a done deal, it’s already sealed -- then my theme for people who are going to be out there as activists and vote is, if you’re confused, vote “no.” That would be my theme. Because I don’t think you’re going to go out there and make an effort to inform people.

Now, I can be sure that if this was an election cycle, my mailbox would be full of mailings telling me how wonderful your positions are and what you’re going to do. I doubt whether I’m going to see any real mailings in my mailbox trying to inform me, objectively, of what this is all about. Give me a couple of contrasting viewpoints, let me compare things; let me hear about it. I’m not going to hear it; I doubt it. I would like to hear, at some point, whether you intend to do that.

Anyway, thank you; I appreciate it.

ASSEMBLYMAN McKEON: Thank you very much, sir.

Any questions for Mr. Frech?

ASSEMBLYWOMAN SCHEPISI: Just a quick statement.

Thank you; and you've reiterated a lot of-- We sit up here -- I would love to hear from an expert. I practiced law for 20 years; this is a very nuanced item. And I don't think any of us sitting up here have the expertise in this to fully understand the implications of what this is going to do to our state.

So thank you for your comments.

ASSEMBLYMAN McKEON: And, you know, Assemblywoman, I don't want to get into a tit for tat with you, all right? And if you wanted to legitimately raise, "I've had 48 hours-notice on this" -- it's been a month now. What have you done in the last month? There are experts you can consult with; you have the nonpartisan Legislative Services. I know how smart you are, as far as reading case law and otherwise. So please stop saying, "I don't have enough time." If you wanted to diligently pursue this, that's not an excuse.

ASSEMBLYWOMAN SCHEPISI: I didn't say I didn't have time, with all due respect. I said the process has been broken; we have had no experts come and provide any testimony in these hearings.

ASSEMBLYMAN McKEON: Did you bring any today?

ASSEMBLYWOMAN SCHEPISI: We do have some people here today.

ASSEMBLYMAN McKEON: Good; well, we'll hear from them.

ASSEMBLYWOMAN SCHEPISI: You're hearing from them about how appalling the entire thing is.

ASSEMBLYMAN McKEON: Okay.

ASSEMBLYWOMAN SCHEPISI: When every newspaper, including ones that generally hate all of us Republicans, sides with us and go that this process is abysmal -- you know, I think that should be an eye-opening moment.

ASSEMBLYMAN McKEON: Okay.

Bill Eames, Morris Patriots.

W I L L I A M E A M E S: Thank you very much. Good afternoon, again.

ASSEMBLYMAN McKEON: I just want to check to see what the press is saying, so I can do what they say. (laughter) Give me a minute.

MR. EAMES: Well, you know, I commend the ability to have some humor amidst the process. It's a competitive game.

But at the end of the day, there is a civic responsibility here. And I'd like to talk a little bit about that, because I am really upset.

I am, first and foremost, a citizen of New Jersey. And I have two grandchildren who I am deeply worried about. They are not set up to have a future like I thought I was going to have when I graduated from high school. And the process here is perverted, and it's sick, and it's spoiled, and it's festering, and it's getting worse.

And I would take a little bit of a different position: I would argue that, beginning in 1966, the provisions of the current Constitution were also perverted, and sick, and distorted, and wrong, and should be revoked. And so I was quite hopeful when I first saw that we were talking

about redoing apportionment; but looking at it, I think the point made that nobody quite understands this -- that's not accurate at all. There are some people who understand this very, very well. They just choose not to share their little scheme. We'll find out about it as time goes on.

The basic premise of the current apportionment provisions of the State Constitution -- Article IV, Section II, paragraphs 1 and 2 -- and the continuing premise of this proposed amendment is that the purpose of redistricting and apportionment is to draw district lines to the advantage of one political party over another. Hold on -- 8.93 million citizens of this state, and I don't see anything in either the current Constitution or your proposals here that involves them in the process legitimately.

The entire premise is faulty. It demonstrates a disregard for the public who delegate their authority to the Legislature temporarily, only by consent -- and that consent is continuous, and it can be withdrawn on a moment's notice. So don't think that when the lever gets pulled, you have two years or four years' worth of consent. That's not how it works. The real issue is drawing legislative districts -- or the real issue ought to be -- that meet the needs of the people.

Now, in earlier hearings, we talked a little bit and had a number of testimonial presentations about various ethnic groups, various gender groups -- other kinds of aspects that make New Jersey different. And we are quite a diverse community. And I would commend us to try and design a process that allows each of those groups to pick who they feel are the right representatives who will honestly and decently represent their interests, whoever that person be. It doesn't mean that if you are in a black community, it has to be a black representative; it doesn't mean if you're in a

Hispanic community, it has to be Hispanic; or in a white community, it has to be white. But the people are capable of picking representatives who they believe will represent them honestly and fairly. And this cuts the people out of the picture.

You allow public hearings; but actually, only the final public hearing has to be advertised ahead of time. Participation in the hearings is like this: "Yes, you can blather all you want, but so what? I mean, we're just going to do our whole--" Excuse me; excuse me. I'm sorry.

Now, I'm only one voice; I live on a small street in a small town. But there are 8.93 million New Jersey people; and every single one of them has a voice that ought to be heard.

The Supreme Court intrusion into this -- and, you know, we could go back and talk about the 1947 Constitutional Convention and that process; or the 1966 Constitutional Convention and the manipulations that went on. The Supreme Court Chief Justice ought to speak up and say, "This is inappropriate; but, but--" Okay? It's a boundary violation. The Court does not belong in legislative affairs, except if it has to adjudicate whether what was done to begin with was constitutional. To insert the Supreme Court Chief Justice is an insult to him and it's an insult to me, and I am ticked. He has no role to play in deciding how the two political parties are going to lay out their spoils of war. And by the way, I don't think the political parties have any right to do that.

The citizens, the last time around, presented a mathematical map that eliminated political considerations; but, oh my Lord, we would not want to eliminate political considerations from an amendment that's

intended to politically guarantee an incumbent political class. I'm sorry, folks.

Just to talk about details: Every hearing should have five-days' notice, and the public should be allowed to participate in every single one. And every word -- every written communication, every telephone call should be subject to the Open Public Meetings Act and published online on that website in advance; every word. No private deal meetings; I'm sorry, you haven't earned the right.

Misleading language -- this is the most troubling of all. It completely undermines the consent of the public and the belief of people in you, as individuals, who are representing them. Now, I ran for State office; I'll put it right on the table. I did not run because I had a political career in mind; I ran because I was so ticked that, under the prior map, I was excluded from having any input or participation in who would be my representative. We know who won; congratulations. But, you know what? Is there no pride, do you have no concern about the people? Is it all a game, just a chess game, really? I'm sorry, I find it disgusting. I don't have any better word for it.

I've been a father all -- well, for 36 years for my daughter, and a little bit less for my son. I've tried to do what is in their best interest. I believe that public service was in that vein. When I work with individuals, I do it -- I don't get paid. No organization pays me for the thousands of hours of time I invest. But I do it from a servant-leader perspective. I report to a higher authority, and I actually think that you will, too, one day.

I think this amendment is a travesty; I think it should be withdrawn. I think it should be rewritten, and I think it should be

rewritten from the perspective of the citizen being represented; not political party one, political party two. And you know what, guys? We'll deal with this whole thing in 75 percent of the districts, and then we'll make 25 percent of them competitive except, actually, as soon as we label them *competitive*, we're going to divvy those up, too.

We once had a state that I could be proud of; and I'm just sorry that I'm not anymore. I would say that in each of your individual votes, I would ask you to withdraw this; not to vote for it. I would ask that you encourage your colleagues to pull this. And I would ask if we could just maybe, sometime, meet in a room, hold hands, and pray that we could have guidance in what we're doing -- because this is broken.

