
Committee Meeting

of

ASSEMBLY JUDICIARY COMMITTEE

The following Bill(s) will be considered:

Assembly Concurrent Resolution No. 188

LOCATION: Committee Room 11
State House Annex
Trenton, New Jersey

DATE: July 9, 2020
3:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Raj Mukherji, Chair
Assemblywoman Carol A. Murphy, Vice-Chair
Assemblyman Nicholas Chiaravalloti
Assemblyman Gordon M. Johnson
Assemblyman Robert Auth
Assemblyman Christopher P. DePhillips



ALSO PRESENT:

Miriam Bavati
Office of Legislative Services
Committee Aide

Mark Iaconelli
Assembly Majority
Committee Aide

Kevin Logan
Assembly Republican
Committee Aide

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

Raj Mukherji
Chair

Carol A. Murphy
Vice Chair

Nicholas A. Chiaravalloti
Gordon M. Johnson
Robert Auth
Christopher P. DePhillips



Miriam Bavati
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NEW JERSEY STATE LEGISLATURE

ASSEMBLY JUDICIARY COMMITTEE

STATE HOUSE ANNEX • P.O. BOX 068 • TRENTON, NJ 08625-0068
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COMMITTEE NOTICE

TO: MEMBERS OF THE ASSEMBLY JUDICIARY COMMITTEE
FROM: ASSEMBLYMAN RAJ MUKHERJI, CHAIRMAN
SUBJECT: COMMITTEE MEETING - JULY 9, 2020

The public may address comments and questions to Miriam Bavati, Sarita J. Welsh, 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 Assembly Judiciary Committee will meet on Thursday, July 9, 2020 at 3:00 PM in Committee Room TBD, State House Annex, Trenton, New Jersey.

Due to the public health emergency, the State House Annex remains closed to visitors and the public will not be allowed to attend the meeting in person. The public may view the meeting on the New Jersey Legislature home page at <https://www.njleg.state.nj.us/>. The Committee will take oral testimony on bills, by telephone and/or video.

If you are interested in registering your position with the committee, please fill out the Registration Form located on the New Jersey Legislature home page under the applicable Committee heading. If you wish to testify, check the box on the form "Do you wish to testify?" The form must be submitted by 2:30 PM Thursday, July 9, 2020. Instructions for providing testimony will be forwarded to you.

The public is encouraged to submit written testimony electronically in lieu of oral testimony. Written testimony will be included in the committee record and distributed to the committee members. Written testimony should be submitted to OLSAideAJU@njleg.org.

Please note if you have registered your position on ACR-188 with the committee for the public hearing previously scheduled for this date and time, your position will be included in the committee record and distributed to the committee members.

(OVER)

Assembly Judiciary Committee

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July 9, 2020

The following bill(s) will be considered:

Released/Aca

ACR-188

McKeon/Jimenez/

Wimberly/Lopez

Proposes constitutional amendment to modify legislative redistricting schedule if receipt by Governor of decennial census of United States is delayed.

Issued 7/8/20

For reasonable accommodation of a disability call the telephone number or fax number above, or for persons with hearing loss dial 711 for NJ Relay. The provision of assistive listening devices requires 24 hours' notice. CART or sign language interpretation requires 5 days' notice.

For changes in schedule due to snow or other emergencies, see website <http://www.njleg.state.nj.us> or call 800-792-8630 (toll-free in NJ) or 609-847-3905.

**ASSEMBLY CONCURRENT
RESOLUTION No. 188**

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JULY 6, 2020

Sponsored by:

Assemblyman JOHN F. MCKEON
District 27 (Essex and Morris)
Assemblywoman ANGELICA M. JIMENEZ
District 32 (Bergen and Hudson)
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)
Assemblywoman YVONNE LOPEZ
District 19 (Middlesex)

Co-Sponsored by:

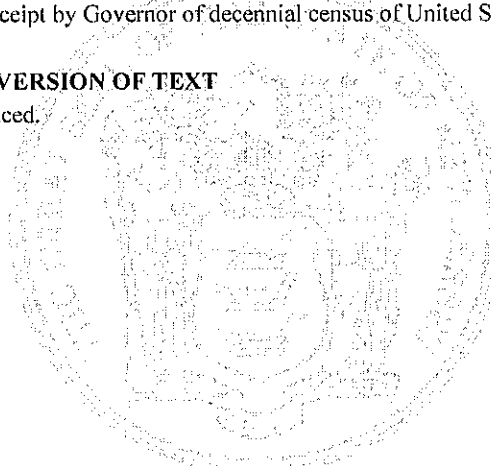
Assemblywoman Timberlake and Assemblyman Giblin

SYNOPSIS

Proposes constitutional amendment to modify legislative redistricting schedule if receipt by Governor of decennial census of United States is delayed.

CURRENT VERSION OF TEXT

As introduced.



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

3

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

6

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

9

10 PROPOSED AMENDMENT

11

12 Amend Article IV, Section III, by adding a new paragraph 4 to
13 read as follows:

14

15 4. Notwithstanding the provisions of paragraphs 1, 2, and 3 of
16 this Section III, when the receipt by the Governor of the official
17 decennial census of the United States for New Jersey occurs after
18 February 15 of the year ending in one, following the year in which
19 the census is taken, the commission shall certify the establishment of
20 Senatè and Assembly districts and the apportionment of Senators and
21 members of the General Assembly to the Secretary of State after the
22 November general election of that year ending in one, but not later
23 than December 31 of that year. Such establishment and
24 apportionment shall be used for the election of members of the Senate
25 and General Assembly beginning with elections conducted in the
26 year ending in three, and elections thereafter, and shall remain
27 unaltered until the following decennial census of the United States
28 for New Jersey shall have been received by the Governor.

29 The Senate and Assembly districts certified to the Secretary of
30 State by the previous Apportionment Commission for the previous
31 decade shall remain in effect in that year ending in one and in the
32 year ending in two, and shall be used for legislative elections in those
33 years.

34 For the election of members of the Senate and General Assembly
35 occurring in November of that year ending in one, members shall be
36 elected by the legally qualified voters of their district as drawn by the
37 previous Apportionment Commission for the previous decade, for
38 terms beginning at noon of the second Tuesday in January next
39 following their election and ending at noon of the second Tuesday in
40 January two years thereafter.

41

42 2. When this proposed amendment to the Constitution is finally
43 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
44 shall be submitted to the people at the next general election occurring
45 more than three months after the final agreement and shall be
46 published at least once in at least one newspaper of each county
47 designated by the President of the Senate, the Speaker of the General

1 Assembly and the Secretary of State, not less than three months prior
2 to the general election.

3

4 3. This proposed amendment to the Constitution shall be
5 submitted to the people at that election in the following manner and
6 form:

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

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

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

15 b. In every municipality the following question:

16

	YES	<p>CONSTITUTIONAL AMENDMENT TO CHANGE THE LEGISLATIVE REDISTRICTING SCHEDULE IF CENSUS DATA IS DELAYED</p> <p>Do you approve amending the Constitution to change when new legislative districts are created if the federal census data is delayed?</p> <p>The current COVID-19 pandemic has delayed census data collection. If New Jersey does not receive the census data in a timely manner, new legislative districts may not be ready in time for State legislative elections in the year ending in one.</p> <p>This change to the redistricting schedule will allow legislators to be elected that year from their existing districts for their two-year term in office. The new districts will be used starting with the next scheduled general election for the State legislature.</p>
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17

	NO	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>This constitutional amendment changes when new legislative districts are created if the federal census data is delayed.</p> <p>The United States Constitution requires that a census be taken every ten years to count the people living in the country. Census data is then used to create new legislative districts to ensure residents have equal representation from elected officials. However, the current COVID-19 pandemic has delayed census data collection. This may delay census data to the states and may affect the creation of new legislative districts.</p> <p>The State Constitution requires an Apportionment Commission to create new legislative districts every ten years after the federal census is completed. If the census data is delayed, the new legislative districts may not be created in a timely manner to hold elections.</p> <p>This constitutional amendment requires the commission to delay creating the new districts if the Governor receives the federal census data after February 15 of the year ending in one. The commission will adopt the new districts after the November general election, but not later than December 31 of that year.</p> <p>The new districts will be used starting with legislative elections in the year ending in three. They will continue to be used until new districts are again created by the Apportionment Commission after the next federal census.</p> <p>For the June primary and November general elections in the year ending in one, Senators and Assembly members will use their existing districts to run for a term of two years. The old districts will also be in effect in the year ending in two if any legislative election is held in that year.</p>
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STATEMENT

1
2
3 The United States Constitution requires a census to be taken every
4 ten years to count the people living in the United States. Data
5 received by the states from the United States Census Bureau is used
6 to create new legislative districts at the start of each new decade to
7 ensure residents have equal representation from their elected
8 officials. However, in New Jersey, if the federal census data is not
9 received by February 15 of the year ending in one, the new legislative
10 districts cannot be ready on time to meet the legal deadlines for state
11 legislative elections, causing disruptions in the election process. The
12 COVID-19 pandemic has caused the United States Census Bureau to
13 delay its procedures for collecting census data. This delay in data
14 collection may delay the release of the census data to the states,
15 possibly as late as July 31, 2021. This means that New Jersey will
16 not receive the population count on time to create the new legislative
17 districts to meet the legal deadlines for the 2021 State legislative
18 elections.

19 This constitutional amendment requires the Apportionment
20 Commission to delay its adoption of new legislative districts when
21 the United States Census Bureau does not provide the Governor the
22 redistricting census data by February 15 of the year ending in one.

23 Currently, the State Constitution requires new legislative districts
24 to be adopted every 10 years following the Governor's receipt of the
25 decennial census results. The United States Census Bureau conducts
26 the count of the population in each year ending in zero, and provides
27 this data to the states in the year following the year in which the
28 census is taken, ending in one. The State Constitution requires the
29 Apportionment Commission to certify the new legislative districts
30 within one month after the Governor receives the official census data
31 for New Jersey, or on or before February 1 of the year ending in one,
32 whichever date is later. If the 10-member bipartisan Commission
33 cannot adopt the new districts within that month, then the Supreme
34 Court appoints an independent member to break the tie vote. The 11-
35 member Commission then has one more month to adopt the new
36 districts. Usually, the new districts are ready to be used in the June
37 primary and November general elections for legislators that occur in
38 that year ending in one. However, if the census data is delayed, the
39 new legislative districts would not be ready on time to meet these
40 State legislative election deadlines.

41 This constitutional amendment modifies the schedule for adopting
42 the legislative districts when the census data is delayed. It provides
43 that if the Governor receives the census data after February 15 of the
44 year ending in one, the commission will certify the new districts after
45 the November general election but not later than December 31 of that
46 year. The new districts will be used for legislative elections
47 beginning in the year ending in three, and will continue to be used in
48 elections until new districts are adopted after the next census. For the

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6

1 June primary and November general elections in that year ending in
2 one, Senators and Assembly members will be elected by the voters
3 of their existing districts, instead of the new districts. As usual,
4 Senators and Assembly members run for office in the year ending in
5 one and are elected for a term of two years. The old districts will
6 also be in effect in the year ending in two for election purposes, if
7 any legislative election is held in that year.

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ASSEMBLYMAN RAJ MUKHERJI (Chair): I'll call this meeting to order.

And if we can all rise and turn to the nearest flag for the Pledge of Allegiance. (all recite the Pledge of Allegiance)

Okay; and we'll begin with the roll call.

MS. BAVATI (Committee Aide): Assemblyman DePhillips.

ASSEMBLYMAN DePHILLIPS: I'm here.

MS. BAVATI: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: I am here.

MS. BAVATI: Assemblyman Chiaravalloti.

ASSEMBLYMAN CHIARAVALLOTI: I'm here.

MS. BAVATI: Vice Chair Murphy.

ASSEMBLYWOMAN CAROL A. MURPHY (Vice Chair): I am here.

MS. BAVATI: Chairman Mukherji.

ASSEMBLYMAN MUKHERJI: Here.

MS. BAVATI: Chairman, you have a quorum.

ASSEMBLYMAN MUKHERJI: Thank you.

In this hearing, we are convened to consider Assembly Concurrent Resolution No. 188, and amendments to the Resolution. And so we can begin by taking comment from the public.

I will ask the sponsor to go first. Procedurally, do we need to do anything for the record, Miriam, first?

MS. BAVATI: Yes, there is some language that we should mention about taking the vote.

Would you like me to read that for you?

ASSEMBLYMAN MUKHERJI: Sure.

ASSEMBLYMAN DePHILLIPS: Mr. Chairman, I have a question.

ASSEMBLYMAN MUKHERJI: Sure.

ASSEMBLYMAN DePHILLIPS: When is it envisioned that we're going to have the public hearing on this piece of legislation?

ASSEMBLYMAN MUKHERJI: Mark, are you on?

MR. IACONELLI (Committee Aide): Yes.

ASSEMBLYMAN DePHILLIPS: As you know, Chairman, a public hearing was noticed, was scheduled, and then canceled. And then I had also been informed that this Committee hearing, or this Committee *meeting* was going to be canceled, but then it was rescheduled just last evening. So I'm curious as to when the hearing is going to take place on this significant piece of legislation.

ASSEMBLYMAN MUKHERJI: So it's going to -- it needs to take place before the end of the month. So presumably that's when it will occur procedurally, under our Constitution, right? I'm not sure if it's premature to speculate about when it will be noticed; but logically, I think we have a Committee meeting scheduled for, I think, July 20. I mean, it would make sense to me to notice a public hearing for that date. I'm just not sure if it's been noticed yet, and if it's premature for me to speculate about that if it has not been noticed.

ASSEMBLYMAN DePHILLIPS: Okay, well it's my--

ASSEMBLYMAN MUKHERJI: It needs to take place before the end of the month, and I'm sure that's when it will take place.

ASSEMBLYMAN DePHILLIPS: Okay. To my knowledge, it has not been noticed for July 20.

I'm not 100 percent clear on what, in fact, procedurally we're going to be doing today. I understand there are amendments, which I have not seen. But is it your intention to have the Committee vote on the amendments, or have the Committee vote on the Resolution before a public hearing?

