

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

STATE GOVERNMENT COMMITTEE
PUBLIC HEARING

STATE CAPITOL
HARRISBURG, PA

IRVIS OFFICE BUILDING
ROOM G-50

WEDNESDAY, SEPTEMBER 18, 2019
9:02 A.M.

PRESENTATION ON
LEGISLATIVE AND CONGRESSIONAL REDISTRICTING PROCESSES

BEFORE:

HONORABLE GARTH D. EVERETT, MAJORITY CHAIRMAN
HONORABLE STEPHANIE BOROWICZ
HONORABLE RUSS DIAMOND
HONORABLE MATTHEW DOWLING
HONORABLE CRIS DUSH
HONORABLE MATTHEW GABLER
HONORABLE DAWN KEEFER
HONORABLE JERRY KNOWLES
HONORABLE ANDREW LEWIS
HONORABLE BRETT MILLER
HONORABLE LOUIS SCHMITT, JR.
HONORABLE CRAIG STAATS
HONORABLE JEFF WHEELAND
HONORABLE KEVIN BOYLE, DEMOCRATIC CHAIRMAN
HONORABLE JOSEPH CIRESI
HONORABLE PAMELA DELISSIO
HONORABLE JOSEPH HOHENSTEIN
HONORABLE MALCOLM KENYATTA
HONORABLE BRIAN SIMS
HONORABLE JARED SOLOMON
HONORABLE WENDY ULLMAN
HONORABLE JOSEPH WEBSTER

* * * * *

*Pennsylvania House of Representatives
Commonwealth of Pennsylvania*

COMMITTEE STAFF PRESENT:

SUSAN BOYLE

MAJORITY EXECUTIVE DIRECTOR

MATT RINDFUSS

MAJORITY RESEARCH ANALYST

MELANIE DONNELLY

MAJORITY RESEARCH ANALYST

CHANIN ZWING

MAJORITY LEGISLATIVE ADMINISTRATIVE ASSISTANT

NICK HIMEBAUGH

DEMOCRATIC EXECUTIVE DIRECTOR

MATT HURLBURT

DEMOCRATIC RESEARCH ANALYST

KATHY SEIDL

DEMOCRATIC RESEARCH ANALYST

I N D E X

TESTIFIERS

* * *

<u>NAME</u>	<u>PAGE</u>
BEN WILLIAMS ELECTIONS AND REDISTRICTING SPECIALIST, NATIONAL CONFERENCE OF STATE LEGISLATURES.....	10
CYNTHIA DAI COMMISSIONER, CALIFORNIA CITIZENS REDISTRICTING COMMISSION.....	30
STANLEY FORBES COMMISSIONER, CALIFORNIA CITIZENS REDISTRICTING COMMISSION.....	32
PETER YAO COMMISSIONER, CALIFORNIA CITIZENS REDISTRICTING COMMISSION.....	33
CAROL KUNIHOLM CHAIR AND COFOUNDER, FAIR DISTRICTS PA.....	35
ACCOMPANIED BY: PATRICK BEATY LEGISLATIVE DIRECTOR, FAIR DISTRICTS PA	
BRIAN GORDON DIRECTOR, CONCERNED CITIZENS FOR DEMOCRACY.....	41
DAVID THORNBURGH PRESIDENT AND CEO, COMMITTEE OF SEVENTY.....	60
MICHAEL WATSON RESEARCH DIRECTOR, CAPITAL RESEARCH CENTER.....	68

SUBMITTED WRITTEN TESTIMONY

* * *

(See submitted written testimony and handouts online.)

P R O C E E D I N G S

* * *

MAJORITY CHAIRMAN EVERETT: I'll bring this hearing on redistricting to order. We don't have to do a roll call or anything because it's a hearing.

And I'll just say in advance that this is not a public hearing where we take public comment. This is a hearing for the Members of the House State Government Committee to hear from the presenters, their different views and background on redistricting.

And I want to thank our staff, who has worked diligently to put together what I think is a very good set of panelists and a lot of information from the Members.

And to the Members I'll say this is just probably the first of a number of hearings that we will have over this session on the issue of redistricting. And today is just an educational opportunity for the Members on redistricting. When Chairman Boyle and I looked around the room at our Committee, we noticed that there was not many of us on the Committee that were here when we did redistricting last time and that we probably needed to start at what I'll say is square one and move forward.