Thank you. (applause)

ASSEMBLYMAN McKEON: Barbara Eames.

Ms. Eames.

BARBARA EAMES: Good afternoon.

ASSEMBLYMAN McKEON: Good afternoon.

MS. EAMES: I'd like to point out that today, at this hearing, there are a number of members of the public here. We're not paid to be here; we're not lobbyists. And I ask those folks in the room behind me, if you consider yourself just a member of the public who is concerned about this amendment to redistricting -- would you please raise your hand behind me.

(Audience members raise their hands)

Thank you.

There's no part for us in this game; so I would ask the Assemblyman how -- can I ask you a direct question?

ASSEMBLYMAN McKEON: No.

MS. EAMES: Okay; I guess that's representative government. The public can ask questions, but can't get answers.

I'm going to pose it to you; and maybe you want to e-mail me or something, how--

ASSEMBLYMAN McKEON: You can pose it, then I'll decide -- as I keep everybody, and myself, to the same rules as I've had everybody else to. We're not responding to questions, but we can jot them; and if we determine, in our discretion, to respond directly, we will.

MS. EAMES: Thank you.

How is it that the public is supposed to have any part of this? Because we're not part of this process.

ASSEMBLYMAN McKEON: I'm just going to stop, and I am going to respond.

The public gets to vote on this. This has to be approved by a majority of the voters in New Jersey. Does everybody understand that? This is going to the ballot. So with that having been said, please continue.

MS. EAMES: With all due respect, I do understand Assemblyman. However, I've lived in New Jersey a while, and I've seen issues come to the ballot with no explanation; with fancy, flowery language that makes it sound like the government is out to protect you. We gave away a centuries-old right to bail in the last election cycle. And we also are having the State purchase forever, forever after, open space. So at some point in the future, by those calculations, the State of New Jersey will own 100 percent of the land area of New Jersey, as the Federal government controls 80 to 85 percent of a lot of the western states.

So in all due respect, the questions as they get posed to the public -- the lack of information or the twisted, one-sided biased information that gets put out in such rags as the *Star-Ledger* -- that I perennially take, and then I cancel; well, we're in the cancel mode right now, because it makes my head pop off every time I pick up the front page and I read the propaganda. So when I hear that they're against this, I go, "Huh; my, isn't that interesting?"

Now, my son happens to live in California; he's 30 years old -- one of those struggling young people, you know, to pay all the bills; college-educated, but working hard. And he informs me that in California where, like New Jersey, people are leaving the state in greater numbers than they are coming -- when he has a ballot, he gets like a 30-page document which, to his credit, he informed me, he read last year. It explains both sides of issues. I don't recall, as a resident of New Jersey, ever seeing anything close to that. But you get some little paragraph with this wonderful language.

So to your point, let's not pretend that that's giving the voters fair information.

As a little bit of history -- which I was listening to the other day -- during Woodrow Wilson's Administration-- And we all know that he, largely, expanded the Administrative (*sic*) branch of government and changed the whole conception of our government -- he went to these direct issues. And one of the things that they did was go to initiative, and referendum, and direct ballot-things -- things like that -- to give the people more influence. But you see, the way our government was designed was, instead of putting it up before the people with limited information -- so that you could lead them to the conclusion you want them to arrive at -- we used

to delegate our authority to you where you had the responsibility. But now, because you can't make it work for four different issues that you're going to put on the ballot -- because you can't, as a Legislature, work out these issues, which we elect you to do -- you're going to hand it to the people who, frankly, as you well know, are so busy in New Jersey trying to scramble to raise families, pay the bills, whatever -- you know they don't pay attention. And that works to your benefit, because you get whatever you put on it.

So this idea of going to the people, I just -- is not the way our government was supposed to work.

The people feel underrepresented in this process. And when that happens -- as was alluded to by someone prior to me -- people don't vote. Why was it, in the last election, I think we had -- I don't know; was it something pathetic, like 19 percent of the people came out because they don't think their vote matters? I met a policeman at the polling district where I vote. And he was, maybe, in his 40s; he wasn't a kid. And I said -- I asked him something about voting. He said, "Oh, I'm not registered." I said, "What? Excuse me? You've never--" He said, "I've never voted." I said, "Why?" He said, "Well, because my vote doesn't matter; they're all the same. They're all corrupt." You know the drill, right? But that is, unfortunately, the truth. It's partly a result of the fact that things like this redistricting -- they know their vote doesn't matter. I'm in a district-- In the 1844 Constitution -- just to bring up little bit of dusty old history -- we used to vote according to county. So Republican Morris County -- where I live, which is largely Republican -- was not as now; I'm represented by different Assembly people and a Senator from another party because we

violated jurisdictional lines and counties. And two elections have interceded since the 2011 redistricting, and two sets of Republicans -- and then they have not been successful either. I don't want to argue parties, but this does argue political dominance of one party over another.

And I'm telling you -- I'm suggesting strongly -- that when people don't feel they have any ability to change things, what happens is they don't vote. And we deplore that; but maybe we don't look at the real reasons why they don't vote.

So I've lived here my entire life; 67 percent of New Jersey, according to the recent United Van Lines study, who move are now leaving New Jersey. That happens -- that's in California, the same.

So I've lived here all my life; I'm kind of wondering why I'm still here. And when I heard the State Treasurer, at a meeting about six or eight months ago, ask himself the same question at a public meeting -- he said, "Sometimes I ask myself why I'm still here" -- that's the State Treasurer -- I don't wonder why I'm asking myself those same questions. I'm still here; and while I'm here, I'm going to be fighting. But I'll tell you, it's grim in New Jersey.

Thank you. These should not be on the ballot. We elect you to do the job.

Thank you. (applause)

ASSEMBLYMAN McKEON: Thank you very much.

Tom, are you still here? Tom Bracken?

T H O M A S B R A C K E N: Yes.

ASSEMBLYMAN McKEON: There you are, Tom. I'm sorry; I lost sight of you. New Jersey State Chamber.

MR. BRACKEN: Thank you, Mr. Chairman.

I'm not going to pour gas on the fire, because there's been a lot of fire talked about, with all the previous speakers.

My previous comments -- about preambles of responsibilities of the Legislatures, the sanctity of the Constitution -- still apply here. The bottom line for us is there is no way this fits the Constitution and should even be considered for a constitutional amendment.

But beyond that, I think the thing that is most appalling to us and egregious to us, as a Chamber and the business community, is that we have a state that is uncompetitive, unaffordable, unattractive, and our infrastructure is crumbling. And the issues involved there, and the solutions to those things, have been anything but fast-tracked. We have a situation here where-- And I would say the culpability for those negative comments lies in the Legislature, the Administration, the business communities, and every citizen. We're all to blame for where we are.

But things have to change for those things to get better. We now have a piece of -- a proposed amendment that will not only not change that, but lock in, almost in perpetuity, the composition of our Legislature, which is a key body in changing some of those negative items. It is just appalling to us that that popped up at the last minute with very little vetting; there's no way that the populous could possibly understand the ramifications of this when they are in the voting booth. And for all those reasons, I would say this is, of all the items put to discussion today, the one that is most baffling to us, and baffling from a very negative standpoint.

Thank you.

ASSEMBLYMAN McKEON: Thank you, Tom.

John Tomicki.

Welcome back, John -- League of American Families.

JOHN T. TOMICKI: Good afternoon, Mr. Chairman. Thank you so much.