ASSEMBLYMAN MUKHERJI: Yes; it would be-- Well, the public will be participating today. We're going to invite-- We're going to take testimony and consider the amendments today. And then the public hearing -- if it occurred on July 20, for example -- that would be the hearing on the Resolution as amended. I think that that provides the most possible transparency, because the public will have had time to consider the constitutional amendment, or the ACR as amended, rather than having an amendment presented the day of, and then having the public hearing.

So to me that would be the most transparent way to go about the process.

ASSEMBLYMAN DePHILLIPS: Just so I'm clear -- so it's your intention to have the Committee vote on the Resolution as amended on the same day as the hearing.

ASSEMBLYMAN MUKHERJI: We are recommitting the Bill and vote on the Resolution, as amended. So that's not correct. Today we're considering -- today we're amending, or we're seeking to amend, the Concurrent Resolution. The public hearing would occur by the end of the month, and that would be hearing the Resolution, as amended, if that occurs today.

ASSEMBLYMAN DePHILLIPS: Okay.

I'm looking forward to hearing from Assemblyman McKeon; but I do just want to object to this process. I did not even know there was any such Bill until about 48 hours ago. This is a very significant piece of legislation; you're seeking to amend the Constitution. And we are now convening a Committee meeting about a Bill that has far-reaching consequences that members did not know about -- or at least this member did not know about -- until 48 hours ago.

ASSEMBLYMAN MUKHERJI: Understood. And just for the purpose of clarity, we're seeking to put the question to the voters of the great State of New Jersey to determine if the Constitution should be amended. We're looking to give them a choice about an issue of great import as well, which is why we would seek to amend the Constitution. But we're looking to put this on the ballot and give the voters a choice on whether this is the appropriate way to go to safeguard this process, and the one-person, one-vote principle and other hallmarks, I think, of our democracy.

But I'll let the sponsor speak to those issues.

All right; Miriam, you could read the language; and then--

MS. BAVATI: This is the language concerning the voting procedures.

Concerning the post-meeting reporting process for today's meeting, Assembly Rule 10:16 requires the members to confirm their votes by signing the vote record for the Bills or Resolutions being reported by the Committee. Thus, current circumstances do not allow members to be physically present and sign the vote records, an authorized waiver of the Rule has been obtained and a new procedure is being used.

The Office of Legislative Services' staff will transmit the vote records to each member, the Majority and Minority Committee aides. OLS asks that the members review the vote record for 24 hours and notify OLS Committee staff regarding any corrections that are required for the records. If OLS staff does not receive a notification for a vote correction from a member, OLS will conclude that no correction is required and the original recorded vote will remain in place.

ASSEMBLYMAN MUKHERJI: Thank you.

Okay; we'll begin.

Our first speaker who we'll hear from is Assemblyman John McKeon.

Assemblyman, the floor is yours.

A S S E M B L Y M A N J O H N F. M c K E O N: Thank you, Mr. Chairman; and first and foremost, thank you for posing this potential constitutional question for the voters of the State of New Jersey.

I think I can't emphasize that more, as you did, Mr. Chairman, that this would simply move along the process to place this on the ballot. And it would be the people of this great state who would make a decision as to whether or not to amend the Constitution.

Speaking of constitutions, it's interesting -- the United States Constitution, in Article 1, Section 2, requires that Congress take a count, in a manner which they directed by law, of the people of this country. And it's interesting to note that the first count actually took place three years after the Constitution was adopted; and then, thereafter, in 10-year increments. So it just happens to be that the year 2020 is the 10th year in the cycle when the people of this great country are to be counted.

The U.S. Census Bureau had planned to hire half-a-million individuals who would go door-to-door to make certain that there is an accurate count throughout this great land. That was to take place between May 1 and July 31 of this year. The COVID virus has disrupted much of all of our lives; and in this instance, has continued to put a tremendous strain on government services. The Census Bureau is no different than that and, obviously, the challenge of going door-to-door.

So they hit the pause button; they asked for a four-month delay. The current plan of the U.S. Census Bureau is, starting on August 11, start to go door-to-door.

Now, I'm no one to predict -- I don't think any of us are -- as to what's going to occur. But it's certainly hard to believe that in New Jersey, or in any other state, particularly as to the spikes as they continue, that we're ready to have an army of individuals make close contact by going door-to-door.

Let's assume that that did occur; that August 11 that starts here in New Jersey; and the number of workers to go door-to-door in our state would be about 45,000. But if that was to occur, we're told by the Census Bureau that the best-case scenario -- best-case -- is that New Jersey would have census numbers by June 15.

So we probably -- if you don't know, I'll repeat it -- that New Jersey and Virginia are two of the 50 states that redistrict the same year, or immediately after the census comes out. So a lot of us who are veterans of the Legislature -- or at least have been here for 10 years -- understand how that process worked. We usually get that data February 1; that results in about a 60-day process -- imbued, again, in our Constitution -- resulting in a

neutral certifying an electoral map. Everybody scrambles, because you have about 10 days to get petitions signed, and then a primary takes place and, of course, the general election in November.

How would that work with us getting the data on June 15? And I emphasize that's the best case scenario. Well, June 15, the Commissioners would then take the 30-day period in which to attempt to come up with an agreed-upon map. If that didn't take place -- and it really never has before, and it's unlikely it ever would -- then a neutral is put into play, and another 30-day constitutionally mandated period goes by. That would take us to August 15 -- that would be when the map would be certified.

Petitions -- let's just use seven days. There should be more than that, but that's what the law requires. That takes us to August 22.

Then there is a 60-day period; and it gets a little foggy, it's sometimes more than that by a few days because it's supposed to be on a Tuesday. But at a minimum, a 60-day period, which would then take us to a primary on October 22; and then, of course, a general election to take place about 10 days thereafter.

Now, I'm sure all of you would agree that that would be chaos; not palatable for the democratic process. And unfortunately, this is just one other thing that's a fallout as to life that's no longer usual, based solely upon COVID.

Now, what are our other options? Well, there's a number of them. But in my opinion -- and this is why I'm bringing this forward -- they're all bad for democracy. We could make it less time for that 60-day period, and seek to have a more consolidated period. That's one of the worst things we would want to do. There is so much discussion about more openness, and

transparency, and more meetings, and public input. Why would we ever want to consolidate 60 days, which is short, in and of itself? Less time for petitions? I mean, seven days in a new district is, in and of itself, a very short amount of time. How would that be palatable; why would that be good democracy?

Less time for the primary. Again, you're dealing with new districts. For most districts the facts are that it's going to be either Republican or Democrat preordained, with the primary being the most important of the elections at setting forth who the standard-bearer of that party is going to be. Most of which -- you know, 80 percent of which are going to know that they are in districts that are either Democratic or Republican reforming (indiscernible) state. So that would be the worst thing; again, bad for democracy to consolidate the primary time when most people in the state will be making the decision as to who will be representing them.

Further, as we know with the voting, with mail-in ballots, that a number of -- a percentage of those mail-in ballots end up -- even though they're legally cast -- not being counted because they don't get there in time. Consolidating time would exacerbate that situation.

Finally, I guess we could go with a special election in December. Again, bad for democracy in numbers of individuals who would participate.

So what does this do, in the alternative -- at least, what I'm proposing that we do?

And in sum, that's to go to an eight-year cycle, because of the fact that we will not have that data in play; to use the currently drafted districts and remain, as opposed to 10 years, to 12 years; with the next cycle going to 8.

You know, again, I really put this before us, in part, with a heavy heart. I don't want to be here; I don't think any of us do -- either for the reasons, because of COVID, or to do something that is going to change what a 10-year cycle was going to be. But we really have no choice. I mean, the independent Brennan Center has usually been on -- recently -- but on the side supporting the Republican views on the map. Virginia and New Jersey, no doubt, because of the delay in the census, are going to have to run in their current districts. They really don't have a practical choice.

So what are the amendments? So it's a little difficult to follow; maybe I can try to simplify it.

If we were to get the data in June, as we suggested, although the electoral process would be in chaos, in theory you could have a new map by the middle of August. Now, I pose to you that this data is going to come much later than June, but you could.

You wouldn't want to have a certified map, and then a November election where you'd be running in an old district. It just doesn't feel right. What the amendment does is requires that that 60-day time, when they usually have to create the map, is not to be certified until after that November election, but no later than March 1.

Now, it's interesting because what's a happy byproduct of that is that it will be more time; it will be more time for meetings, more public input. And so expanding that period for good reason, because it would not make a lot of sense to have a certified map, and then be running in a district that wasn't going to be that while you're running in it -- it just didn't make a lot of sense to me. So that's what that one amendment is.

There's not really-- The other aspect of what was changed in the Bill just had to do with clarifying language in the preamble or in the statement to make certain it was clear that we weren't changing anything about the process, or how people are appointed, or otherwise. There's really -- it's what it is, it's what it will be, assuming there weren't any changes between now and the next couple weeks. That's the system that was there.

Another option is a one-year cycle. We could all run three years in a row, if you will. And again, in my judgment, that's just not the best way to proceed. Number one, it would be very expensive. Number two, I've referenced a couple times now the *Book of Proprietors* that I got from Al Poronni when I got here; there are a lot of interesting things in there. And in 1847, the founders -- or the drafters of the New Jersey Constitution specifically put the Legislature in non-Federal years -- in years ending with 1, 3, and 7. And that's because they wanted the Legislature to stand on its own. So if we go in a one-year cycle, it would put us in the same election in 2022 as would be Congress, and would be -- I don't remember if there is a U.S. Senate race that year. Again, it would have an opposite effect to what the founders wanted to see in New Jersey.

So -- and I'm into the expense part of that. And all we need is three lame ducks in a row; I mean, it would be that whole session of one year would be a lame duck session. To me, it just would, again, be incredibly disruptive of the process. And as much as I've thought about different ways to do this, I can see no others; and as a practical matter, and a fair matter, to just continue the current districts as they're drawn for just an extra two years, or one cycle. And then be in a position to have a shortened cycle of eight years -- the process having been followed, and just expanded.

I also mention this. I'm sure a lot of people who are going to speak are going to talk about, "Why shouldn't the Commission change? You know, why shouldn't we have less partisan individuals there, why shouldn't there be more mandatory meetings? There should be a neutral from the beginning." These are all great ideas. But the reality is, there was not a consensus among the lawmakers to make those changes. And we were going into the year with the system being as it long has been. Ironically, if the people of the state vote and pass this, we will have a window, if a consensus can be built, to change that Commission, as their work won't have to be done immediately. So we could, in theory, get a second ballot question on in 2021, painting what that Commission looks like. So there is at least that opportunity.

So with that, Mr. Chairman-- I'm sorry if I went on too long. Again, I've thought long and hard about this; I've consulted with as many as I could -- as many others who have been thinking through this process to try to come up with the best solution to a problem none of our making.

But with that, I will be happy to listen to the testimony of all those who are signed up, as well as answer any questions the best I can.

ASSEMBLYMAN MUKHERJI: Thank you.

Assemblyman, in your view of the possible solutions that you contemplated in sponsoring the Resolution, the Concurrent Resolution, is this the one that affords the voters the most deliberative process, best protects democracy? I mean, it seems like there are a couple of different ways to go about this. None ideal, because all are borne out of a pandemic, which is inherently far from ideal. But at the end of the day, isn't this the fairest way to do it?

ASSEMBLYMAN McKEON: It appears to me to do so.

I went over some of those options, and I just -- I'm trying to avoid this being a debate about the redistricting system, because that's what the law is now, and that's what the law is going to be. So take that off the table, I see no other way to do this other than to allow our districts to remain for two years, in an orderly way, and then to have the process occur that will be, really, an expanded one -- at least by time -- in order to get us to the next eight years. And then hope to God that we never find ourselves in this position again and can get back to the 10-year cycles that before this time we had become used to.

ASSEMBLYMAN MUKHERJI: Right.

Thank you so much, Assemblyman.

Why don't we, first, begin with questions from the Committee for you?

Vice Chairwoman Murphy.

ASSEMBLYWOMAN MURPHY: Yes, thank you.

Assemblyman McKeon, first of all I want to say thank you for putting this forward.

I support this Bill. It is too important not to make sure that we have input from as many people as we can, including our public. And being on the ballot I feel is a fair way to do it.

But can we just step back one moment? Because I think what Assemblyman DePhillips is asking -- and please clarify for me, if I'm wrong on any of this that I'm saying -- that the reason why we have to do this now is because we have until early August to have it passed so it can get on the ballot. Once we pass the Bill with its amendments it has to sit on the desk

for 20 days before we can put it up for a vote -- for the first vote. So that means that we have to have these amendments completed and voted on prior to us being able to vote on in it in the house. And we only have to, like, the first or second week of August -- and I think it might be the second week of August, if my recollection is correct -- that we have to get it passed, signed, and through the process in order for it to be able to put on the ballot this year.

The reason why-- I understand that we all didn't see this until recently. But I think we've been talking about the census for so long -- about how long it's going to take, that we're going to get them late, that there is absolutely no way that it would be any type of fairness when it comes to making sure that our districts are represented correctly, that we get the full impact of what the census is going to provide. I think, if anything -- and, you know, again, please clarify for me, both Assemblymen, if I'm wrong on any of this -- but I do have to tell you, the COVID-19 has suggested one thing: that we have to make sure these next 10 years after this census is done, and we are moving forward, that we have the right representation and we have a right accounting of all possible programs, funding, etc., that we need for our districts so no one goes without.

And I'll end it there.

Thank you, Mr. Chair.

ASSEMBLYMAN McKEON: I'll just comment, very briefly, through the Chair.

I think it's August 3; I'm not 1,000 percent sure. But I do know that this needs to be passed today, as it needs to literally be on our desks before midnight tonight in order to allow us to meet constitutional process

to get this to be on the November ballot. So this is why going forward today with this meeting was so essential. So assuming that, in the Committee's wisdom, it passes and is placed on the desks by midnight.

And you made a point that can't be expounded upon enough. There isn't a person in this Legislature who believes that any kind of undercount of our state be good, either for our representation in Congress or most significantly relative to the Federal dollars that are tied in to a proper count. Things like cities being over a certain number entitles them to certain programs, and certain aid. And much of the resources that are already sorely under-provided to our great state, at 70 cents on the dollar that we send out, be even more disparate. So it's incredibly important.

ASSEMBLYMAN DePHILLIPS: Mr. Chairman, I have a number of questions.

ASSEMBLYMAN MUKHERJI: Go ahead, Assemblyman.