So I want to thank, again, staff and the presenters, some of whom have come from a pretty good distance to help us today in our process. And with that,

1 I'll turn it over to my Co-Chairman, Kevin Boyle.

2 DEMOCRATIC CHAIRMAN BOYLE: Thank you, Chairman
3 Everett. And as Chairman Everett referenced, actually, I
4 believe Chairman Everett and I are the only Members of the
5 State Government Committee that were actually Members of
6 the Pennsylvania House during the last --

7 MAJORITY CHAIRMAN EVERETT: I think Matt Gabler
8 might've been.

9 DEMOCRATIC CHAIRMAN BOYLE: Oh, and Pam DeLissio.

10 MAJORITY CHAIRMAN EVERETT: Oh, and Pam, yes.

11 DEMOCRATIC CHAIRMAN BOYLE: Pam DeLissio, sorry.
12 I'm sorry. Sorry.

13 So it's just four of us out of 25, so I do bring
14 the experience of having gone through redistricting in
15 2011. It was my freshman year. And it was a very sobering
16 experience. In 2010 I ran in a very high-profile race
17 against the former Republican Speaker of the PA House, and
18 a lot of money spent, a lot of attention, a lot of media.
19 And I was running against a Republican in the city of
20 Philadelphia, and there weren't too many places that were
21 maybe friendly to Republicans politically in the city of
22 Philadelphia.

23 So I say that because when I was in office it was
24 time for redistricting. And the neighboring Republican
25 legislators decided this freshman Democrat with a lot of

1 Republican areas was pretty enticing to take those voting
2 divisions from me. So in the end I wound up with a
3 district that was 60 percent new. And the people in the
4 communities I represented in northeast Philadelphia, they
5 never had a voice in that, so they voted for me against a
6 32-year incumbent, and it was a big deal to replace him.
7 And then all of a sudden the person they voted into office
8 was no longer their State Representative. And it was done
9 for political reasons, and I don't think that's fair, I
10 don't it's right, and I don't think it should happen in a
11 democracy.

12 So I appreciate everyone's activism here today.
13 This is the best-attended State Government Committee
14 meeting I think we've ever seen, and thank you for being
15 here. Thanks. Thanks, Chairman.

16 MAJORITY CHAIRMAN EVERETT: Thank you, Kevin.

17 And, yes, you know, I just have a few remarks to
18 get started. You know, redistricting, you know, is simply
19 the process of drawing Congressional districts based on a
20 new census. And with the demographic data that we get from
21 the census, the United States Census Bureau these days, and
22 the mapping tools that we have, how hard can that be? I
23 mean, you can go online and anybody can draw a map.

24 The question is, you know, we want to have
25 districts that are -- you know, I think everybody agrees we

1 want to produce districts that are compact, contiguous, and
2 which preserve political subdivisions, communities of
3 interest, and the cores of the traditional districts. As
4 Kevin was alluding to, you don't care district apart just
5 for political purposes. It should be nonpartisan.

6 And just like election reform, which we had a
7 hearing on on Monday, which is another wonderfully easy
8 issue we have to deal with in State Government, you know,
9 what the goal is is to make every vote equal and to make
10 sure that voters have faith in the maps and the districts
11 that are fair. I think that's all of our goals. And the
12 process of redistricting is governed by the United States
13 Constitution, the Federal Voting Rights Act of 1965, and in
14 Pennsylvania, our State Constitution.

15 As you'll hear from NCSL from Mr. Williams later,
16 States do redistricting in many different ways and with the
17 majority of them doing it legislatively. In Pennsylvania,
18 Federal Congressional redistricting is a legislative
19 process, which can be as easy as introducing a bill in
20 either the House and the Senate, moving it over to the
21 other chamber, and sending it to the Governor to sign. Or
22 it can be as complicated as having many hearings, taking
23 public input, and then enacting legislation with a new map.

24 Right now, we do not have a Pennsylvania
25 Constitutional or statutorily defined process on how

1 Congressional maps are drawn, and maybe we should. But on
2 the other hand one could argue that the Pennsylvania
3 Legislature has been drawing Congressional maps every 10
4 years since 1790 following our legislative process, and
5 most times it's worked well, and we can continue to do
6 that. And there's others that say we need to throw that
7 whole process out and put in some kind of commission, and
8 we'll hear about the various commissions that we might want
9 to look at.

10 On the State Senate and House side of things,
11 Article 2, Section 17 of the Pennsylvania Constitution
12 directs that the State legislative redistricting must be
13 accomplished by a five-member legislative reapportionment
14 commission. And I would point out that Pennsylvania is one
15 of about only 15 States that utilizes a commission of some
16 sort for redistricting, while the remaining 35 solely use
17 the legislative process.

18 I'd also point out for those -- and I think it
19 looks like if I scan the room I would say we're populated
20 predominantly by the Fair Districts people, but I would
21 also point out that only eight States using independent
22 commission to do redistricting. But we'll hear more about
23 that also from NCSL and other presenters.