My name is John Tomicki, Executive Director of the League of American Families. We represent about 100,000 households. And we're now, having gone through four changes in the census -- so I don't consider myself a walking expert, because my algorithms are not up to my medical conditions. Let's leave it there.

But this proposal -- we would state again for the record -- why now? Does this proposal stay within *Baker v. Carr*? Why now, when the Supreme Court is going to be dealing with the issue, in *Evenwel v. Abbott*, on beginning to say what's in a census, who's counted in the census? Because that's the first part that comes into this proposal about -- when you're going to deal with the census, are we counting population, are we counting undocumented visitors? I'm not getting into the immigration issue. I'm just saying, what is going to be counted in the base core of your numerator or denominator, whichever way you're going?

I would like to, for the purposes of the record, incorporate by reference what is now on *POLITICO*, which is Mr. Patrick Murray's definitive analysis of what is wrong with this proposal. I ask that for the following reason: Because as the Constitution requires, you have to have a public hearing, which we share and talk-- And I respect the Chairman saying what he did -- that you're not here to answer questions, so we can pose questions; you may discern them. And I respect the process, even though I believe that this proposal has violated all commonsense analysis

regarding policy or process -- that is not meant to be disrespectful -- had this Committee been able to be at the earlier hearing held in the Senate, where the Senate President and the Senate Minority Leader had engaged in a discussion about what this was about.

I'm glad we're in a country today which is not torn apart, as some other countries are, by religious divisions. We can come here; we can passionately disagree and passionately argue, but there's a love of God and a love of country that still exists. And that's to what I am trying to call people to. As I said at the earlier hearing, when we were the only group to testify at that point in time -- and I'm glad that more citizens -- *citizens*-- And, by the way, I have no salary from the League of American Families; I have always been self-supporting. I have pledged, as our forefathers did, their lives, their fortunes, and their sacred honor.

So I live as I live, and I do as I do, and I am glad God has given me 82 years. So I'm still here, but I'm hoping we can stop this process, because I would like to hang around for a few more years to see if we could make it better.

You took an oath to uphold the State Constitution. In the first part of that, it says you hoped to secure the rights and transfer them unimpaired to succeeding generations. This tears away the rights and the very essence of what we're about. It's an oath. I know you all mean to take it, but this is not being done. When you take this new approach, you get rid of the concepts of population; you now talk about voting -- are we talking about registered voters, or voters who voted? Because even those who don't vote, but are registered-- Because there are people, by the way,

who are citizens who don't register. How do we, now, work that into the equation of the numerators and the denominators?

In the colloquy that went on before-- I don't have the statisticians ready to do this. There was, in my opinion, short notice. Mr. Chairman, out of due respect, as you said there were to be no changes -- which I thought we should talk even about the five-day rule. You said "no changes," but amazingly, some minor changes have been made -- some good -- but in whole, as Mr. Murray and as Mr. Bracken just said, at the end of the day this is a bad proposal and it should be defeated.

One of the questions I will pose is, a transcription is being made. The purpose of our Constitution that was allowed for the reapportionment required measures to be placed in both chambers, sitting on the desk for so many days. There would be a required public hearing before there would be any vote. The purpose of that public hearing was to get a transcribed record, and to have the record available to the legislators before they went and voted. That will not happen, because the transcription unit is overburdened. I asked the transcriber this morning when it might be available, and they said it would not be available shortly; they are way behind with the number of hearings (*sic*).

So I wonder if you have the constitutional authority to proceed; I don't think you do. It will violate, at least the last time I looked, will be the Senate rules. I will try to (indiscernible) the weekend to see what happens with the Assembly rules.

Our current legislative districts should be broken down to be compact; they are not. In this proposal, as we have testified before in the beginning section of Section I, that those who are going to be appointed

should represent the geographical areas regarding their ethnics or racial diversity. I will raise the question: Are you opening up a legal issue (indiscernible) there's no comment relative to gender? That has become a big issue; and I see the smiles from the Assemblywoman. Being a father of one son and four daughters, trust me: I'm gender-blind in more ways than you would possibly understand, okay? (laughter)

Now, it is sad. Just take the interpretative statement. I don't think, Mr. Chairman, you drafted this. I wish we had an investigative hearing, based on the political (indiscernible). Where is it? It just popped out of nowhere. Something this complex, such as the formula -- where was it, who drafted it? And as Senator Cardinale said, if the people who drafted this -- they should be here. Tell us, what was your thinking? Give us the justification. It doesn't work.

So that's why, Mr. Chairman, I don't aim this at you. You would not have done this. I know you better; I know you better, personally.

The interpretive statement asks, "Do you approve requiring the Commission to establish districts that are competitive and fairly represent voter preferences?" Yes, but that's not what the document does. It's not what's there. That's deceptive. And just as a basic honesty, you should say, "No more; we're going to stop. We're going to follow the suggestion made at the Senate (*sic*) Judiciary Committee that, yes, we realize this is not good. We'd like to make it better." So let's get people together.

There was a great statement made by a mayor of New York. It doesn't necessarily apply, but take the principle. There's no Republican or Democratic way to pick up municipal waste; it's either efficient or

inefficient, and we keep the corrupt industry out as best you can. I'm sure you all want fair elections. We love a competitive election. We love to have a battle of ideas that come out, and then best sell the idea to the voting public. And let them come; I wish they participated more. I come from a different school; 364 days of the year, I want to be -- everybody should be participating in government; at least read papers, read something -- to have an opinion, think about something, argue with your legislator.

When I first started more from the biblical side of the work that I do, I would say to people who were upset with the government, I would say, "Did you ever go down and talk to your Assemblyman? Did you ever go down and talk to your Mayor? Don't just complain; go down and talk to the person and explain what you feel. Maybe that mayor or maybe that assemblyman has a good reason; and maybe you're going to learn something." That's why there should be a dialogue, which is what this is about.

This does not create dialogue. This creates a situation where, if you take a look at the numbers -- "Well, we'll have 10 that will be competitive," based on -- how? Murray's testimony shows you clearly how you can still manipulate that number. "Well, it's going to be based on voting." Well, I might want to vote for a Democratic candidate for President, but a Republican candidate for Governor. What does that have to do with voter representation? What about the nonvoter? It doesn't work. This fails beyond belief. This is a massive mangling of public policy. It is wrong. It's wrong timing, it's the wrong policy.

One of the things -- if I can flip quickly to find where I have written it out -- how you break out the districts on a community of interest.

Okay, what does that mean? “It shall mean a geographically contiguous population sharing common interests relative to a legislative process, such as trade areas.” Excuse me, Assemblyman; I know you can’t answer, and I respect that. I love body language; I’d love to play poker with you one day. But what does *trade area* mean? Does that mean Lowe’s, or does that mean Home Depot? I don’t know what it means.

“Communication and transportation networks.” Does that mean Uber or Public Service? I don’t know what it means.

“Media markets or social, cultural, and economic interests.” As we testified before, one, I guess I’m going to try to find a district where there are a lot of Polish people so I can get in with them -- because I love Polish kielbasa; I’m sorry, I shouldn’t eat pork, but I love it. I want to go have it. I don’t know what this means; I don’t know how you’re going to bring that down. This doesn’t work; the numbers don’t work. You’re going to create an area when you say, “Well, it’s the voting pattern. Well, now I’m going to use Citizen United and I’m going to start influencing with money through voting patterns.” That’s not what anybody wants -- either side.