ASSEMBLYMAN DePHILLIPS: John, how are you?

ASSEMBLYMAN McKEON: I'm good, Chris; you and your family?

ASSEMBLYMAN DePHILLIPS: Everyone's well, thank you. Good to see you.

ASSEMBLYMAN McKEON: You as well.

ASSEMBLYMAN DePHILLIPS: Both you and Assemblywoman Murphy mentioned the pandemic, and COVID, and the special circumstances around the pandemic. My first question is, why, then, are you proposing to make these constitutional changes permanent?

ASSEMBLYMAN McKEON: So if I can respond, through the Chair.

I think they call that, like, the *black swan*; like, it could be just this one year. But the way I thought is, that the Constitution is really something that only in the most extreme of circumstances that we should amend. And so to deal with what's a single problem was not, in my opinion, the best way to do it. Who knows what the future will hold, relative to the need for this principle to be invoked another time? That was my thinking -- as opposed to a one-shot, black swan kind of amendment, that it would be there until otherwise.

ASSEMBLYMAN MUKHERJI: Forgive me for interrupting, Assemblyman DePhillips.

Just to expand on Chris' question -- John, that's because this remedy need only be invoked in that extraordinary circumstance that the Census Bureau is more than two weeks late in getting us the data for the Redistricting Commission to draw the map. Isn't that so? So as it is, we just have 60 days. You want more time for the public to see what is happening; you want more time for hearings. As it is, some might argue -- it's been argued that it's too short a window.

So if this problem occurred again, wouldn't we need to come back and amend the Constitution again to deal with that extraordinary circumstance in which the Census Bureau would be late on getting us data?

ASSEMBLYMAN McKEON: That was my thought, as it relates to just making that a permanent part of our Constitution.

ASSEMBLYMAN MUKHERJI: Assemblyman.

ASSEMBLYMAN DePHILLIPS: Okay. Mr. Chairman, I do have a few more questions for Assemblyman McKeon.

And let's just talk for a second about the census data, John.

As you know, the state is already at 64 percent participation. Why are we so concerned that we are not going to have robust census data seven or eight months from now? We're only 10 percent behind the final participation rate that we had in 2011. So is this really a problem?

ASSEMBLYMAN McKEON: Well, it's significantly important for our state. I mean, I guess the Feds could just throw some data at us and say, "Use this number." But it goes to the very essence, as has been mentioned, relative to Assemblywoman Murphy, to our Congressional representation, one person, one vote; and also to the very practical -- the money that we get. So it's essential that we have an accurate count.

And by the way, it's not us saying what they're going to be able to do in giving us accurate numbers. It's them telling us; it's the Feds telling us, "It won't be until mid-June, at the earliest, when we can get you numbers," and that's assuming they can hire 45,000 people to start knocking on doors, and going into RV parks, and everywhere else they go, the first week of August. And then, you know-- Chris, as I said, I can't predict the future, but that seems unlikely to me.

ASSEMBLYMAN DePHILLIPS: Yes; I just-- I don't see any proof or any evidence that we're lagging behind; nor that we wouldn't even get beyond where we were in 2011. It's possible that we could even do better than 2011, based upon the census data that's already been collected. So I just don't see the proof that we are -- we have a crisis around the census data, therefore necessitating this legislation.

ASSEMBLYMAN McKEON: I respect your point; I respectfully disagree.

ASSEMBLYMAN DePHILLIPS: Okay, let me ask you another question.

Isn't it true that under Federal law the census data does not even need to be provided until March 31, 2021? So what's the magic around the February 15 date in the legislation?

ASSEMBLYMAN McKEON: So the Federal government, knowing that New Jersey, since 1947, redistricts in the same year the census is done -- as does Virginia -- has always been good about making us a priority in getting us the data sooner than later. We routinely get it on or about February 1. I just picked the 15th because that was a couple weeks after the date that we're used to getting it.

Honestly, Chris, if President Trump decided to-- The law is very unclear about this; I'm sure it would end up in the courts. If President Trump decided to send us a letter tomorrow and say, "These numbers are certified; here's what they are," there would be an argument to make that those are the numbers we have to live with. But if they're going to go by the process and the system that have been there in the past -- where they hire people, and go door-to-door, and do their best for an accurate count, going back to Article 1, Section 2 of the United States Constitution -- then they'll so proceed.

ASSEMBLYMAN DePHILLIPS: Okay, I accept what you're saying. But you do recall that, in 2001, the census data was not even received until March 8, and the whole world didn't come to an end. I mean, the primary was just moved back a few weeks that year. So again, I'm not sure why we're proposing significant constitutional changes, let alone changes that are permanent. I think there are ways that we've grown accustomed to, to deal with data that might be coming in a little bit on the late side, but without

amending the Constitution. We did that in 2001; in 2011, as I recall, we just pushed back the petition date. I mean, there are less significant and less onerous ways of dealing with census data that comes in a little bit late. And there's no proof here that the census data will come in late this year, or this cycle.

ASSEMBLYMAN McKEON: Well, when you say *proof*, we're going by what the U.S. Census Bureau is telling us about the date to be anticipated, which is mid-June. Again, there was no magic to February 15, other than it was a couple weeks after what it usually was. If we knew this to be March 1 that we'd have that data, I would withdraw this Bill. Or even March 15, for that matter, so I agree with you. But this is built because of what we're hearing about June 15.

ASSEMBLYMAN DePHILLIPS: Again, I could see your point, if we didn't already have 64 percent participation in July. This is July; this is seven, eight months away. So I'm not sure why we're not giving the data a chance to come in and let the process work itself out before we push ahead with significant constitutional changes that are not limited to this one particular crisis that we're having around the pandemic. But the proposed changes are permanent in nature, not limited to the situation we're in now.

But I don't want to debate you, and I respect you very much, as you know.

And thank you for being here.

ASSEMBLYMAN McKEON: And back at you.

ASSEMBLYMAN MUKHERJI: I have a couple of follow-up questions. And with respect to Assemblyman DePhillips' questions, it could help to clarify.

In terms of pushing the primary back, we just experienced that this week. We had a July primary. I would suggest that that's problematic; it confuses voters. It has the effect of reducing the amount of time folks have to go out and get petitions. And I don't know, John, if you would elaborate on whether you considered that possibility -- why pushing the primary out doesn't seem like it'd be in the public interest -- for anyone participating in this meeting.

The other point I'd make is that Chris mentioned the 63, 64 percent self-response rate, which is, I think, the statewide number for New Jersey. That isn't anything to be proud of, and clearly we can't rely on a 64 percent self-response rate to get accurate census data. So what happens in the process; what does the Census Bureau do, after that, in order to get it up, which they're precluded from doing this year because we're in the middle of a global pandemic?

If you would, Assemblyman.

ASSEMBLYMAN McKEON: And I'm not an expert on what the census does. I know that they train 45,000 people, or whatever the precise number will be, here in our state. They'll go door-to-door to grocery stores, to shelters, to hotels, to RV parks, to accurately, per, again, our United State Constitution, under the direction of Congress, to get an accurate count of the people who reside here. And that's -- the most detail I can give you is the type of things that they would do.

I'm not going to repeat the June 15 scenario, which, again, they said that's about the date we'll get it. But one thing that we have to comply with is a November general election. So you can slice and dice the process

anyway you want; it is chaotic. And as I tried to posit (indiscernible) undemocratic to do some of the things that you could do to consolidate.

ASSEMBLYMAN MUKHERJI: And if there isn't a need -- because we're talking about a hypothetical that we think will occur, because the Census Bureau has requested the time. But to address that scenario, Assemblyman DePhillips, if the data comes in tidily, the need for more time is obviated and the amendment doesn't kick in. But we're operating under the assumption that we will need the time, because the Census Bureau has said we will, in order to ensure that we don't have an undercount, that we get accurate numbers, that fair representation of all New Jerseyans is part of a deliberative process -- small *D* democratic process -- in drawing the new map.

ASSEMBLYMAN CHIARAVALLOTI: Chairman.

ASSEMBLYMAN MUKHERJI: Assemblyman Chiaravalloti.

ASSEMBLYMAN CHIARAVALLOTI: Just a couple of comments.

First of all, Assemblyman McKeon, thanks you for all your hard work. As always, it's very thoughtful.

I think one of the things that I appreciate is how -- the understanding you have on what a drastic step it is to amend the Constitution. And I think this amendment is both measured and on point.

I do want to just address Assemblyman DePhillips' -- Chris' comments.

I do think it's not so much -- the response rate has been good -- the digital response rate -- at 64 percent. However, the door-to-door is absolutely key to assure that we don't have massive disenfranchisement, especially in our urban communities. As someone who represents Hudson

County, where our response rate is hovering around 53 percent, the door-to-door efforts of those 45,000 census workers is what will drive that number up. And that has not been possible during this pandemic. And I think -- you know, I understand the concerns; but I think that June-- When the Census requested that extension and that June 15 potential date, and as you build in the calendar, it measures this sort of -- I think it justifies this amendment.

I am very concerned that we don't have just a digital census, you know? I think it is key -- and I'll speak myopically for my District -- that we have an opportunity to go door-to-door and have the census completed, and to count every resident of each of our counties.

And I appreciate the comments, the sponsor's and my colleagues -- and I know Assemblyman Auth has his hand raised -- but I just think that what we're doing here -- and I'll return to the word -- I think what we're doing here is measured. I don't think it's an overreach. I think it's a reaction to the census, putting us on notice that there could be a really extensive delays.

But I do appreciate everyone's comments, Chairman.

Thank you.

ASSEMBLYMAN DePHILLIPS: Mr. Chairman, can I just respond for one second?

ASSEMBLYMAN MUKHERJI: Sure.

ASSEMBLYMAN DePHILLIPS: These arguments that I'm hearing from my colleagues, and also from Assemblyman McKeon's testimony, would maybe make more sense to me if this was a one-time occurrence that we're talking about. But that's not what we're talking about. We're talking about a permanent change, not only statutory changes or legislative changes, but we're talking about amending the Constitution and

making these changes permanent. So it's hard for me to believe that this is just about the pandemic or this is being driven by the pandemic, when we are not being discreet about what is being proposed.

But again, I appreciate the Chair's indulgence of me, and I am sure he doesn't want us to get into a lengthy debate. But I did feel the need to respond to that.

ASSEMBLYMAN MUKHERJI: And I hear you, Chris. It's just that, to me, that point would make more sense if we're changing the process *but for* the need that arises out of the pandemic or a similar situation.

In my view, the only time in which this process kicks in is if the census data is late. When has that happened -- or when would that, other than circumstances that shrink the period of time the Commission has to consider the data and draw maps based on constitutional principles, and ensuring that it's fair and representative of everybody. And if it's late, it's late. So if it happens again, we would need a fix for the same reasons as we do today.

So again, for the reasons I think Assemblyman McKeon described why the *black swan* -- as it's been described -- approach would not be proper, I think this is the most prudent way to do it.

But I respect your point.

Assemblyman Chiaravalloti, did you have any questions of Assemblyman McKeon?

ASSEMBLYMAN CHIARAVALLOTI: No; no, sir.

ASSEMBLYMAN MUKHERJI: (Indiscernible) next member.
Thanks, Nick.

Okay, then we'll-- Thank you, Assemblyman McKeon. We may turn back to you for more questions.

But we'll turn to the public commentators.

ASSEMBLYMAN CHIARAVALLOTTI: Chairman, Assemblyman Auth has his hand raised.

ASSEMBLYMAN MUKHERJI: I didn't see that; I apologize, Bob.

ASSEMBLYMAN AUTH: No worries, sir. How are you?

ASSEMBLYMAN MUKHERJI: Good, good.

Assemblyman Auth, please.

ASSEMBLYMAN AUTH: Just a few questions.

Is Assemblyman McKeon still there, or has he left?

ASSEMBLYMAN McKEON: I am, Bob.

ASSEMBLYMAN AUTH: Chairman, how are you?

ASSEMBLYMAN McKEON: I'm good, thank you.

ASSEMBLYMAN AUTH: Great.

So I have a couple of quick questions. The first one, I think, deals with the permanency of the constitutional change; it's been discussed before. But I kind of feel that initially, if we have a one-year change, then we have a solution for our problem and we fix the problem. If you extend it to a permanent status, then we seem like we have a solution looking for a problem, and it kind of turns it around.

So initially, it's effective, and it's probably good; and then, once that one year goes by, the complexion of the Bill changes completely, and then can create opportunities for, I don't know, people to act maybe less than honestly, to be quite frank. And I'm not pointing at any anybody specifically;

I'm just saying in general. And I think that we leave ourselves exposed to that.

So I don't understand why we wouldn't say, "Let's try this the one time, make sure that it works properly, see that it goes through." And if there's no need for it again, then we can just let sleeping dogs lie. And then if there is another time that we need to do it once again, okay. I mean, we're talking about making an amendment to the Constitution; that's a pretty important thing we're doing. And I don't think we should tread lightly here.

The other thing I wanted to ask you both-- Maybe you can answer that first, and then I have one other question for you.

ASSEMBLYMAN McKEON: Sure; thank you, Assemblyman.

And I explained-- First off, I know you were not saying -- making it personal, because--

ASSEMBLYMAN AUTH: No, no.

ASSEMBLYMAN McKEON: -- in 2030, I don't plan on being here to do anything wrong. (laughter)

ASSEMBLYMAN AUTH: Me either.

ASSEMBLYMAN McKEON: But is it related to-- I really-- Again, I didn't take lightly that we were amending the Constitution. And this, really -- it felt wrong to me to make an amendment just that would be applicable for this one circumstance. I hope to God it always is. But if we were to run into this in 2030, or 2040, or 2050, or 2060, where there couldn't be an accurate census number by that date, then this is a practical, sensible, democratic, and fair solution.

So that's why I decided to say that -- that's what our Constitution will read, until somebody long into the future says differently.

I mean, what's the worst-case scenario we're saying about doing something nefarious? A 12-year term, and an 8-year terms, and another 12, then another 8? I mean -- not that that would be what anybody wants, but that's all that would do. That's the most mischief anybody could do with this.

ASSEMBLYMAN AUTH: Well, okay. I guess we'll just agree to disagree on this one. I think there are other things that could possibly go wrong; I won't get into detail now. We'll talk offline, I guess.