I really urge you, more so than ever, to have the courage, if it is posted for a vote in either chamber-- And that was another thing. Sometimes the postings come out late, and those of us who know how to work the system -- it’s not right; it’s not right, it’s not fair. It doesn’t open up transparency. To have a shocking statement made by the *Star-Ledger*-- I don’t know whether Mr. Moran wrote it or not, but he said that transparency was as transparent as a one-night stand in an airport motel. I felt like saying -- if it was Tom -- I said, “Tom, I think you’ve insulted the

Tahiti Airport Motel and the Brisbane Marriott, because they both use the best one night overnight stand in an airport motel.” (laughter)

So you know, we’re trying to make light of it--

ASSEMBLYMAN McKEON: John, you’re getting a little salty there; that’s not like you. (laughter) That’s not the guy I know.

MR. TOMICKI: You have not read enough of the Old Testament, to when they are taking the burning logs, and they’re touting, “Go ahead, Baal prophets. Go ahead; put out the water by a process using a bodily function.” So if I find that in the Bible -- I will not use the exact exchange, because I’d like to learn the word in Hebrew; because I’m learning more and more in Hebrew.

ASSEMBLYMAN McKEON: It reminds me of a fraternity initiation I was through once, when you mention that.

MR. TOMICKI: Well, I really urge-- I’m asking you to go to the courage that I think all of you had on the day that you first got elected. As Senator Cardinale testified this morning -- earlier today -- when he ran the first time, he lost. Even though it was 1997, and there was no change in demographics, he ran again because the people got -- there was a situation of a change in policy.

So where Senator Whelan, earlier today, said, “Well, there are some districts that might still-- No matter the fairest formula you could find, you still will find a district that might be of one political party.” That’s true; I don’t expect-- We like to say that, in Jersey City, the Republicans meet in a telephone booth -- if you can still find them, by the way.

So yes, that will still happen; but at least make it fairer. This is the most unfair fair proposal that I've ever read. I can't believe it happened, Assemblyman; I can't believe you did it in a lame duck; I can't believe you did it on short notice. I urge you; you know there's not a mean bone in my body, yet you know I'll come out, and I'll picket, and I'll petition, because I believe in that -- 364 days of the year, I'd love everybody to participate. On Election Day, please just vote for the person I want; if you want to stay home, thank you very much. And then let's get back to arguing.

But I really urge you -- I'm calling to a higher calling -- do not, do not vote for this. Tell the leaders who were there, "I'm sorry; we're going to abstain." Let us now set up a different process where we will get people in from both sides. Because I was involved, somewhat indirectly, with the other maps that Pat Murray was working on, as well as another group, and I was going to try to get those maps. People didn't like it because it made too many of the districts, and even some of my friends, a little upset -- who might have been in jeopardy of losing; but so be it. It's because of what has to be.

But I really urge you; I'm trying to think of some (indiscernible) words, other than I would trust that you would seek, as Mr. Eames asked, God's wisdom; and knowing that regardless of our sins, he still loves us and forgives us. But you have to ask him, "Am I doing the right thing?" And I don't think you are.

ASSEMBLYMAN McKEON: Thank you, John, so very much. It is always wonderful to have you before us.

Michelle Talamo, Center for Positive Change, opposed.

MICHELLE TALAMO: Good afternoon.

ASSEMBLYMAN McKEON: Good afternoon.

MS. TALAMO: Thank you for this time to address the group.

ASSEMBLYMAN McKEON: It's our pleasure.

MS. TALAMO: My name is Michelle Talamo -- T-A-L-A-M-O -- and I am from Bergen County Citizens for Positive Change.

ACR-4 is of immense importance to the future voting choices of the residents of New Jersey. Not only does it openly seek to limit the voting choices of the people, but it does so unabashedly, and without conscience to the long-term consequences -- intended or unintended.

One has to wonder: Is this legal? Or even if it is legal, is this right?

This could be, in fact, adverse impact. While citizens of New Jersey are under siege with more taxes and less income, due to the economic climate, increased costs, increased tolls, we find ourselves having to address this issue and its overall impact. Building an advantage into the State Constitution by any party is deplorable and, in fact, ruthless. This is not diversity.

The question that must be asked is, "Why?" Why would legislators devote their time to ensuring their legislative positions as if it were a right, rather than a privilege, to represent we, the people, of New Jersey? Unless, of course, the intent was to purposefully and willfully ensure elections so that they do not have to understand their constituents; not understand the everyday challenges; or not understand the burden cast upon citizens by the hyper-taxation and high cost of living in New Jersey,

and just proceed in the future without having to connect with the constituents. Is that the purpose?

That certainly is the guaranteed outcome of ACR-4. New Jersey voters want legislators who understand their situation, their tax burden, and connect with them repeatedly. New Jersey voters want legislators who realize how difficult it is, each and every day, to make financial ends meet without having to borrow money or use their credit cards to cover necessities -- not make actions to secure their elections.

We want and need jobs, attract business, and reduce regulations.

The questions to ponder are simple. Will you show the courage to vote and remove ACR-4, and demonstrate, with that one simple vote, that you understand the needs and concerns of your constituents and that their vote truly counts? Will you show the integrity of office and demonstrate to the voters in New Jersey that you are on their side; that you respect their hard work, and commit to not tax them unmercilessly; and that their vote is valued each and every election cycle? Will you put side deals, cronies, and connections aside and stand with the people of New Jersey?

Will tomorrow you look at your reflection in the mirror and see someone who assured the voters that you would protect their interest and follow through on that promise?

In conclusion, this action, ACR-4, is un-American. Will you cast aside special interests and pressure from outside influence, and stand with the people of New Jersey by withdrawing ACR-4, demonstrating your commitment to the voters, as the legislators you are and continue to be?

Will you be devoid of party interest and be for the people? Will you be devoid of self-interest, and be true to democracy and honest government?

We hope you will. Remember the faith residents have placed upon you.

Thank you very much.

ASSEMBLYMAN McKEON: Thank you very much.

Seeing no questions -- Mr. Murray.

PATRICK MURRAY: Thank you.

For the record -- Patrick Murray from the Monmouth University Polling Institute.

ASSEMBLYMAN McKEON: Welcome, Pat.

MR. MURRAY: Thanks.

And I'll give a brief-- I testified in front of the Senate Committee earlier today on the companion resolution there; so I'll give an abbreviated version of those remarks here.

Let me first start out by saying that there are a number of provisions in ACR-4 that I actually support and that I think are a good idea. Those include the immediate appointment of a public member who actually provides a predictable process for public access to the Commission's work; and also while providing flexibility for the Commission to negotiate in private.

I also agree with the wisdom of granting legislative leaders the power to appoint Commission members to protect their interests, in return for barring current legislators from actually serving on the Commission. I think that all makes sense.

However, I am opposed to this amendment, in full, because of two specific subsections -- paragraphs 2c and 2d. And the reason why is, for the first part, is that they don't actually do what they claim to do. According to the Judiciary Committee's statement that accompanied release of this resolution, that section (*sic*) 2c utilizes Dr. Donald Stokes' fairness doctrine. And he was, as most know, the public member on the Commission in 1981 and 1991. But if you actually run the numbers, it does not. For one thing, it uses non-related offices and elections to determine the share of the seats in the Legislature. That is not what his doctrine meant. His doctrine was based on negotiating the share of the legislative seats in a way that he believed would reflect the vote for Legislature, going forward. So it doesn't actually do what Donald Stokes decided to do.

The other problem with this, of course, is that this should not be codified into constitutional language in this way. You know, by doing so in such a specific manner it's almost -- it's akin to appointing Dr. Stokes -- or, at least, his ghost -- as a member of this Commission in perpetuity; and that doesn't make any sense. I think Dr. Stokes would've agreed that each decennial commission is based on what happened over the past 10 years, and what they expect to happen in the 10 years going forward. And each time that requires negotiation -- which, the way this is worded, takes that process out of the hands of those public members. In fact, the public member is reduced to no more than a referee -- which is exactly what Dr. Stokes argued against when he wrote about his experience being a Commission member.

And I've known some -- I've heard reports that some supporters of this bill have said that I'm opposed to this because I was, in fact, lobbying to be that tie-breaking public member in the last process. That is not true; although I would say that I have made no bones that I would feel that I would be a good 11th member; and that would be my dream job, in terms of my contribution to the political process here in New Jersey. But not having an inside track with the Chief Justice of the Supreme Court, I don't expect that that's going to happen any time soon.

But even with my proposal-- And I did propose a map in 2011 that I felt was a more competitive map; but it also met Stokes' fairness doctrine in that, even the map that I drew that was competitive, the Democrats would have an advantage. And the idea behind that is, I don't even believe that my principles should be enshrined in specific constitutional language. It makes no sense, because each 10-year period will require a different set of emerging standards. So on that basis, I just don't think that that paragraph 2c makes any sense.

And my other objection is on paragraph 2d, the competitive district paragraph. This, I believe, to be incredibly misleading. And it's misleading because of the way the ballot question is worded -- that tells voters if they are supporting this, that they will actually be supporting a plan that makes at least 25 percent of legislative districts competitive. But it doesn't tell you exactly what *competitive* means, according to the constitutional language in this resolution.

According to this, is that *competitive* uses the Stokes' method of dividing the vote statewide into 40 different districts, and then taking the

average of those districts, and then determining that to be the benchmark for being competitive.

So if we use the last 10 years of statewide elections, as specified in this resolution, we get a statewide Democratic advantage on the average of about 8 percentage points. However, that's still not the standard that would be used. The standard that would be used, would be dividing the districts into 40 districts, taking the statewide share of the Democratic and Republican vote in each of those 40 districts, and averaging that.

There's a problem with that, because that could easily be manipulated. So for example, this 8-point average could actually be increased to a 12-point average, hypothetically, by manipulating the boundary lines of these 40 districts to increase the average share in terms of skewing Democratic districts to be much more heavily Democratic, and Republican districts -- even if they're safe districts -- to have a smaller majority.

So that would mean, according to the language in paragraph 2d, that if 12 percent was the average district share of the vote of the past 10 years, then a competitive district would be anything that gives the Democrats an advantage of somewhere between 7 and 17 percentage points. That is what this language that defines a competitive district has. However, the-- Not only does that just defy any logic for us sitting here, but the language of the ballot question and the interpretive statement gives absolutely no indication that that's what the word *competitive* means in this constitutional language. And that, to me, is a major problem; because it's misleading the voters into being complicit, into voting for a constitutional change that's against their own interests. Because as we know, and as I

know -- as somebody who has had the opportunity to poll hundreds of thousands of New Jersey voters over the past two decades -- this is not what they think the word competitive means.

And therefore, I think that this deserves a larger public hearing process. I mean, there's a public hearing process built into this resolution for the Commission; there should be also a larger public hearing process for these changes to the Constitution. This went to a Committee vote within days of it actually being introduced, so I was caught off-guard. I had heard rumblings, over the past years, that Democrats were working on something similar to this, but I had no idea that this was going to be introduced. So there hasn't been enough of a process, enough of an opportunity for the public to weigh in on this, to have experts to come in and talk to this. I was just running these numbers over the past couple of days, just very quickly; and I haven't been able to do the kind of work that I'm sure those who designed this have been doing -- with running vote simulations over the past few decades -- to determine what could be the full range of potential outcomes here.

But my major objections here are that Donald Stokes himself would not agree with codifying his principles in the way that they are codified here; that they don't even adhere to his own principles of the fairness doctrine in the tests that he actually applied in 1981 and 1991; and, finally the language of the question itself is designed specifically to fool voters into thinking that they're voting for something that they're not.

So those are my objections to this resolution, and I hope that the Assembly decides not to post this for a vote and to think about this again -- bring this up to a public hearing in the next session.

Thank you.

ASSEMBLYMAN McKEON: I just have a question or two.

Well, go ahead -- did you have questions?

ASSEMBLYWOMAN SCHEPISI: I just had one or two questions.

ASSEMBLYMAN McKEON: Yes, go ahead. You go first. That's all right.

ASSEMBLYWOMAN SCHEPISI: Mine are actually easy.

ASSEMBLYMAN McKEON: You're presupposing I have hard ones. (laughter)

ASSEMBLYWOMAN SCHEPISI: How many years have you been doing this?

MR. MURRAY: I have been polling in New Jersey for, now, 22 years.

ASSEMBLYWOMAN SCHEPISI: So it would be fair to say that you are an expert in this area, or people view you as an expert in this area, correct?

ASSEMBLYMAN McKEON: In polling?

ASSEMBLYWOMAN SCHEPISI: Well, in polling, in--

ASSEMBLYMAN McKEON: The Governor doesn't, I remember. (laughter)

ASSEMBLYWOMAN SCHEPISI: Well, that actually benefits this discussion.

MR. MURRAY: Yes, I don't know. I've been called now a favorite of the conservatives today; I've also been called a liberal advocate. You guys have to figure out what I am. But I would--

ASSEMBLYWOMAN SCHEPISI: Right. But using the Governor-- I mean, I know there have been some uncomplimentary tweets out there, in the past. So it's not like you're beholden to the Governor, or you're here on the behest of supporting the Republican Party's agenda.

MR. MURRAY: I call "foul" when I see it.

ASSEMBLYWOMAN SCHEPISI: Yes, okay.

And based upon what you have been doing for 22 years in the State of New Jersey, it's your testimony today that this is bad, correct?

MR. MURRAY: Yes, absolutely.

ASSEMBLYWOMAN SCHEPISI: Okay.

MR. MURRAY: That this does not serve the good of the public.

ASSEMBLYWOMAN SCHEPISI: Okay. That's all I had.

ASSEMBLYMAN McKEON: I've got a question or two.

Reasonably so -- of the 50 states that will vote this November, how many of them are in question now? Meaning, like, the state of Wyoming -- whoever the Republican nominee is going to--

MR. MURRAY: You mean, for President?

ASSEMBLYMAN McKEON: Yes, for President.

So of the 50 states, how many are kind of in play, within reason?

MR. MURRAY: Within reason, it's -- it all depends on who the candidates are. And that's one of the important conditions of anything, and particularly why I'm opposed to using non-offices. But--

ASSEMBLYMAN McKEON: I'm just saying, we know one's going to be Democrat, and one's going to be a Republican.

MR. MURRAY: Right.

ASSEMBLYMAN McKEON: So just use that as a factor.

MR. MURRAY: But we would say that, feasibly, somewhere around a dozen, give or take five. So it could be as few as seven; it could be higher than that.

ASSEMBLYMAN McKEON: So meaning, at a maximum, depending on the candidates--

MR. MURRAY: Right.

ASSEMBLYMAN McKEON: --there will be 12 in play, and the rest of them will be kind of fore drawn--

MR. MURRAY: Right; and the rest of them will be-- We know what the outcome is going to be.

ASSEMBLYMAN McKEON: So in those other 38 states, one could say -- if they're on the opposite side, whether it's Republican or Democrats -- they don't have a vote; their vote doesn't matter.

MR. MURRAY: Yes, and many people could actually claim that that's true.

ASSEMBLYMAN McKEON: And that's the way it is, because that happens to be the demographic of the state in that boundary line.

MR. MURRAY: Right.

ASSEMBLYMAN McKEON: Whether by whatever historical boundary lines are -- a great river or somebody drawing a line -- that's where you live. And other than, at a maximum, 12 states, if you're for the other side, so to speak, your vote is not going to matter.