The other question I had for you, though, which I thought might make things a little bit easier -- and someone may have mentioned it. I got in a little bit late; I was having difficulty with Zoom today. If we chose the 11th member for the Commission a month earlier, or a month-and-a-half earlier, to have everybody prepared-- So in other words, instead of, "Okay, we have the census data; now we have to go through the process of putting the Commission together," how about we put the Commission together now, we have the 11th member picked now, everything's ready to go. So as soon as we do get the data -- especially if it's close to the wire -- they can still perform their duty without having to go through this constitutional change, which, again, is something that I'm reluctant to do.

ASSEMBLYMAN McKEON: Yes, I'm sorry. Through the Chair, we would have to amend the Constitution to do that. So that might be constitutional-- It's not statutory -- about the 30 and the 60 days -- it's constitutional. So that would be that answer, Bob. We would have to put that on the ballot to be decided in November; and again, it's too late for this cycle.

ASSEMBLYMAN AUTH: But wouldn't that be less Draconian than to do the other thing? I mean, just to make the participants be put together earlier -- it seems to be a slight, almost administrative change to the Constitution, which really doesn't affect the public. This way it could affect voters down the road, and I think the one person, one vote type of thing is very important. And, I mean, I understand getting the count, and getting the count right. That's perfectly fine. We are above the national average, right now, in our participation there, which I think we should be very happy about. So I'm just a little bit vexed -- why this way, rather than the other way. The other way doesn't seem to be much of a change, and I'm sure it would get passed rather easily that way. I'm just asking us to be a little bit more prepared. We know this comes every 10 years; just prepare for it a little bit earlier.

ASSEMBLYMAN McKEON: I understand your point. I just -- this is my approach.

ASSEMBLYMAN AUTH: Okay; thank you.

Thank you, Chairman.

ASSEMBLYMAN MUKHERJI: Thank you.

Okay; our first commentator will be Christian Estevez, on behalf of the Latino Action Network.

C H R I S T I A N E S T E V E Z: Thank you, Chairman Mukherji, Vice Chair Murphy, and all the distinguished members of this panel -- Committee.

I thank you for the opportunity to speak on this important issue.

Fair redistricting is critical to New Jersey's Latino community. We have been the fastest-growing part of New Jersey's population, and thus, this is particularly important to be fairly represented.

We need a solution to the delay of the census data to make sure that we do not have a rushed process that's closed to the public. But the Legislature's proposal falls short in two important ways. One is that we need a commitment to more comprehensive reform to the State's legislative redistricting process. I'm happy to hear that Assemblyman Auth favors putting the tiebreaker in at the beginning, because that's part of what we want to see happen. Honestly, the first month of deliberation tends to be for naught without the tiebreaker there, since that's where it's going to end up anyway. So hopefully, when we talk more about all the other reforms that we feel are necessary to redistricting as a whole, we'll have his support on that as well.

Second, we need the same focus from the Legislature, that we are seeing from fast-tracking this Bill, in response to COVID-19, on the direct impacts to struggling families that the Legislature has not moved to help.

So the Latino Action Network calls on the Legislature to thus act on three items.

We need a solution to ensure that the redistricting process in 2021 provides adequate time to solicit comprehensive public input and carefully review the census data, especially considering that the census is being conducted by a Federal Administration that has consistently tried to marginalize Latino families and take actions to minimize participation.

Then we need more comprehensive redistricting reform that establishes constitutional standards for a fair and transparent redistricting process after the 2020 census is released.

And lastly, we need action this month on S-2340, A-4034, and A-4266, legislation that would stem a tidal wave of evictions in the Latino

and Black communities in New Jersey; and S-2280 and A-4171, which provides support for undocumented and mixed-status families excluded from Federal COVID-19 relief.

If the Legislature can make time to deal with--

ASSEMBLYMAN MUKHERJI: I'm sorry, Mr. Estevez. Just please stay on what's before us, if you could.

MR. ESTEVEZ: I'm finishing up.

ASSEMBLYMAN MUKHERJI: No problem.

MR. ESTEVEZ: So I just want to say that if the Legislature can make time to deal, on an emergency basis, with the rules that govern its own membership, it had better make time to deal, on an emergency basis, with the real-life issues facing our communities as a result of COVID-19. We need redistricting reform and a way to account for the delay of the 2020 census. Unfortunately, the Assembly today, while making time to advance a process they care about, have not moved forward either protections against evictions that will hit Latino and Black communities especially hard, or support undocumented and mixed-status families that were excluded from Federal relief.

So to be clear, we support this; we support this Bill. We think it's necessary. We think more needs to be done. I was happy to hear the sponsor of the Bill talk about the opportunity to possibly get another amendment done that will fix some of these other problems for next year; and that the timeline given would actually provide us an opportunity to have it in place before that map is certified.

So we look forward to working with the sponsor to do that. We support this, but we also urge you all to also give the same level of attention

and urgency to the other issues that are affecting our communities urgently right now.

Thank you so much for your time.

ASSEMBLYMAN MUKHERJI: Thank you for sharing your very important feedback.

To your point, Mr. Estevez, the Latino Community, the Hispanic population -- both white and non-white in New Jersey, as well as my immigrant community, the Asian American population in New Jersey -- we're expected to realize significant gains in the next redistricting process, based on gains in our populations in the census since the last decennial census.

Just take a look at our august body, the General Assembly, or our colleagues in the Senate. I'll just use myself as an example, and the Asian population. I'm told we're going to be between 10 and 12 percent of the entire population in the state -- the Asian population, the Asian American community -- in this next census. I'm the only Assembly member of Asian descent; there's only one Senator, Vin Gopal. We're supposed to be-- You take the Hispanic community -- they're 20 percent; they're a fifth of New Jersey, when the numbers come in, and only 8 percent of the State Legislature is Hispanic.

If we want to make sure that these gains are realized, and that these populations don't continue to be underrepresented, an accurate count is vitally important. For that reason, I sued the Commerce Department and the Census Bureau, along with a group of Hispanic and Asian groups and state lawmakers from across the country, and we were successful in Federal court seeking the removal of the citizenship question. And then after it was appealed and then remanded, the Secretary of Commerce withdrew the

question. Which was a victory, because we have to get the count right; we have to get the count right.

So Mr. Estevez, I truly appreciate your feedback and being with us today.

MR. ESTEVEZ: Thank you.

ASSEMBLYMAN MUKHERJI: Any questions from the Committee? ASSEMBLYMAN AUTH: Chairman?

ASSEMBLYMAN MUKHERJI: Assemblyman.

ASSEMBLYMAN AUTH: Thank you.

I just wanted to ask Mr. Estevez -- first, thanks for his testimony, of course; it was very elucidating -- just what evidence he had that the current Administration wasn't satisfactorily performing the census. I mean, obviously there's issues with COVID; but he intimated that there was something other than the natural issue of the pandemic causing irregularities or something.

Is that what he was intimating, or did he misspeak?

MR. ESTEVEZ: I did not misspeak, Assemblyman, with all due respect. I think the Chairman mentioned one of the main issues, which is what we consider the intent behind the Administration's move to try to include a citizenship question, and our view that that was meant to suppress participation of our community and other communities in the census.

And so, therefore, that is one of the items that basically -- even though we're happy that the Chairman participated in defeating that through the courts, that it still created a chilling effect in our community. And now we have to work against that, and really go overboard in terms of trying to

encourage people to participate in their duty to participate in the census regardless of their citizenship status.

ASSEMBLYMAN AUTH: Thank you.

MR. ESTEVEZ: Thank you.

ASSEMBLYMAN MUKHERJI: Any other questions for Mr. Estevez? (no response)

Okay; I'd like to call up Laura Zurfluh, of Indivisible Cranbury, next.

L A U R A Z U R F L U H: I also want to say I'm also with the Good Government Coalition of New Jersey, and have since received permission to speak for them also.

So it's clear action needs to be taken, due to the new information regarding the data. We will receive the new population counts derived from the 2020 census. It's not clear to me why that action that has been chosen is a constitutional amendment affecting every election in perpetuity -- which as Assemblyman DePhillips pointed out is a very significant act, and which, in my opinion, merits a better, less rushed, and more considered process.

As Assemblyman Auth said, this could be introduced as a similar amendment enabling us to accommodate the delayed census numbers for this unique challenge; probably very similar to the amendment you propose currently, but that would not permanently alter our future redistricting.

I've heard several legislators mention that this amendment will be put to the voters who will ultimately decide, and so thus as a democratic process.

As you're all aware, questions in this State cannot be placed on the ballot without passing through the Legislature.

As far as I understand, the thought behind that is that the Legislature will vet these questions prior to allowing them on our ballot. The vetting of this question should not ignore the rushed process, whereby Assemblyman DePhillips stated he was not even aware of the proposed amendment until less than 48 hours ago.

Finally, should we choose to move forward with a constitutional amendment, I would hope that the redistricting process would be reviewed in its entirety. A temporary, one-time fix would allow this to happen. Fair Districts New Jersey has been working towards creating a roadmap for a better redistricting process, with a temporary fix for just this pandemic that would allow us to use the additional time to more closely review these proposed improvements. And I've been working with Fair Districts New Jersey for a couple of years now. The League of Women Voters has taken the lead on that, and I think they've done a really good job examining a better redistricting process.

Thank you.

ASSEMBLYMAN MUKHERJI: Thank you for your comments.

Any questions for Ms. Zurfluh? (no response)

Okay; next can we hear from Henal Patel; Henal Patel of the New Jersey Institute for Social Justice.

Ms. Patel.

HENAL PATEL, Esq.: Hi, everyone; thank you for having me. I appreciate it.

My name is Henal Patel, and I'm the Director of the Democracy and Justice Program at the New Jersey Institute for Social Justice.

I just want to thank you all for having me, and giving me this opportunity to submit testimony today.

I offer this testimony in opposition to this Bill on behalf of the Institute, Fair Share Housing Center, the NAACP State Conference, Salvation and Social Justice, and the Inclusion Project at Rutgers Law School. They're all members of the United Black Agenda.

We are currently living in unprecedented times, and I know members of the Committee have been discussing this during this hearing. But it's true; COVID-19 has been devastating for New Jersey, and we have been forced to meet the challenges of this international pandemic, not just as a matter of public health, but across all aspects of our lives. At this time, it is imperative for elected officials to act in the best interests of the public in every decision they make. Today's Bill is not in the best interest of the people of New Jersey generally, and its people of color in particular.

While both the government and the people of the state have taken drastic measures to address this pandemic, we continue to face the worst of this virus. Crucially, it is communities of color that have suffered the most. The public health crisis has exposed the cracks of structural racism in New Jersey's foundation, and those cracks have caused earthquakes in black and brown communities in New Jersey. Our groups have been working to ensure that these earthquakes don't reach our democracy.

We oppose the proposed Bill today, and I know there have been some discussion of amendments, so considering that as well. Because it will exacerbate the cracks of structural racism in our foundation by using the existing outdated legislative maps, which do not include the substantial growth of people of color in New Jersey since 2010, thereby diluting the

political strength, influence, and power to which people of color are entitled based on their composition of New Jersey's population as it exists right now.

Just this week, a *New York Times* analysis found that in each county in New Jersey, Black or Latino communities have the highest rate of coronavirus cases. People in New Jersey, but particularly those who are facing the brunt of systemic racial inequalities, must have a meaningful opportunity to elect officials and to have a government that represents them.

As a result of COVID-19, we have all had to make difficult decisions regarding our democracy this year, as has been discussed. We've changed the date and format of our elections this year. We have had to change our outreach efforts to work toward a full count for the 2020 census. The Census Bureau has announced that it will need more time to conduct the census and, in turn, will need more time to provide redistricting data to the states.

We oppose this Bill today on substance and process, and urge the Committee to take time to do this the right way.

First, the census-- Just as a matter of course, the Census Bureau announced a delay on April 13, 2020. The Legislature has had almost three months to work on a solution; and despite requests from advocates and the significant public interest about this issue, these discussions have been mainly in backrooms. Redistricting is foundational in our democracy; but instead of holding public hearings and discussions during this time, we instead have waited to the last minute to introduce and fast-track a problematic constitutional amendment. This is not how democracy should work.

Second, turning to the substance of the Bill, the 2011 legislative map is no longer representative of New Jersey. New Jersey has become

increasingly more racially diverse, with people of color comprising 45 percent of the population of our state now. But the current map does not represent the significant increase in Black, Latina, Latino, and Asian communities in New Jersey in the last 10 years. As was mentioned earlier, this is apparent by the too few number of legislators in the Legislative Latino Caucus, and the fact that New Jersey only has two Asian American legislators, including the Chairman. Conducting another election using this non-representative map, as this Bill proposes, must not be countenanced. Indeed, the interests of Black and brown communities in New Jersey, that confront some of the worst racial disparities in the country and that are now facing the worst of this pandemic, must be prioritized. Instead, this Bill ignores their interest in a matter that is potentially a violation of Section 2 of the Voting Rights Act.

Lastly, it is unacceptable that this Bill seeks to make a permanent change to our redistricting process. We don't understand why that's necessary. The Legislature is undertaking this effort in light of COVID-19, as is noted in the Bill statement, and as has been discussed during this hearing. Yet this change would apply for all redistricting cycles in the future. The Census Bureau only provides New Jersey with redistricting data by February 15 as a courtesy. As recently as 2001, it provided us the data after -- a few weeks late, and the solution was to simply delay the primary, as was again discussed earlier. Today's Bill would not allow that in the future. Instead, should the Census Bureau, in 2031, or in any future cycle, deliver redistricting data to the Governor even a day or so late, by whatever date is discussed -- I know an amendment pushes it back a little bit, but -- we would be forced to conduct an election using the old map that would no longer

represent the population of the state. It would for any solution that we can come up with in the future.

Over the last few decades, New Jersey has increasingly become more racially diverse. This encouraging trend will continue. Today's Bill not only does not serve the interests of communities of color today, but seeks to undermine those same communities in the future.

We urge you not to pass the Bill.

ASSEMBLYMAN MUKHERJI: Thank you, Ms. Patel.

Before I solicit questions, I have a couple of my own, if you would indulge me.

And it's interesting that in, like, calc or middle school or high school math, when the teacher will give you credit for the answer; but sometimes only partial credit if you get the right answer, but you don't show the work on how you get there. So I think we have the same work along the way in the equation, and somehow just don't arrive at the same answer, perhaps.