MR. MURRAY: Right. But if what you're trying to do is compare this to this, then I'll take your analogy further -- is that that's like

saying that we're going to amend the U.S. Constitution to make 19 states Democrat, 19 states Republican, and the other 12 would be some form of competitive.

ASSEMBLYMAN McKEON: Well, if it was all within a state boundary, maybe that would be a wise thing to do. Obviously you can't do that, in doing that to the states themselves. But I just, with respect, beg to differ -- as it relates to what this proposal is attempting to do.

Now, you also ran some numbers--

MR. MURRAY: Okay, may I--

ASSEMBLYMAN McKEON: Let me -- just let me-- Hold on. You ran some numbers, and talked about a 19 -- whatever the numbers were that you posed. Now, that's not based upon the elections, if this was to become law as to what would happen. Because even you couldn't predict what's going to happen in 2016, 2017, 2018, or 2020, right? So you don't know what that's going to be.

MR. MURRAY: Right.

ASSEMBLYMAN McKEON: And, in effect, if there is a Republican who happens to be elected President, and that individual -- man or woman -- does an amazing job; four years later -- like Ronald Reagan, who beat, in New Jersey, Walter Mondale, 60 to 39-- That could repeat itself here in New Jersey five years from now, right?

MR. MURRAY: Right. But that's a straw argument unrelated to what my objections are.

ASSEMBLYMAN McKEON: But -- well-- You know, again, I guess maybe I'm imposing why I think this reflects the will of the people as reflected over a 10-year period over nine statewide elections; as opposed to

putting it into the hand of the whim of an individual appointed by a Supreme Court Justice. Because that's what we have now, right?

MR. MURRAY: It doesn't follow Stokes' standard -- which is, the fairness test for the share of legislative seats needs to be applied based on the outcomes of legislative elections. Not presidential elections, not gubernatorial elections, not U.S. Senate elections -- legislative elections; the seats-to-seats. And we know, we absolutely know that voters can distinguish between the issues that are important to them, between a Federal office and a State office, and between a legislative position and an executive position. As we saw in 2013--

ASSEMBLYMAN McKEON: So your objection is it doesn't take-- The data we're using isn't legislative elections, which sometimes-- You'll know better than I -- what was the last turnout in the last Assembly election? Someone referenced it before.

MR. MURRAY: Yes, it was 21 percent.

ASSEMBLYMAN McKEON: I was going to say, 19 percent -- maybe that was my District -- but 21. So your argument would be that you would rather take 19 percent of the voters, as it relates to dealing with a fairness test, as data; versus when, maybe, 60 or 70 percent of them come out to vote in a statewide election.

MR. MURRAY: Well, again, I'm using your justification that this is following Stokes' standard. And that was Stokes' standard; because Stokes actually said that even though the turnout is low in a legislative race, that he made the assumption that those who voted represented the opinions of those who did not vote in terms of their decisions on legislative races.

So again, the idea is, if this is what you're trying to do -- is follow Stokes -- then you're not doing it. But that even goes beyond what-- My problem is, is that Stokes would never say, "Codify this specifically into constitutional language," like this. That's the problem. I have no problem with a fairness test. And, as I said, I drew a map that would've given Democrats the advantage in 2011; just in a different way than this would do. And that needs to be-- The public member, as well as the other 10 partisan members of this Commission, need to be given the ability to have flexibility to look at that standard, plus emerging standards. I mean, we haven't talked about communities of interest, which is a standard that New Jersey's process has ignored, but continues to be emerging over the past. And it has had a significant impact in changes that have been recently imposed, and approved by voters, in places like California, and as recently as a couple of months ago in Ohio.

ASSEMBLYMAN McKEON: Well, I think communities of interest-- And John, before, when he testified, was giving-- And for circumstances like that, you sometimes do need to be amorphous on some level, as it relates to transportation networks and other aspects that would bind an area that, in many instances, is going to be over two counties and include 30, 40, or 50 different towns. It's difficult; and I'll use my District as an example. You know, I'll have a town like West Orange, which is very demographically or economically diverse; and a town like Harding, that isn't. But sometimes you just can't help when you need, as a primary tenant, to put together about an equal number of whatever the number of people who live in the state are. And that happens.

So I think that the language tries to do our best to have communities of interest, if you will, on a lot of different demographic levels, as it's designed.

MR. MURRAY: And I would suggest that if you want--

ASSEMBLYMAN McKEON: You're too smart for me to debate, but--

MR. MURRAY: I want to suggest that if you want to look at that, look at the language that was in the Ohio resolution, where Ohio-- The voters changed from a legislative process to a commission process; and they approved that change. It has very simple language that says that there should be a fairness test of some sort, but that test should adhere as closely as possible to statewide outcomes. And that's all it says; it's a principle.

And that's what the Constitution should be about -- outlining principles, not outlining formulas about exactly how this is going to play out. But outlining the principle behind it, and letting the human beings who form those commissions every 10 years decide what that means, in the context, at that time.

ASSEMBLYMAN McKEON: The only other point-- And, you know what? I'm really, really happy to meet you, and I'm fascinated and would love to talk to you forever -- but I don't want to take up everybody's time in doing that. Maybe we'll do it privately sometime; I would like that.

But you know, as much as we're using the Stokes test as a general parameter-- I appreciate you drawing that distinction -- Federal, and the different issues that might drive voter performance that are federally related -- foreign affairs is one of them; versus statewide; frankly, versus local. So I don't know that we need to say this is adopting the

Stokes test. This is what it is, relative to the test that it purports to be. And I think Stokes is an insider game. Someone like you would know well who that is; and maybe some of the people in this room who find themselves involved in the process.

But it stands on its merits, and I'm happy to talk about that. But whether it follows the Stokes principles I think is not relevant, quite frankly.

MR. MURRAY: Yes, I only went by the Judiciary Committee statement supporting release of the bill.

ASSEMBLYMAN McKEON: Any other questions for the Professor? (no response)

And again, it's an honor to have you here.

MR. MURRAY: My pleasure. Thank you very much for the opportunity.

ASSEMBLYMAN McKEON: Thank you.

We have no one else who signed up as to this public hearing. I do have some general comments myself, and will defer to my colleagues to have their opportunity to do so.

Not many of us left, at this point. (laughter)

ASSEMBLYMAN BROWN: Do you want to go first?

ASSEMBLYWOMAN SCHEPISI: First off, I'd like to thank all of the citizens who did come down here today, and took off from work, and found this important enough to provide us with your thoughts and your testimony.

And I also thank Patrick Murray and Assemblyman Bramnick for speaking on-- Yes, this process has taken place over a three-week period;

however, the three-week period included a week for Christmas and New Year's. Most people who I spoke to were traveling and unavailable. There was very little public notice given prior to the hearings that we had on this.

So although it has been three weeks, it hasn't been a true three-week open process for something of this magnitude. Indeed, until today, we have not had one person testify on this, other than one person stating their objection to it. And I believe the only arguable expert that we've had appear to give us any insight was Patrick Murray, today, who's Director of the Monmouth University Polling Institute.

Now, the last time we endeavored, as a State Legislature, to do something like this was back in 1966. That process took place over three months; 14 committee meetings; and thereafter, 6 additional meetings with an Apportionment Committee.

So going on what we have today, these are my thoughts.

We've heard words utilized for this that include "appalling," "most baffling," "dishonest." We have -- whether or not we want to discount them or otherwise -- editorials in a host of different papers calling it such things as, "a power play that should offend us all;" "no matter how you try to justify this, it's irresponsible;" "there's no justification;" "in the name of good government we need to stop the final vote from happening;" "utterly shameless effort to advance Democratic cause."

Dishonest. The proposal purports to mandate at least 10 competitive districts. But when you delve into it, a district can actually lean -- one Republican or Democratic way -- by 13 points, and under this proposal still qualify as being *competitive*. Even though in every different facet, a 13-point victory is considered a landslide. It institutionalizes

noncompetitive districts. It creates voter apathy. And as this last election showed, we have a hell of a lot of voter apathy in New Jersey.

The district I ran in -- people still care; people still come out and vote. We still had low numbers. But my District had more people vote for the person who lost against me than two and three districts combined for the winner in certain areas of the state.

So do I believe that we need to figure out a way to get our voters out there? Absolutely. But this institutionalizes people not wanting to participate in the process.

More power for incumbents. That's the last thing in the world we want to do -- is provide incumbents in the State of New Jersey with more power to stay there. You know, if we're doing this, let's look at putting term limits; let's put together a true convention process; let's go out there -- let's talk about how we do everything. You know, maybe have-- Instead of us all running every two years and selling our souls to special interest groups -- because every time we turn around and get elected we have to be out there again raising money -- maybe we figure out a better way to do it.

So instead of doing a political power grab, instead of lack of transparency and back-room deals, I would just really implore my colleagues on the other side of the aisle to think through what we are doing here. And if we think that the voters of the State of New Jersey already kind of throw their hands up and just have reached a point of not wanting to participate, this really doesn't give any sort of warm and fuzzy feelings. I have yet to find one person -- one -- who has been able to cogently explain to me why we are doing this.

So thank you.

ASSEMBLYMAN McKEON: Gordon.

ASSEMBLYMAN JOHNSON: Thank you, Chair. It's been a long day.

I just wanted to say, briefly -- this ACR-4 I find a bit complicated and complex. I have certain questions about this ACR myself.

But I just want to say to those people who expressed a concern that we're here just to rubber-stamp a bill or a resolution -- I say to you that is not true with me. I hear what you're saying; I hear your concerns. We have been addressed by what I call SMEs -- subject matter experts; that's an Army term (laughter) -- and I've heard what you've said. So as I take this back to my office and my caucus, there will be further discussion because of what you said about this resolution.

So I just want to assure you that I am listening, I am paying attention, and I do have some questions myself.

Thank you, Chair.

ASSEMBLYMAN McKEON: Thank you, Gordon.

I'm just going to -- just a couple of thoughts.

Number one -- and I'm sorry Holly is stepping out --

ASSEMBLYWOMAN SCHEPISI: (off mike) (Indiscernible)

ASSEMBLYMAN McKEON: She mentioned about, "don't kowtow to the money interest." Competitive districts are -- which ones? They are the ones where all the money is spent. So to indicate that the more competitive things are -- well, that will be less money from any interest groups? That's ridiculous. That will triple what's there; the

competitive districts that are there now are where all the money is spent -- millions of dollars in those various districts.

The other aspect about processes is as follows: I'm going to make a bold prediction. If this happens to be posted by the Speaker and a majority of the members of the Legislature vote for it to go forward, that the Governor isn't going to sign it, and that nor would it garner a super majority.

UNIDENTIFIED MEMBERS OF COMMITTEE: (off mike)
He doesn't sign it.

ASSEMBLYMAN McKEON: It has to be -- but it can't go on the ballot unless it goes through this entire process next term.

So I misspoke about him signing it. But my point to everybody is that this process will, from the very beginning, repeat itself to the extent of full and complete hearings in the Senate, in the Assembly -- with whatever experts anybody wants to bring -- and then with continued debate. So if this proceeded, by Monday, to be voted in the affirmative, the whole process will repeat itself in the next term before it could get to the ballot.

So everybody's last chance is far from having their chance to speak, and to continue to editorialize, and to report, and everything else.

I also just reference -- this current map is about to bring us a Democratic majority of 52 to 28, within a whisper of veto-proof. So to suggest that this is a way to lock up Democratic support -- well, whatever has been happening or the last 20 years has facilitated that. And what has happened for the last 20 years? There were a number of individuals talking

about, "The Supreme Court Justice shouldn't have anything to do with this process." Well, they do.

What happens now is that there are five individuals from each party -- most of who are legislators -- who go through this 30-day charade of trying to convince the other side that they're going to come to an agreement on this map; and then call an impasse. And then the Supreme Court appoints an individual -- whoever that individual might be; Mr. Murray said it was his dream job. Well, in this instance, with -- who was past, was Alan Rosenthal. And what Professor Rosenthal said was that, "To me, continuity of representation is important." That means -- Holly left -- incumbents, and keeping them there. And that was this one single person's philosophy and, as such, we ended up with the map that we did that's about to deliver us 52-28.

You all think that that's a better way to run the railroad than to go through the process of non-legislators on the committee; of having that neutral appointed from the get-go, as opposed to a charade; to have a number of public hearings; and, ultimately, to put this question in the hands of the voter, as to if we'll go that route to start with? Versus the Supreme Court saying, "Here's this person, and we will see what they think of." Well, that, to me, puts it in the hands of one person. That's just crazy.

Now, as it relates to where we live -- and I was making that point with the Professor. You want your state's electoral votes to definitely go to a Republican President? Then go to Wyoming. We can't help who lives here. The demographic is what it is; there are 9 million souls out here who, when it comes to votes, happen to vote, more often than not, for the Democratic candidate. Now, that doesn't mean that Democrats versus

Republicans, and that the Independent votes don't count. Of course they do. This law looks at the election result, not who that voter was. Republicans votes for a Democrat; Democrats vote for Republicans. The majority of people who are Independent vote for whomever they vote for.

This puts-- And taking it out of the whim of one individual to make that decision -- this puts the will of the electorate as setting the percentage of how we set districts. We can't get rid of all-- Although I'm sure a lot of people would like to get rid of unregistered voters as counting in the census and the demographic in setting legislative maps, we can't do that. That's enshrined in our Constitution already, going back to 1966 when we stood for the principle of one person, one vote. As opposed to others states, like Texas -- that is trying to do differently now with a pending Supreme Court case.

So we can't help who we are as a state. Maybe that will change in 10 years; maybe we'll be a Republican state. I don't know. Maybe we'll be a Blue Party State or a Green Party State; whatever party might be out there. But it is what it is right now; that's who we are.

And what we're doing is taking the average of nine statewide elections -- one of which occurred, which was a Republican Governor who won 61 to 37 percent. I asked the Professor, who would know better than anybody, "What are those percentages going to be when Donald Trump is the nominee? Will he do that badly in New Jersey?" If Chris Christie is the nominee, would he do that badly in New Jersey? And what happens when a Republican President, who might be elected a year from now, knocks the cover off the ball? Does he become Reagan-Mondale, 60-39, four years later?

You want to say this is jerry-rigged? You can say it's jerry-rigged if you look in the past as it relates to Democratic performance, the will of the people. But who knows what's going to happen in the future? There are still six of those elections to happen yet. This is putting the way that these districts will be drawn in the hands of the people. And it's taking whatever that percentage is, as far as performance, and at least making 10 districts that will be within shouting distance of each other.

So I would take umbrage to some of the comments that were made as it relates to -- "This a big sham, and it's a joke, and this is what you're--" This is nothing other than enshrining what will be the votes of the people of this state in statewide elections, to set up how we'll set these districts up down the line -- as opposed to the philosophy of one individual who is an appointed person. And I think it's pretty fair.