MS. PATEL: I will note that you get partial credit if you give the right answer; but if you don't show the work, you don't get any credit if you get the wrong answer.

ASSEMBLYMAN MUKHERJI: Exactly right, that's exactly the point, exactly the point.

So I agree with you; first of all, I agree with you. And I don't think there's much we can do about this on process. It's far from ideal that this hasn't, and I'm sure the sponsor agrees -- in fact, I think he said as much -- that this process didn't begin earlier. But because we are up against the

clock, in terms of getting something before the voters, that's what we're dealing with, that's what we've heard.

But in terms of the outcome -- the answer -- aren't the problems that you've described exactly why we wouldn't want to be forced to draw another map, based on obsolete data that's going to hurt communities of color, that's going to hurt immigrant diasporas, it's going to hurt so much of the diverse communities and populations that make New Jersey great? And isn't it better to extend a map by a couple of years than get locked in to a map drawn on bad numbers, bad data, that we're stuck with for another decade?

I'm just curious about that point.

MS. PATEL: So I'll say this. And I think we started -- Assemblyman McKeon started with saying that there aren't really good solutions here. We're dealing with what we're working with. We're in a bad place here, and we have to figure something out.

I'll say this -- that I don't think that the obvious answer here is that we will absolutely have to use outdated data. That's not quite how it-- Even the current Constitution, as it's written, wouldn't make that an option, I don't think. We'd have to figure something out.

But I also asked-- Let me ask you a similar question, though, because we're in the same -- I think we're thinking along the same lines.

What if this fails in November? What's the solution then?

ASSEMBLYMAN MUKHERJI: Right. I mean--

MS. PATEL: The way the Legislature is considering this, we still need a solution, right?

ASSEMBLYMAN MUKHERJI: Sure.

MS. PATEL: What's the backup plan?

ASSEMBLYMAN MUKHERJI: Sure; and that's going to involve hopefully a more deliberative process conducted less in back rooms. Although I would suggest to you that now we're left with one of the even less-perfect solutions, some of which I think John McKeon outlined. And I'll let him respond, certainly, to some of the points you raise.

But we're going to have to think about that. I'm not saying that we have to cross that bridge when we come to it; that's not what I'm saying. This Committee is considering the proposal before us, the Concurrent Resolution before us, but I haven't heard one of the other solutions that could better achieve, I think, the mutual end that you and I are looking for, in terms of fairness and representative democracy.

That's just what I'm thinking. But I do respect the view.

MS. PATEL: I mean, I just think that we need to have more deliberative conversations. Let's do some research and get some actual data about what would a map could look like, even if just, right now, we're working with 2019 data from the ACS. I know that's not necessarily what we can use next year, but at least we can talk about it, see what we're working with, and figure out what the best solution is. We can discuss options about moving some of the dates next year. I know you mentioned you had concerns about changing dates of elections, but we just did it. And yes, I know it wasn't ideal; but again, at least the people are used to it. It's not as drastic an option as other solutions.

There's also just the fact that this solution here might not survive a legal challenge. So I don't know if this is just something we can all just get on board with when we know that there are potential issues with it.

ASSEMBLYMAN MUKHERJI: Sure.

Any other questions of Ms. Patel?

I'll let Assemblyman Auth go next; go head.

ASSEMBLYMAN AUTH: Ms. Patel, I thought your testimony was absolutely riveting, and I thank you very much. I was jotting notes down feverishly while you were rattling off these statistics from your head. So you have them all packed away, there, neatly, and I commend you for that.

I have a couple of questions, if you could help me, because I'm inclined to agree with you.

You mentioned one already, which was what if the amendment fails -- the ballot question doesn't pass? And there could be disparate groups here and there that work to have it passed or work not to have it passed. And I'm thinking to myself, wouldn't it be unfair to folks that you have mentioned, that you represent, or that you are representing today here in the Committee -- wouldn't it be difficult for them to get out and participate in that type of an election if they don't have access to Internet and all these different social media sites; where other people in the state, who do have those particular advantages, could take advantage of this and run away with the ballot question and drive it to defeat? Is that something that you--

MS. PATEL: Well, let me start by saying, thank you Assemblyman. I will note that we're happy to have conversations with you, or anyone on the Committee, about this issue as well.

ASSEMBLYMAN AUTH: I bet.

MS. PATEL: A broad conversation with any member of the Legislature -- happy to have them; the public ones, ideally.

I'll note the second question. I mean, I'll say this. Access to the ballot is always an issue; it's a priority. We are working to make sure that people, communities of color in particular, always have access to the ballot. And yes, there are challenges. Let me say one thing: A solution to a question you -- the issue you raised. There are challenges this year. There are challenges with -- because of COVID, that people are -- especially communities of color -- being affected by COVID; whether or not they'll be able to meaningfully participate in the election. One of the biggest challenges we're dealing with is registration issues. Voter registration has plummeted this year because of this. We are -- while this Legislature, thankfully, passed OBR earlier this year, implementation is delayed until September. So we are facing these challenges right now: How are people going to have meaningful access? I think -- we would love to work with this Legislature -- you Assemblyman, and anyone else who wants to -- let's pass same-day registration. That'll help significantly with these efforts, and make sure that people can come out and meaningfully cast a vote for candidates, and also any ballot questions that might come up.

ASSEMBLYMAN AUTH: Thank you.

One last question, Chairman, if I may?

You know, you've manifested yourself as being somebody who's very up-to-speed on what's going on around us, with regard to voting rights. And because you've done that, my question to you would be: If you were to advise this Committee today on what your solution, or what the answer to the question that we're trying to fix today with Assemblyman McKeon's Bill -- that you feel is unsatisfactory, as do I in certain parts; not all, but certain parts -- what would you tell us differently? What would you advise us to do,

as a counselor to the Committee, to make sure that we got this right the first time, since we have such a small time frame to work with it?

MS. PATEL: That's a good question.

I mean, I don't, I think-- I hesitate to answer something that we're not taking -- giving the public a meaningful chance to discuss right now. And I know the idea is that if it's on the ballot, the public can weigh in. But redistricting is incredibly complicated. So to put it succinctly on a ballot and expect people to just have to make a decision is difficult. So having conversations right now would be ideal.

So I wouldn't want to speak for the public in that way. I'll say that we should be having conversations; let's talk about other ways to make this better broadly. We can discuss that; we can discuss possibly moving some deadlines. We can discuss if we want to do a constitutional amendment; let's talk about some provisions we can add to make this better. Add the independent member, coming in from the beginning. Let's put public hearings right into the process, which are not currently. Let's talk about having an anti-packing provision, which it will be incredibly helpful for communities of color.

So I think these are things we should be discussing. I don't know if anyone here wants to be talking about them, but I wish we would -- is what I will say.

ASSEMBLYMAN AUTH: Well, thank you very much.

Thank you, Chairman, for allowing me to ask a few questions.

ASSEMBLYMAN MUKHERJI: Assemblyman McKeon, if you would care to respond or address any of--

ASSEMBLYMAN McKEON: Well, just very briefly, Ms. Patel.

I was too captivated by your testimony; the wonderful job and the things said.

And look, as a practical matter, I think I suggested this before, this or any solution needs to be on our desks by 12 midnight tonight. So I'm the one who came forth with *a* solution; this is the one that's here. Everybody had the opportunity to move forward whatever they might have thought was a better solution, and that just hasn't happened.

So I'm sorry; this is it, but we're stuck with it.

MS. PATEL: I will say, for what it's worth--

ASSEMBLYMAN McKEON: I'm finished; thank you.

MS. PATEL: --Assemblyman, I do understand. And I do appreciate that you at least offered a solution. And yes, everyone did have an opportunity, which is why I think it's a broader conversation that everyone should have had public discussions and done so -- tried to work on a solution.

ASSEMBLYMAN McKEON: You know, I'm not going to go through it again. But you asked for it briefly -- if this fails, what would occur. And it could fail, for certain; that's why it's being voted on. But then we would go to that very consolidated time frame -- and that's assuming that we get the data by June 15 -- the point of everything would be on an accelerated pace. And I would just suggest that -- and I'm no expert in this area -- but about the worst way to get additional minority representation into the Legislature is to have any kind of consolidated process. It's a matter of raising dollars, it's a matter of recruitment. Actually, by making this an eight-year term it will give those communities, and myself -- who would be interested in meeting the goal that you would have; I have those same goals-- That would not be such a consolidated time frame -- to allow, when the new session occurs

in that eight-year cycle, to make sure that we have strong candidates in districts that can bring the percentages up commensurate to what they should be.

ASSEMBLYMAN MUKHERJI: Thank you, Assemblyman; and thank you, Ms. Patel.

MS. PATEL: Thank you for having me.

ASSEMBLYMAN MUKHERJI: Absolutely.

Next, we'll ask Dave Pringle to come up and speak on behalf of Clean Water Action.

DAVID PRINGLE: Thank you. Mr. Chairman.

Again, my name is David Pringle; I'm representing Clean Water Action. We're a national environmental organization with over 100,000 members here in New Jersey.

I'd like to support all the points of those who have testified against the Bill in its current form and the proposed amendments. We especially support Henal's comments, and I am positive I can say, in advance, I'll be 100 percent behind Helen and the League of Women Voters' comments when she heads up.

We've been in contact with the sponsor, and he's obviously a personal friend and an environmental champ. And we hope we can achieve common ground here today as we move forward. There is a bunch of different ways we can do that, but not if the Bill doesn't change and/or some commitments and changes in the process don't happen, some of which are admittedly beyond the sponsor's control.

We do oppose the Bill in its current form and, as best we understand it, the amendments that are being considered. We just got them

as the hearing started. It's not a great process when we're getting them that late, and it's even worse if legislators aren't even seeing the amendments before advocates do.

And unless I missed it, I don't think they've even been described. So I know it's a little late in the hearing, but if it's possible to take a break from my clock -- if somebody could describe the amendments so that we're all on the same page, and we waste less time and make this more productive, that would be great.

ASSEMBLYMAN MUKHERJI: Yes, we'll definitely do that.

Do you--

MR. PRINGLE: Wouldn't all of our testimony be more informative if it was based on what the Assembly is currently--

ASSEMBLYMAN MUKHERJI: Yes, if you haven't seen them-- First of all, I think, just for public discourse, that's absolutely appropriate.

So I'll summarize them, and I'll ask the OLS Committee Aide to correct me if I have any of this wrong. And we can also, I think, read them into the record -- just in the light of the fact that this is occurring by Zoom and we don't have handouts in the Committee room.

ASSEMBLYMAN McKEON: Mr. Chairman, I'm sorry to interrupt you.

But I did do my best to summarize them in my initial comments.

ASSEMBLYMAN MUKHERJI: I thought you did, John; and I was just going to rehash them in case anyone joined late. And I thought that that recitation was accurate, and I don't mean to imply otherwise, Assemblyman.

MR. PRINGLE: I'm sorry if I missed them, Mr. Chairman. There's obviously a lot going on here, and this is a big deal. So I think it's important that we are all clear on what's going on.

ASSEMBLYMAN MUKHERJI: Sure.

So the amendments essentially require the Commission to certify the new districts not later than March 1 of the year ending in 2, rather than December 1 of the year ending in 1. So it just pushes it out two months. We think that more time -- I don't mean to speak for the sponsor -- but more time creates a more deliberative process, a more transparent process. It achieves, I think, some of the aims that some of those who have concerns with this solution, as presented, have described today. More time is good for public discourse. It's what we would have preferred with the process of getting this onto the ballot and affording the voters this choice.

Now, the next amendment is to require the Commission to begin conducting its business upon the receipt by the Governor of the official decennial census, U.S. census for our state.

The third requires the 11th member, the independent member of the Commission, to be appointed by the Chief Justice within a month of the Governor's receipt of the census data.

And the fourth will just clarify that this amendment to the Constitution will not alter the appointment of the members of the Commission made by both of the respective State political party chairs, pursuant to Article 4, Section 3, paragraph 1 of the State Constitution, on or before November 15, and certified by the Secretary of State on or before December 1 of the year in which the census is taken.

Is that helpful, David?

MR. PRINGLE: Yes. Can I-- If you don't mind, if I could ask just one clarifying question?

On the appointment of the 11th member, does that mean he's serving on the Commission, or he's just appointed and they still do their thing for a period of time and he only kicks in if and when they're at an impasse?

ASSEMBLYMAN MUKHERJI: I'll yield to the sponsor, but I'll pull up the language in the meantime.

ASSEMBLYMAN McKEON: There is no change in the current system to the one that will be in place, with the exception of the process will be elongated.

MR. PRINGLE: Thank you very much for that. I will now try to be quicker.

So all of our concerns, unfortunately, still remain.

The Bill identifies the right problem; but, in our opinion, it proposes the wrong solution. We very much agree with Assemblyman McKeon that there's no great solution here. There's no way we can have a new map ready with a good process in time for a November 2021 general election, due to COVID. And whatever we think about that, we can't change the facts on the ground.

However, there are better, easily implemented, reasonable solutions, working off this Bill and beyond, that could address a lot of our concerns and feel better about where we're at.

Specifically, having the new map when it is prepared acted on and applied before 2023. There's no reason to be waiting two years. Two, making this change in the constitutional amendment a one-off, not permanent; and three, lots of ways to improve the redistricting process, both

in the Constitution -- if we're amending it today -- in the legislative enabling language, and lots of practices by both parties.

And I will elaborate on all of that.

Assemblyman DePhillips, the problem with waiting a few months for more data is we already know it won't be ready in time; the Census Bureau has already said as much. Again, whether we like it or not, there just isn't enough time, and if we got the data in June, smashing in, in less than five months, redistricting, applying a new map, petitioning, primary and general election campaigns -- it's just not an option. That's not a good process. We can't get it done then.

So, you know, we're not going to have a new map ready for 2021. We have to live with it and deal with it.

While the census is causing delays in redistricting beyond our control, we have no choice but to just (indiscernible) elections, in the public's interest. And that's what you are charged with implementing here, not the Legislature's interests or not individual legislators' interest. And I know that's easier said than done. But redistricting is about having a map that represents the people so they choose who their legislators are. It isn't the current Legislature deciding who the public that votes them in on is. And we need you to rise above whatever self-interest there may be and how a map does or doesn't look like, and do what's right for the public as quickly as possible.