Again, not that you need my promise. If this is to go forward and get on the ballot, we'll have a whole process, after January 11, that's going to occur -- that will have to. And we'll look forward to being a part of that. And it won't be three weeks anymore, with Christmas in between. It will be months at a time.

So we'll look forward to the conversation going forward. I respect what everybody had to say and what their opinions are today. And thank you all for your thoughtful time.

And we will stand adjourned, and look forward to Monday and beyond.

Thank you.

(HEARING CONCLUDED)

APPENDIX

Jennifer Reppert

Delran

January 7, 2016

The foundation of the nation and its states is built on the fact that instituted government derives its powers from the consent of the people.

Our founders were very concerned with the creation of political parties. They feared this would create a deep threat to the health of the nation. A small but crafty special interest minority would put in place the will of a party over the will of the people.

This brings me to the 4 amendments that are being discussed today. All 4 appear to be created for the benefit of a particular party and their own interests above that of the New Jersey citizen. At first glance, a person who reads it would think perhaps they are good ideas. I guess that is the point, but in reality they are anything but good ideas for the citizens that this legislation represents.

ACR 1 Although at first glance it looks like it is a good thing, gas taxes going to the transportation fund to build and fix roads and other infrastructure (I thought this was already supposed to be happening). However, it avoids to mention the separate intent to raise this tax by 25 cents (which everyone opposes). Creating an amendment to make sure this gas tax gets into the transportation fund is a way to gain favor with the construction unions. If their members are working and feel like work is good and the politicians are favoring them, they are more likely to go out and knock on doors for the interested candidate. More importantly, cast a vote for him or her. Lastly, details of annual budget management should not be in the Constitution. There needs to be flexibility to adjust to the ebbs and flows of the economy.

ACR2 I realize that casino authorization is a constitution item. However, this proposal is manipulative and calculating to meet political ends. It also doesn't consider the negative impact on Atlantic City.

ACR3 Mandate that state revenues fully fund all pension funds. Once again, financial management details don't belong in the Constitution. The state can't pay these benefits. They are not in a good financial position. Legislators who want to get re-elected will once again kick the can down the road without addressing the problem. More of the same that put us in the financial situation we are in. Sadly, this will effect innocent young citizens, all of our children and grandchildren.

ACR4 This admendment is probably the worst for the citizens and the republic.

1. Has immense impact on who gets elected. Definitely favors one party.
2. The citizen is completely shut out of the process.
3. Gives feeling of bias.
4. Having the Chief Justice of the NJ Supreme Court as the tie breaker is a complete and utter breach of the jurisdiction of authority. The court's whole reason to exist is to act independently and to evaluate constitutional issues and laws that were created by the legislation-which were elected by the people to represent the people. They should not be involved in party manipulation.

Thank you for your time.

Testimony of Barbara Eames
Whippany NJ – January 7, 2016
On ACR1 ACR2 ACR3 ACR4

The elected representatives of the majority party of the NJ Legislature are about to embark on an historic undertaking to “fundamentally change” the NJ State Constitution, with four amendments.

IF the People of the State of NJ were aware and understood the assaults upon not only the State Constitution, but upon the principle of Constitutional separation of powers, and ultimately, their liberty, and freedom from oppressive government that will be a result of these ill-advised amendments, they would be filling these chambers today. Most people, however, have little knowledge about today’s deliberations, are consumed with the daily responsibilities of families and jobs, and might even acknowledge the futility of testifying today.

Their absence does NOT, however, justify the damage to representative government, the perversion of the public trust, and the triumph of partisan politics over that trust that are the intention of today’s deliberations. As Mark Twain famously stated, “No man's life, liberty, or property are safe while the legislature is in session.”

A former US President, with more wisdom and moral compass than many of his peers either then or now, wrote this many years ago:

“All obstructions to the execution of the Laws, all combinations and Associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the Constituted authorities, are destructive of this fundamental principle (of liberty) and of fatal tendency.

They serve to organize faction, to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation, the will of a party; often a small but artful and enterprising minority of the Community; and, according to the alternate triumphs of different parties, to make the public administration the Mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils and modified by mutual interests.

However combinations or Associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious and unprincipled men will be enabled to subvert the Power of the People, and to usurp for themselves the reins of Government; destroying afterwards the very engines which have lifted them to unjust dominion.”

It seems that George Washington must have been speaking of this NJ legislature.

The gas tax and pension amendments seek to institutionalize both revenues and expenditures outside of the annual appropriations process, by removing that annual Constitutional responsibility from the legislature, and placing it in the Constitution. The two Amendments on redistricting and Pensions represent nothing more than a blatant attempt to consolidate the power of the majority party among special interests and in certain geographies. It is a shameless manipulation of the Public Will for the personal benefit of politicians who seek to ensure either the dominance of a political party in NJ, or their own election.

The Amendments will also contribute to a deterioration of the terrible fiscal condition of the State, which already has the highest exit rate in the nation.

The legislature will hide behind the excuse that they are giving "The People" the right to decide these issues. The complicated questions will be worded in such a way as to make them seem simple, reasonable and even necessary. The result will be that the people will unwittingly be manipulated for the benefit of the majority faction that placed the questions on the ballot.

In closing, Washington spoke about **"the preservation of your government"** and warned **"that you resist with care the spirit of innovation upon its principles however specious the pretexts."** He continued, **"One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown."**

So manipulation of the system, by pandering to constituencies for political benefit, betrays the sacred trust placed in elected officials, and undermines the integrity of the governmental system. The legislature MAY have the ability to pass four amendments to the Constitution, but that does NOT mean it has the moral authority to do so. Vote "NO" on these amendments.

I thank you for your time.

Testimony of Gayle Casas on ACR4
January 7, 2014

Good morning, esteemed members of the Assembly Judiciary Committee. I am here today to urge you not to let ACR4 leave your committee today as it promotes partisanship as opposed to bipartisanship, and as it leaves your constituents and all NJ citizens with much less of a political voice.

ACR4 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%, equalling 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.

ACR4 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 NJ. Presently, an 11th member is only brought in to overcome deadlocks in decisionmaking, 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 ACR4 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 occurs.

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 ACR4 because the people of NJ, 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.

-----Original Message-----

From: jeanpublic1@yahoo.com [mailto:jeanpublic1@yahoo.com]

Sent: Wed 1/6/2016 9:29 AM

To: OLSaideAJU

Subject: vote no on acr1,2,3,4

i oppose all 4 bills. they are not good for nj. will raise taxes and bring nj in the wrong direction. we need more accountability on spending our tax dollars and we need to downsize govt. we need to insist on knowing where our tax dollars go since they are spent unwisely with millions of dollars paid per mile of road that is 15 times larger than any other state pays, even those right next door to nj. its time to cut the overspending. its time to insist that state and municipal employees work an eight hour day and benefits are cut and pensions stop altogether. the costs are too high for taxpayers in this state. all 4 bills are bad for nj. jean public1 flemington nj

-----Original Message-----

From: jeanpublic1@yahoo.com [<mailto:jeanpublic1@yahoo.com>]

Sent: Mon 12/28/2015 10:39 AM

To: OLSaideAJU

Subject: vote no on acr 4

the voting should be by counties in nj. the setup where ou have 2 and 3 counties in a voting district makes no sense at all. voting should be a county wide activity. the set up to set up voting districts is totally corrupt and has set up districts that make no sense at all and has taken away the votes of many in nj. it is done for political party corruption not for the rights of voters in nj. it has taken away the rights of voters and is corrupt as can be as presently set forth and this constitutional amendment does not fix it. go back to county wide voting districts. at leasst that makes political sense. jean publiee jeanpublic1@yahoo.com