And there are three specific things you could do today to move that along.

One, the data -- this map is based on 10-year-old data. It's nobody's fault, but it's no longer accurate. Folks are not fairly represented

because of natural demographic changes. Some districts have too many people, some districts have too few. Minority populations have changed and increased dramatically, and it hasn't been equal across 40 districts. So we have to correct that, and do so as quickly as possible and accurately.

Assemblyman Mukherji, you're absolutely right; this can't happen in 2021. But there's zero reason it needs to wait until 2023. You are delaying -- by doing so, you're delaying fairness for those very minority populations. And you're not only doing it in 2023, you're doing it every single decade whenever the data for whatever reason is a little bit late. So make it a one-off and make it apply before 2023. Some of this can be done in the Constitution, some of it can be done in enabling legislation moving forward, so you don't have the deadlines of the next week -- and I'll get to that in a minute. And a lot of it can just be on how the two parties implement who they appoint to the Commission, and how those appointments behave once they are on the Commission.

And there are a ton of things that we can be doing, as Assemblyman Auth mentioned. Having that tiebreaker -- even if we think you could make that change in a second, maybe there's not consensus yet and you have no wiggle room because of the schedule that the Legislature set. You knew -- the Legislature knew about this process for a year-and-a-half. We stopped the last redistricting Commission. And all of the advocates who opposed that proposal have been clamoring, and asking, and demanding, and cajoling, "Please, Legislature, let's work on this." And we've spoken to a stone wall for a year-and-a-half.

And so it's not our fault that we've gotten back to literally the last second. The amendments are still being changed, and you're saying,

“Well, we can’t make any changes here. We don’t have a time.” Well, the reason we’ve run out of time is because you have wasted, for whatever reason, a year-and-a-half. Even four months ago -- we knew four months ago the census data was going to be a problem. As soon as the Census Bureau announced it in March, we knew about it. Helen and the League of Women Voters -- we’ve been having meetings and conference calls over the last four months -- what to do about this. You didn’t engage us, and now you’re saying, “Take it or leave it.” And that’s a very flawed process, and it’s a very flawed substance.

So why does Clean Water Action care about this? It’s not-- You know, Clean Water Action isn’t just an environmental group; it’s a good government group. And fair districts and public engagement is not only fundamental to a democratic process, but it’s fundamental to environmental protection. And this Bill, in its current form, doesn’t make that grade. And it’s especially tragic because we have so many crises right now. We’re in an economic crisis, we’re in a health crisis, we have a climate crisis, we’re in a racial crisis, and we’re in a government crisis because of the actions primarily of our President. So we need better good government more than ever, and New Jersey has to be a leader. And we’re not doing that if we don’t do more than this Bill in its current form.

If you move this Bill today, there are still lots of things you can do today, tomorrow, next month, that can make folks feel a lot better about the legislative redistricting process -- legislatively, constitutionally, and within the parties. Who the parties appoint to these this Commission and how they behave on that Commission-- Why is it that only the party leaders and only the party get to have a say on the Commission? More than half the electorate

isn't a Democrat or a Republican. So give the majority of people a say in this process.

And just a couple very final thoughts.

The census matters for lots of reasons. All of the funding issues, and how many people there are, and how much money we get from the Federal government -- all very important; but has nothing to do with this. This is all about an accurate count and how those districts are divvied up. And yes, we aren't going to be ready for 2021, but there's no reason to wait till 2023.

And it's all well and good to say, "Let the voters decide;" but, boy, is the Legislature selective in when they let the voters decide. More often than not, you guys decide, "No, the voters don't get to decide." Over and over again on bonding, even when the Supreme Court says you can't do it, you do it anyway. And the Supreme Court, rather than creating a real remedy, says, "Don't you do it again." It's easy to say, "Let the voters decide" when you want, and it's easy to say, "Don't let them" when you don't want.

So yes, the voters will have a say in this, but that doesn't give you an excuse not to do your own due diligence here.

So please do your due diligence, amend this Bill, make it better if you're going to move it today. Regardless of whether you do it, do the things in the legislation in July, and August, and September, and October that can make this process better. Do the things within your own parties to make the process better. And yes, are you taking some risk? Yes; but there are worse things than not being a legislator anymore. And we need you to rise above self-interest, do what is in the public interest, and make this process

better beginning today. And this Bill doesn't get us there, unfortunately, right now.

Thank you.

ASSEMBLYMAN MUKHERJI: Thank you.

Assemblyman Auth, did you have the first question?

ASSEMBLYMAN AUTH: Yes, Chairman; thank you.

First of all, Mr. Pringle, I apologize. I had my microphone off mute, and I was saying something to somebody else. I wasn't interrupting you, so please forgive me if you thought that.

My question to you is this. You know, you're obviously very frustrated about this, and you made some very salient points. But you said something to me that kind of stuck with me. You said you represented over 100,000 folks living in New Jersey. So my question is, if the Bill goes through the way it is right now, where you're clearly frustrated, as many of us are, can you give me an idea how hard your group is going to work to defeat the Bill?

MR. PRINGLE: We will cross that bridge when we come to it, looking at all the situations.

We have worked very hard for and against questions to great success, both passing and defeating constitutional questions, and coming very close. And I don't think anybody should be taking for granted that this question will pass, regardless of what we all think about it. As recently as 2009, a Green Acres Act barely passed; even though previous ones had won overwhelmingly, that one only won 53-47. In 1998, Clean Water Action and Sierra Club led a campaign against a solid waste question that was on the ballot. It was literally a shoestring grassroots effort, and it also barely passed; I think it was 52-48.

If you look at questions on the ballot, there's about 30 to 40 percent, depending on the details, who just vote "no" no matter what; they're contrarians. Whatever it is on the ballot, they just like to vote "no." And there is going to be a similar number of people that are going to be voting "yes." It's going to be that 20 or 30 percent in the middle that make a difference. I'm not a predictor of what anybody's going to do; but if I had to guess, I'm assuming that the Republican party will generally be against that, so that's going to solidify it to about 40 percent. And, you know, there are going to be a lot of folks feeling ambivalent about all this.

So I think folks will feel a lot better about the process if it's a better question that's on the ballot. I think by the time we have to make those decisions, there's going to be plenty of opportunity for both parties to make signals about how they are or aren't going to act in the redistricting process. And there's an opportunity to continue to adjust the enabling legislation that implements the redistricting.

So if we get a lot of the reforms that we're talking about through the legislative process in the next two months, we're going to feel very different about the question than if it's this or-- It's a take-it-or-leave-it right now, and we'll work with our coalition partners and our members to figure out where we can make the biggest difference.

ASSEMBLYMAN AUTH: Thank you very much.

Thank you, Chairman.

ASSEMBLYMAN DePHILLIPS: Mr. Chairman, I have a question for Mr. Pringle.

ASSEMBLYMAN MUKHERJI: Absolutely.

ASSEMBLYMAN DePHILLIPS: Mr. Pringle, thank you; thank you for your testimony. And I appreciate your passion around these issues, and I certainly can understand why you're frustrated.

I just have a question about the census participation rate, which I had cited before. You don't find that particularly persuasive, I don't believe. It is currently at 64 percent, which many have said is actually a fairly favorable number, given where we are in the process -- it is July -- and given all the challenges that we're facing with the current pandemic. That participation number is actually not that far behind where we landed, finally, in 2011. So why does that not give you comfort?

MR. PRINGLE: A couple of thoughts.

One, I agree with Assemblyman Mukherji that it's important for us to have as accurate and complete a census as possible. And from my understanding, the Census Bureau has said that isn't possible. The timeline they're going to be able to deliver -- which is different and slower than in years past because of COVID -- given New Jersey's unique status of June primaries and odd-year elections -- the data won't be there completed in time for a good process for 2021. And so the census -- I don't think we should be moving forward until the data is completed; and the Census Bureau, whether you like it or not, has said the data isn't going to be completed in time.

Even if we could and wanted to proceed with less than complete data, that 5 or 10 percent that isn't in yet may not sound like a lot, but to the 5 or 10 percent it sure is. And without having looked at the data, I would be shocked -- given past census data collection efforts -- if that 5 to 10 percent wasn't overwhelmingly people of color and low-income. And so if we proceed with partial data that disproportionately hurts the folks who are already

disproportionately hurt the most, that would be fundamentally wrong on many levels.

So while our first choice would be good data, good process, ready to go for 2021, that's not on the table anymore. If I'm missing something, then I'm open to hearing it. What is on the table is, how much delay is there after 2021, and how good the process is to lead to that new map?

ASSEMBLYMAN DePHILLIPS: I just have a--

MR. PRINGLE: We think we can do a better job than this question in terms of having a new map sooner, a new good map sooner, and a better process getting to there.

ASSEMBLYMAN DePHILLIPS: Thank you for that.

I just have a follow-up, and I just want to solicit your opinion as to the date that is established in the Bill -- the February 15 date. What is your opinion about that date? And I'm sure you know it's in conflict with Federal law, because under Federal statute the census data actually does not need to be provided until March 31. So what is your view of the date that was inserted into this Resolution, February 15?

MR. PRINGLE: My understanding is, that's been past practice; and the Census Bureau -- as a courtesy to Virginia and New Jersey, which are the only the two states that have odd-year elections that face this time crunch; that other states who don't have to do maps for another year don't face -- as a courtesy they fast-track and, more often than not, get the data to us in a timely enough fashion that we can use the current process.

Even then, though, because of the nature of how long it takes to get census data and the timing of New Jersey's years, there's always a time crunch. The current process isn't good. There is not -- if you look at the

years past -- and I've been doing this since the 1980s, so I'm familiar with three previous districts -- folks had two to four weeks to learn of a new map, decide what district they're in, decide if they want to run, decide if they think they had a chance of running or if it was worth it to run. And so the current system isn't good and needs some adjustments. We've been proposing them all along; and I don't think we have time -- given that it's five o'clock on the day we have to finalize the amendment -- that that can get rectified today. But a lot of it can get rectified moving forward, short of a constitutional amendment, in the enabling legislation and how the parties collectively and individually behave, or not, in the redistricting process.

ASSEMBLYMAN DePHILLIPS: Thank you very much.

ASSEMBLYMAN MUKHERJI: Thank you.

Any more questions? (no response)

Okay; next, we'll hear from Amy Torres.

Ms. Torres.

A M Y T O R R E S: Hi; good afternoon.

My name is Amy Torres; I'm actually a constituent of the Chair. So a shout-out to LD 33.

I apologize, because I'm in transit. So I'm actually going to, just, after introduction--

ASSEMBLYMAN MUKHERJI: Nobody from the Fighting 33rd has to apologize, Ms. Torres.

MS. TORRES: All right; well, that's great, because I do have some things to say as part of my testimony. (laughter)

But I'll briefly transition away from video after I just briefly introduce myself.

So in addition to being a constituent, I am also active in a number of community and civic groups, as someone else mentioned on the call. We were just unable to come to consensus on position, so I'm delivering testimony on behalf of myself today.

Outside of the work that I lead in Hudson County, I am also the Director of Policy and Advocacy for the nation's largest social services organization for Asian Americans. And census and redistricting are a significant part of my work in New York City and New York State. So it's with both personal -- as an Asian American and as a New Jersey resident -- and professional interests that I weigh in today.

I've submitted written testimony as well, so I'm just going to pause my video so I can reference it.

And I understand and appreciate the sharing of amendments over the course of today's hearing. At the time that I wrote this, of course, I didn't have access to that, but I think the bulk of my recommendations and concerns remain the same.

You know, even for casual observers of the census, and as many of you have reiterated on this call, there has been unprecedented challenges to the census. Leaving the citizenship question aside, even before it was added there was chronic underfunding, understaffing, consolidation of regional offices. And all of that work, when compounded with the politicization of the questions that were proposed to be added to the census, really came to a full head with the unexpected delays caused by the COVID-19 pandemic.

So it's a logical request for New Jersey to ask for a redistricting extension. New Jersey's not alone in asking for it; California has also started

the process of asking its courts for an extension as well. And New Jersey, of course, as you mentioned, has particular interest in doing so, because it's one of only two states that has State legislative races in 2021.

And so given these challenges and changes, I understand the request and I appreciate the gesture of putting this motion forward to the voters, to determine what should happen with redistricting going forward, both in response to the current crisis, but also with some permanence going forward. And while I'm generally in favor of extending the redistricting timeline, I'm not in favor of deferring accurate and fair representation for the New Jersey electorate until 2023.

And I'll be raising some questions and concerns related to this Bill, and really urge you to go back and draft and modify language that's proposed to go to voters in the fall.

So one bucket of comments is around potential for court challenges and a commitment to a principle of fairness; another bucket of my commentary will be around reforming the redistricting process.

So I believe New Jersey Institute of Social Justice brought up the potential legal challenges that may come even if voters do affirm a constitutional change. We know that New Jersey has changed significantly in the last 10 years. And if we were to hold elections again in 2021, one could argue that, with data released in advance of the decennial census -- whether through American Community Surveys or otherwise -- that you could demonstrate that using this 10-plus-year-old data is a deprivation of one person, one vote; or that there's malapportionment in the districts that are run upon in 2021.

I think most courts would probably say that, due to the extenuating circumstances, that they would allow an extension of redistricting; but may not allow a postponement of those new districts to 2023 -- which could trigger a series of special elections, which I know were mentioned earlier in this hearing, which would come at a great cost to the taxpayer at a time when the State is facing a mounting budget shortfall. And as the Legislature goes through the process of putting the constitutional change to the voter, there's a real unique opportunity to bring New Jersey back into alignment with the overwhelming majority of other state legislators who run on even-numbered year election cycles.

And I appreciate the sponsor sharing that there's a buffet of bad choices available; very few of them feel like the best choice for democracy. But I do want to push back a little bit against the notion that these odd-numbered cycle years are actually in favor of the voter. So I know proponents of the current election cycle claim that having a predictable primary every June and an election every November is good for the voter, but if you actually look at election cycles where the State Legislature does not have a top office of Governor in that election year, turnout rates are abysmally and, frankly, embarrassingly low, often in the mid- to low-20 percent.

So that really negates any arguments that these odd-numbered election cycles are in favor of democracy. And while I know many would argue that putting them on even-numbered years would be very responsive to national politics and the, sort of, national rhetoric that's happening in those even-numbered years, a glance at the turnout rates over the last, really, three decades would show that these odd-numbered years are not in favor of democracy either.

I also want to just push back on a comment that was made earlier -- and I apologize; I forget who made it -- but this idea that it was in the founders' interest to separate New Jersey's election cycles and hold them on these odd-numbered years. It was not in the founders' interest; this happened in the 1940s, and it was a very politically motivated decision. And in addition to the politically motivated decisions that kind of delayed the census up until this pandemic, as well as the economic shortfalls that are influencing it and the public health considerations that are influencing it, timing costs and this commitment to fair democracy should necessitate the same change in New Jersey to revert back to that even-numbered years cycle.

The next part of my commentaries on reforming the redistricting process. I know a number of folks have already commented on that. New Jersey is one of only two states with a political redistricting Commission. And as someone mentioned earlier, only the Congressional Redistricting Commission is required to have public hearings, and they're only required to review publicly proposed plans if time and convenience necessitates it. By contrast, the State Legislative Redistricting Commission is not required to hold public hearings at all. They have in the past, but they're not required to do so. And New Jersey is one of only 10 states that does not have any sort of requirement that congressional districts are compact, or contiguous, or impose any further criteria or prohibitions about how congressional districts are drawn.

So given the process of political appointment, low level of public involvement, and, at the Federal level, the Supreme Court's weakening of prohibitions against partisan gerrymandering, the average person in New Jersey has to ask whether the redistricting process will ever actually lay in

favor of the voter or be drawn in a way that fairly and accurately represents them.

And I appreciate the offer on this call that, in 2021, there may be an opportunity to again revise the charter and get toward that redistricting reform process. But these suggestions and demands from advocates have existed for a long time; and it feels in disservice of the public's time, expenses, and energy to make a charter revision change now that will have some permanence, and that's related to redistricting, that won't have some longevity.

And so I'd really like this Committee to consider going back and redrafting. I know time is very much against everyone, not just today and this year, in this month, but across the full year. But, really, I do appreciate the comments today, but I don't think many of us have seen that commitment in action. And to think that this one ballot referendum in the fall is the only singular opportunity that voters have to weigh in on the redistricting processes -- I don't really find that to be adhering to principles of fairness and open democracy.

So I want to thank you, again, to the Chair and members of the Committee for the opportunity, and I'd love to take any questions.

ASSEMBLYMAN MUKHERJI: Okay; thank you, Ms. Torres, very much for your testimony.

Hearing no questions from the members, I would ask William Rossi to appear. (no response)

Okay; Mr. Rossi may not be present, but he was opposed.

Next, we'll call up John Tomicki from the League of American Families.

John; is John with us? (no response)

Okay; next, we'll have Helen Kioukis, on behalf of the League of Women Voters of New Jersey.

HELEN KIOUKIS: Good afternoon.

Thank you, Chair, and good afternoon members of the Committee, Vice Chairwoman Murphy.

ASSEMBLYMAN MUKHERJI: Thank you.

MS. KIOUKIS: My name is Helen Kioukis; I'm here on behalf of the League of Women Voters of New Jersey, and we are a nonpartisan political organization that works to protect our democratic processes and protect voters.

I've also been coordinating the work of Fair Districts New Jersey, and that's a campaign to reform the redistricting process in our state. And we've specifically been focusing on the legislative redistricting process over about two years now. So I'm familiar with the process, and also very-- I just want to preface my remarks by saying we are very aware of the situation that the census data delay and this pandemic is putting New Jersey in. And it is unique to New Jersey, or even in a worse off position than Virginia, because of our process.

So we recognize this is a serious situation that requires legislative action of some sort, and we've started to have these conversations with our coalition partners, as early as April, to really dig through every single possible situation, and what are the pros and cons of each, and which solution gives us a process that best protects voters, that causes the least amount of harm to those who are already disproportionately affected by unhealthy democratic processes.

I won't repeat all of the statistics that Henal went into from the Institute for Social Justice, but I definitely want to say, on the record, I echo all of her talking points.

So, in short, we have been looking at this. And as written right now, unfortunately, Assembly Concurrent Resolution 188 -- we are not in support of it as it's written right now. We have issues with the permanence of this change, and with that February 15 date.

So this proposal would delay the implementation of the new voting district map, one that would more accurately reflect New Jersey's demographic and population shifts, for two entire years, anytime the data comes in after February 15. And we believe that that is a very far-reaching, permanent solution to address a very specific problem that has come up as a result of this unprecedented pandemic. Because there might be, in the future, as there was in 2001 -- the data might come in February 16, February 20, March 1, March 15 even. But to then delay the process for two whole years because it comes in after February 15 -- which has been a courtesy; it's not even a date that's written anywhere in the Census Bureau's guidelines.

So we believe that we can identify other solutions in the future that don't compromise the fair, equal representation that is afforded to all of us under our Constitution.

We did have concerns about -- there was some lack of clarity in the timeline language. But I have quickly reviewed the amendments, which I did receive -- someone e-mailed them to me after this Committee meeting started. So there were concerns that the process was shifted to the November through December holiday season; but my understanding is now that's being

pushed forward through March. But we would have to, more closely, review to make sure that will address the issues we had with the timeline.

And finally, I just want to remark that the Fair Districts campaign launched because there are shortcomings in our processes in New Jersey, and we do need a better redistricting process in place. And many of you have already spoken up -- many legislators have already spoken up about the lack of diversity that was proposed in some of the Commission appointments. Because that's not -- having diversity, other than geographic diversity, is not in our Constitution currently. Having public hearings is not in our Constitution currently. There's a lot of power that this one 11th member tiebreaker has. There's lack of transparency. The line-drawing rules could be stronger to have racial equity provisions, and to have provisions that protect communities of interest.

So we think that this is an opportunity. You could address what's happening with the census in the pandemic, but this is an opportunity to really put in place some measures that would give us a better process. If we're going to put something forward to the voters in November, let's give them a question about whether they want a truly better and fairer process.

That's about it, but I do -- just for the record, I just want to comment about the process of all of this, and the way that this has been rolled out. And personally, I thought this was the public hearing. Yesterday I checked; I saw the Committee meeting was canceled. Then I checked later last night, and I thought it was still on with a little note that this was the public hearing. If we're talking about redistricting, and we're talking about improving transparency, and public engagement, and input, and being deliberative, this process, even the way this proposal has been introduced,

does not reflect those values. And I hope that we can move forward with conversations on how we can work with this proposal to make it one that we can support. And my understanding is -- if I understand the timelines correctly, today is not the deadline; there are still a few more days before that 20-day clock starts ticking. And we know what the Legislature-- If you guys want to get something done, you can do it.

So I'll end my remarks with that statement, and I'm happy to answer questions.

Thank you, again.

ASSEMBLYMAN MUKHERJI: Thank you, and thank you for your comments.

Any questions? (no response)

Okay; all right, thank you.

Aaron Barden, from the Princeton Gerrymandering Project.

A A R O N J. B A R D E N, Esq.: Hi, everybody.

Good evening, I suppose now.

Thank you, Mr. Chairman, Madam Vice Chairwoman, and the Committee.

My name is Aaron Barden, the Legal and Policy Analyst for the Princeton Gerrymandering Project.

My oral testimony is supplemented by the written statement of myself and Professor Sam Wang, the founder of the project, which includes probably a more complete version of our thoughts, as well as some exhibits of maps, of demographic changes, and hypothetical timelines for delayed elections.

Just a background: The Princeton Gerrymandering Project is a nonprofit organization dedicated to bridging the gaps between math, data, and law in the redistricting process. We've analyzed a number of maps and pieces of legislation across the country, including our home state of New Jersey. And I come before you to discuss two issues that we see with ACR 188.

First, the trigger date we feel is too early, and the permanence of the amendment is likely unneeded. And second, delaying redistricting will likely create representational harm for Asian and Latino communities, both of which have grown in size since 2010, according to the American Community Survey.

So first, about the trigger date. Despite the possibility that this delay is a once-in-a-lifetime anomaly, this delayed redistricting mechanism, as written, would exist permanently. Even in a typical census year, let's say in 2031, February 15 may be too early for this permanent date. So the amendments' permanence is concerning.

The latest that census data has arrived in the last few cycles is March 8, which allowed for a regular election calendar, albeit with a slightly delayed June primary. I think it was June 25. And as our written statement shows, even trigger dates as late as mid-March, April, or May would allow for 2021 elections to still occur, albeit with more significant delays as you get later and later. Because of this, a later trigger date might be more reasonable than the date that is in this proposal.

In any case, this amendment should be limited to the upcoming cycle because this is unlikely to happen again. But recognizing the weight of amending the New Jersey Constitution -- having this permanent is still fine,

if there is a reasonable trigger date that is later than February 15. And at the very least, this amendment should be coupled with reforms, suggested by the Princeton Gerrymandering Project and the others, in a July 2019 white paper. And I would direct you to that paper, instead of going through what we suggested.

Second: Delayed redistricting will likely harm communities of color that have grown in population since 2010, especially Asian and Latino communities. According to the ACS, both of these groups have increased by 20 percent since 2010. And by delaying redistricting, or at least elections under new district maps until 2023, these communities will likely suffer representational harm for an extra two years. Even though, as we show in our written statement, 2021 redistricting could be feasible, recognizing that it is not anywhere near ideal.

While the total population of New Jersey's counties has not changed that much overall, these minority populations have grown, increasing as much as 5 percent in some counties. And within these counties, and others, the population of the communities themselves, rather than the total population, has increased by at least 25 percent in a number of counties.

As shown in our written statement, 2021 redistricting is possible with a census delay that goes as late as July 1, albeit with significant electoral delays. Key to this scenario would be for the Commission to certify a deadlock the day the census data arrives, and the Chief Justice to appoint the 11th member immediately. Based upon our reading of the Constitution, this would be allowed, and this would save a month of delay.

In any of these scenarios we evaluated, elections could still occur, even on a compressed timeline. And general elections can be altered by law, according to the New Jersey Constitution.

Further, any of these scenarios that we outlined in our written statement would allow for legislators to be sat by January 2022, as is required.

Understanding the concerns about public input, the Commission could still have a number of pre-census data hearings, recognizing that those are not as good as post-census data hearings. In any of these scenarios, the released hearing schedule would be compressed, so these hypothetical scenarios would require a balancing act between the representational harm to minority communities and the benefit of the delayed redistricting.

We suggest that the long-term redistricting needs of New Jersey do not require prematurely set trigger dates, such as February 15. Instead, a one-off amendment specifically for 2021, or an amendment with a later trigger date, would be more reasonable, especially if coupled with redistricting reform that we have proposed before.

Alternatively, a compressed election schedule in 2021 would allow for elections under new lines that year, rather than waiting until 2023; recognizing that this is not ideal, but it would lessen the harm to communities of color for two years.

Thank you, again; and I'm happy to answer any questions, but I might direct you to the written statement.

ASSEMBLYMAN DePHILLIPS: Mr. Chairman, I have a question for Mr. Barden.

ASSEMBLYMAN MUKHERJI: Sure, Chris.

ASSEMBLYMAN DePHILLIPS: Okay; thank you for your testimony, sir.

You indicated that you found the trigger date problematic -- the February 15 date. Do you believe, or is it your opinion, that the trigger date should be consistent with the Federal statute which states that census data need not be provided until March 31?

MR. BARDEN: In conversations that we've had, I think March 31 is a reasonable date. It would require, obviously, pushing the primary election back a little bit. But the likelihood that a delay would occur past March 31 is lower than the likelihood that a delay would happen after February 15. So I think March 31 would be more reasonable.

ASSEMBLYMAN DePHILLIPS: I don't know if you're an attorney, and I don't think it matters, but I'm going to ask you -- do you have an opinion as to the constitutionality of this proposed resolution with a trigger date that is in conflict with Federal law?

MR. BARDEN: I am an attorney; thank you for asking.
(laughter)

ASSEMBLYMAN DePHILLIPS: I thought you might be.

MR. BARDEN: Yes; *baby* attorney, but yes, nonetheless.

I would have to look into that a bit more, as I think you're referring to, like, a supremacy clause issue.

ASSEMBLYMAN DePHILLIPS: Correct, correct.

MR. BARDEN: And I don't think I've dug into that enough to answer that question.

ASSEMBLYMAN DePHILLIPS: Fair enough; thank you.

ASSEMBLYWOMAN MURPHY: Mr. Chairman, I do have a question, if that's okay.

ASSEMBLYMAN MUKHERJI: Sure.

ASSEMBLYWOMAN MURPHY: Thank you.

Mr. Barden, thank you so much. I appreciate everything that all of our folks on here have said.

But let me ask a question, because I've been hearing this from quite a few people, saying that the March 31 date would delay the primary a little bit. With all due respect to everyone who said that, I have to disagree with that. It will delay the primary until September; and the reason being is because once we get the census back and then they start with the redistricting processes, then they have the filing deadlines will have to be extended for candidates. Because you can't have candidates if you don't know what districts there are. And then we have to now have a consensus on the map, and it has to pass. And now you're talking about -- we have to have conventions within each party, whatever party you represent. You have conventions to find new candidates which, again, takes a few weeks. Allowing for the opportunity to be able to run in a primary, now we're talking about September. Once September comes and the primary is done, now we're talking about November; so a November election date.

My confusion is, how is only allowing from September to November, a two-, three-month period, enough time to allow for constituents to know who their representative is; and beside the facts of-- Let's take this -- that even if the redistricting is done and completed by August, the parties only have one month to go to convention and find candidates who fit, who are in that new district.

And it's very hard for me to sit here and accept the fact that, "Oh, well, we can do that ahead of time." Well, you can't, because you don't know what the district is going to be.

So this is where-- We're facing a dilemma here -- the fact that it's not pushing it back just a little bit, it's pushing it back for a few months. And then how are we disenfranchising our voters by only giving them a few weeks to, one, do their due diligence to understand who the candidates are; two, provide the ability for people who want to run to be able to decide whether they can run or they don't run. And then, how fair is that process, despite some of the feelings that have been said here against the Legislature -- which, by the way, I've taken some personal offense to; that most of my colleagues, like myself, take our job very seriously. We take what we do very seriously, making sure that we represent our constituents fairly and honestly. And how do we end up addressing that issue -- that if we only have three months to decide whether or not we still have the ability to be able to continue to run, how is that fair to our constituents as well?

So with all due respect, maybe you can expand upon -- when you say it only pushes the primary back a little bit, I have to respectfully disagree with you on that. And I think even the process itself still remains to be seen -- that it does take a few months to go through.

So maybe I'm missing something, and maybe you can explain a little bit clearer for me, or clarify it. I would greatly appreciate it.

MR. BARDEN: Sure, I will do my best.

So as far as having a primary-- I mean, I'm actually from Virginia, so I'm from the other state that's significantly affected. And in redistricting years, we have August primaries and then a November general

election; so it is possible to do that. So I would point to Virginia for that part of the question.

As far as the date question-- I mean, census data, in 2001, came out March 8, and did not significantly affect all of what you're talking about. So I don't see how moving it to March 31 would, then, create a three-month delay.

And based upon these scenarios that we've run, that are in the written statement, even census data that arrives in late April, you could run an August 3 primary if you just stick strictly to a bunch of statutorily required timelines. But that would require what I said -- the key to a lot of what we're talking about is that on day one when they get the census data, the Commission says, "We're going to deadlock, and let's get this 11th member appointed immediately." So that instead of having 60 days -- when you already know that the 11th member is probably going to happen anyway -- you have 30 days, just in this very weird, less-than-ideal situation, for 2021.

ASSEMBLYWOMAN MURPHY: Thank you, thank you.

I do appreciate your words, and all. But respectfully -- and I was going to save this for the end, but I'm going to say it now, only because I know we're running short of time and I don't want to hold up anymore -- as a legislator, and by prolonging this amendment-- First of all, ladies and gentlemen, we're not talking about redesigning the Redistricting Commission with this Bill. We're talking about allowing the voters to decide, by a constitutional amendment -- which, everything that has to do with the redistricting has to do with a constitutional amendment -- we are saying, "Can we put it on the ballot for our public to decide whether or not they want to delay the redistricting or not?" And you know what the answer is? If we

don't pass it, we're still facing the fact that we're going to have a delay in the election, because the Feds out of D.C., under President Trump's Administration, have told us that the census is going to be delayed until June. And unfortunately, we can't change that unless they're going to come back and say, "No, we were wrong," which I very highly doubt it.

But let's face the fact -- we're trying to stop a preventive measure that, if we need to delay the redistricting, we don't have a chance now to go back and do this to keep it on time. Because no matter how we look at it, this has to be done today in order to help. And whether or not 10 years from now we have a pandemic -- God only knows what's going to happen 10 years from now -- how responsible is it? And I can guarantee you, if the roles were reversed, and we were not taking this too seriously, and we're only making this a one-shot deal, we would be hearing the opposite effect from people who are giving us this effect now.

And with that being said, Mr. Chairman, I really don't want to take more time (indiscernible). I think we have gotten so far off the track, as to what this this Bill is supposed to do. I think a lot of this -- they're right; they thought this was going to be the public hearing on the redistricting itself. But this Bill, in my opinion, is just to allow the constitutional amendment to modify the legislative redistricting and put it on the ballot. And you know, yes, the public does have a right to decide that; and yes, they should be given the opportunity to decide that. And if they decide that it should fail, then it fails, and then we deal with it. But we should not be just stopping this for the basis that people ran numbers and put out scenarios in their head about what's happening.

This COVID-19 is going to be extended all the way through God knows how long. And if we're talking about that we're going to be facing this for a long time, this is evidently going to be even more of a problem a few months from now. And let's take into consideration vote-by-mail; you know, you have 45 days on that. So there's a whole host of deadlines that are impacted if it fails. And we, as a Legislature, in my opinion, owe the communities, we owe the advocates, we owe our constituents the ability to make that decision.

Thank you, Mr. Chairman.

ASSEMBLYMAN MUKHERJI: Thank you, Madam Vice Chair. You made some great points.

ASSEMBLYMAN DePHILLIPS: Mr. Chairman, can I correct the record in two respects?

ASSEMBLYMAN MUKHERJI: Well, let me just respond, though, to a couple of points; and I'd be happy to have you do that, Assemblyman.

Madam Vice Chair, to your point with respect to the timing-- They haven't even promised June; they've suggested that's a possibility. That presupposes that, by August of this year, the Census Bureau is able to get a half-a-million people out there, knocking on doors. The enumerators are going to have to go to all the places they have to go to -- grocery stores, and RV parks, and homeless shelters, and hotels -- and that's when-- We don't know what's going to happen in terms of a possible uptick or additional surge in COVID-19 novel coronavirus cases in different parts of the country.

So I think your points make a lot of sense.

Assemblyman DePhillips.

ASSEMBLYMAN DePHILLIPS: I just wanted to state that Mr. Barden's testimony was accurate, as to 2001. The census data didn't come in until March; the primary was only delayed a few weeks, to June 25; and everything worked out fine.

In 2011, the map, as I understand it, wasn't done until April 3. The filing date was only pushed back a couple of weeks and, again, everything was fine.

ASSEMBLYMAN MUKHERJI: Okay.

We're going to read into the record several slips that were submitted for New Jerseyans who did not wish to testify.

First, I'm going to list those who did not indicate that they were either in favor or opposed; so take that for what you will. Perhaps they're seeking amendments, or perhaps they're not coming down one way or another, or don't have an opinion.

Those are -- and none of these individuals listed organizations; I'm just going to list their names.

Carl Grossman, Michael Benyo, Nicholas Benyo, Nicholas Moore, Tracey Moore, Roy Nathans, Julia Moore, and Leonora Soriano.

The following individuals submitted slips indicating that they're opposed to ACR 188, no need to testify: Catherine Rabidis; Cathy Wilkes; Carl Grossman actually submitted another slip, indicating he was opposed; Ronald Guido, on behalf of LifeCare Services, LLC; Rich Allen; Michael Parks; Kenneth Kaplan; Robert Silva; Kenneth Rosseland; Brian Bond, on behalf of BR Bond; Renee Beebe; Virginia Lehmer; Dominic Costanzo; Stephen Schwab; Steven Volpe; Mackenzie Beebe; Alisa Chmielinski; Jeffrey Hazard; Faith Steinberg; Charles Evans; Robert Cardinale; Matthew

Hoffman; Debby Waldman; Harry Schmidt; Millie Schmidt; Sandra Sebastian; Stanley Sebastian; Robert Comizzoli; Joseph Cudzynowski; Gregory Bodrucki; Janie Eager; William Sagliano; and Eugenia Benyo.

Vincenia Annuzzi; William Eager; Anthony Annuzzi; Larry Zaback; Ann Hoyt; Scott Hoyt; Doris Karcher; Karen Viteri; John Hoff; Jennifer Bergmann; Jerome Johnson; Denise Zucker; Mary DiGennaro; Donna Resta; Rolando Perez; Rosanne Schwab; Kenrich Bergmann; Mary Gallagher, on behalf of the New Jersey Appleseed Public Interest Law Center; William McClung; Richard Graybill; Dena Mottola Jaborska, on behalf of New Jersey Citizen Action; Sandra Matsen; David Pringle, but Mr. Pringle also did testify; William Cokeley; Marcia Marley; David Goodman, on behalf of RepresentUS/New Jersey; Rebecca Scheer, on behalf of SOMA Action; Nadine Stern, on behalf of STAND of Central New Jersey; William Field; Rhoda Schermer, on behalf of the Network for Responsible Public Policy; Cathy Brienza, on behalf of JOLT USA.

Miriam, you didn't receive any additional slips since I was e-mailed that list, is that correct?

MS. BAVATI: Yes.

ASSEMBLYMAN MUKHERJI: Okay.

Any members wishing to speak on the Concurrent Resolution?

Go ahead, Assemblyman.

ASSEMBLYMAN DePHILLIPS: Are we proceeding now to the amendments?

ASSEMBLYMAN MUKHERJI: That's correct

ASSEMBLYMAN DePHILLIPS: Okay.

I would just ask the Committee to take a deep breath. There are less Draconian solutions to this issue than amending the Constitution. And not only amending the Constitution, but also making these proposed constitutional changes permanent.

So I think the proposed Resolution goes way too far, it's way too problematic. And as history has shown, there are ways for us to deal with delays. And those solutions have worked in the past, so let history guide us. I think we are jumping the gun in a big way today with this Resolution, and it doesn't surprise you that I'm opposed.

ASSEMBLYMAN MUKHERJI: Thank you, Assemblyman.

Any other member wish to speak? (no response)

I'll just conclude.

I'll just say -- first of all, I'll thank the sponsor. Assemblyman McKeon, I know that, from time to time, like all of us, you hear the adage, "Never let the perfect be the enemy of the good."

First, I applaud you for coming forward with a solution. At the end of the day, I respect, I appreciate the valid concerns that have been raised before this Committee today. I think you do too, John. I know you do, because we've spoken about it, and I know you do.

The fact is, it's exactly because of many of those concerns that in order to ensure that the people of New Jersey get their fair share of Federal funds and an adequate return on everything that we rely on the census for, we need an adequate count. And how we ensure we're best represented, how we're represented in Trenton, in Washington, in municipalities throughout the state -- it's based upon the principle of one person, one vote. And communities of color and disenfranchised populations suffer the most if we're

forced to rely, for an entire additional decade, on bad data -- if these groups are underrepresented, even if not unrepresented, because some of the alternative solutions have been to use ACS data and things like that.

No one could have predicted the strain on the Federal government resources created by -- not to mention how it trickled downhill to the State, and county, and local governments -- created by the global pandemic. We don't know how far into the future this is going to continue to impact us in the way that it has. But even one day's delay, when you we have such a-- I mean, we're hamstrung by our Constitution and our law in the fact that Virginia and New Jersey have these off-year, odd-year elections. And with 60 days, that doesn't give us a lot of time to do all that must be done, from getting the census data and letting the Redistricting Commission do its work, and then going out and doing all that must be done to have a primary election and a general election.

So, to me, what Assemblyman McKeon has presented to us is the least-bad solution. And we haven't heard an alternative solution that we can get done -- given the short window that we have left -- to put before the voters. Because at the end of the day, as the Vice Chair said, it's their decision. Are we going to deprive them of a choice, based on a pandemic, to make sure that we have the most accurate numbers at the time that the Commission makes these decisions that affect our representation for the next decade?

So that said, I'll be supportive of the amendments to the Concurrent Resolution, and I'll be voting for it at the ballot box. It's not ideal, but nothing in 2020 seems to be.

So with that said, Miriam, if you would call the roll.

MS. BAVATI: On ACR 188, with Committee amendments; Assemblyman DePhillips.

ASSEMBLYMAN DePHILLIPS: No.

MS. BAVATI: Assemblyman Auth.

ASSEMBLYMAN AUTH: Thank you.

Chairman, you went on a lengthy dissertation about the Bill. And yet you've basically just forgotten about the testimony we heard.

We had two people tell us that communities of color -- the Asian population, the Hispanic population -- are all going to take it on the chin from this piece of legislation. And yet, you sat here and said that this is going to help them. So we have diametrically opposed opinions. We have people who have no interest other than the fairness of the process who came in and gave testimony -- they're not political people -- they came in and gave testimony completely opposite of what you just said. Now, I have the utmost respect for you; we're good friends and everything else. But I'm just laying the facts out as I see them.

Ms. Patel and Mr. Pringle sat there and said exactly the opposite of what you said, and what the Vice Chairwoman said today.

So with this type of activity going on, with completely different opinions, with completely different ideas on how this should be done, why are we rushing through this? Why can't we do some other things that are less Draconian, things that will accomplish almost the same thing without adding permanency like we're going to do right now? It's just a debacle. I understand my colleague, Mr. McKeon, has worked hard on this, and I wished there had been more people involved with it so we could have sorted this out long before the 12th hour.

So I have to say “no.” I’m sorry we have to do this, and I will argue vociferously against it when we vote on it in the Assembly chambers as well.

Thank you.

MS. BAVATI: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: I vote “yes.”

I believe that-- And I want to thank John McKeon for his hard work on this Bill. And I’ve heard the testimony from all the people who have a stake in this, who are involved in this today. But I feel that the Assembly and this Committee, particularly, is acting in a proactive manner. It’s kind of reactive, but proactive. This is the best that we can do at this time, and it ensures that we have transparency. It also ensures that -- I feel it will get maximum participation for those, when they do vote for their candidates in the future.

So I say “yes.”

ASSEMBLYMAN MUKHERJI: This is not a conspiracy to make Assemblyman Auth have to go through that again.

But I don’t think I entertained a motion on ACR 188 before calling for a vote.

ASSEMBLYMAN JOHNSON: Move to release.

ASSEMBLYMAN CHIARAVALLOTI: Second.

ASSEMBLYMAN MUKHERJI: I apologize for that oversight; rookie Chair. Go figure.

Miriam, go ahead.

MS. BAVATI: I apologize as well.

On ACR 188, with Committee amendments; Assemblyman DePhillips.

ASSEMBLYMAN DePHILLIPS: No.

MS. BAVATI: Assemblyman Auth.

ASSEMBLYMAN AUTH: Not to be redundant, “no.” (laughter)

MS. BAVATI: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Yes.

MS. BAVATI: Assemblyman Chiaravalloti.

ASSEMBLYMAN CHIARAVALLOTI: I vote “yes.”

And I want to just thank the sponsor, and the Chairman, and actually everyone who testified. The reality is that most of the people who testified today are our friends and allies on so many issues. And I know we have a difference of opinion on this, but I think what these sponsors put together -- I think what John has put together is a measured response to a crisis that is beyond any of our control.

So I vote “yes.”

MS. BAVATI: Vice Chair Murphy.

ASSEMBLYWOMAN MURPHY: “Yes,” for the reasons I previously said.

And thank you, Assemblyman McKeon. This one was, I’m sure, hard. And it’s not over by any means of the stretch. And I am sure that you will be more than happy to have many more conversations with people.

Thank you; and I vote “yes.”

MS. BAVATI: Chairman Mukherji.

ASSEMBLYMAN MUKHERJI: Yes.

MS. BAVATI: The ACR is released, with amendments.

ASSEMBLYMAN MUKHERJI: We wish everybody continued safety and good health, and we'll see you all on July 20, in terms of this Committee reconvening.

Thank you.

ASSEMBLYMAN McKEON: Thank you, Mr. Chairman.

(MEETING CONCLUDED)