24 On redistricting, the State Constitution goes on
25 to specify how the members of the commission are appointed,

1 timelines for producing preliminary maps, public hearings,
2 filing of exceptions, court appeals on the exceptions, the
3 filing of a revised plan, and ultimately the approval of
4 the plan by the court.

5 For Members, I'm going to pass out to you a
6 timeline of the last State redistricting process to give
7 you some feel of how detailed that process is.

8 As I said, I see today's hearing as the first
9 step in our process of determining what if anything we need
10 to do to improve our redistricting processes in
11 Pennsylvania. As I always try to do, I'm going to go
12 through this process with an open mind, and I'd ask the
13 Members to do that also.

14 I look forward to hearing from those who are here
15 to provide their experience, knowledge, and opinions on
16 redistricting. For today, as we usually do, I'd ask the
17 Members to try to stick to questions that clarify the
18 points provided by the testimony rather than providing us
19 with your opinion on how we should do redistricting or a
20 soliloquy on the Constitution or the Federalist Papers. We
21 as Members will have plenty of time to speak with each
22 other on these issues as we move forward. Today is an
23 educational process, and I'd ask that we all listen and
24 learn.

25 And with that, Kevin, do you have anything you

1 want to add?

2 With that, we'll open up with Mr. Ben Williams
3 from NCSL, who is a specialist on elections and
4 redistricting. Thank you for being here. I really
5 appreciate it.

6 MR. WILLIAMS: Absolutely. Thank you, Mr.
7 Chairman. Let's see. Can you hear me well there? Is that
8 good? Okay.

9 Thank you, Mr. Chairman, Members of the
10 Committee, for inviting me to speak to you today. My name
11 is Ben Williams. As he said, I'm a Policy Specialist in
12 elections and redistricting at the National Conference of
13 State Legislatures. We're based in Denver. NCSL is the
14 Nation's leading bipartisan organization supporting the
15 work of both legislators and legislative staff.

16 I have provided the Committee with written
17 testimony and a handout which contains detailed information
18 about the national redistricting landscape. Rather than
19 read that to you, I will keep my comments brief to save the
20 majority of my time for your questions.

21 Redistricting is a core function of Legislatures,
22 and therefore, redistricting is a core subject for NCSL.
23 As with all of our work, we do not make recommendations on
24 redistricting policy. Instead, we provide 50-State
25 research and analysis.

1 While redistricting can be categorized in many
2 different ways, a helpful dichotomy is to think of the
3 roles as governing either processes or outcomes.
4 Redistricting processes would include who draws the lines
5 and, in the case of commissions, how Commissioners are
6 selected; the procedures used to draw those lines;
7 procedures for reviewing those lines; and any framework for
8 receiving public input. Redistricting outcomes are
9 governed by the criteria found in Federal and State law.
10 How a State addresses these decision points is frequently
11 debated, and many bills are introduced each year in
12 Legislatures across the country in relation to them.

13 I'll now review some general facts about how
14 States redistrict. Additional details can be found in my
15 written testimony. I would also recommend NCSL's guide to
16 redistricting aimed at legislative staff called "Into the
17 Thicket: A Redistricting Starter Kit" for those looking
18 for a good primer on the subject who haven't addressed it
19 in the past.

20 Lastly, my colleagues and I and NCSL's Elections
21 and Redistricting Division are always available to answer
22 any of your questions. Should you have them, please feel
23 free to reach out.

24 So in terms of who draws the lines, it's divided
25 into who draws legislative lines and Congressional lines.

1 The numbers are different. The Legislature draws
2 legislative districts in 36 States around the country right
3 now. That number does change generally from year-to-year
4 because usually one to two States per decade will adopt a
5 commission process. That pace has increased somewhat this
6 decade.

7 The Legislature draws Congressional districts
8 right now in 41 States across the country. And then you
9 can do the math. It's 14 for legislative and 9 for
10 Congressional for commissions. NCSL includes
11 Pennsylvania's legislative redistricting process in that 14
12 commission number.

13 In addition, there are also advisory commissions
14 that assist State Legislatures in drawing districts in
15 certain States. There are currently five advisory
16 commissions for State legislative districts. That is
17 Maine, New York, Rhode Island, Utah, and Vermont. And then
18 there are four States which have an advisory commission to
19 assist in drawing Congressional districts: Maine, New
20 York, Rhode Island, and Utah. There are also States with
21 backup commissions that are responsible for drawing
22 districts in case the Legislature is unable to do so.
23 Those States for our legislative districts are Connecticut,
24 Illinois, Mississippi, Oklahoma, and Texas, and there are
25 backup commissions for Congressional districts in

1 Connecticut, Indiana, and Ohio.

2 You also may have heard of Iowa's redistricting
3 model, which is a bit unique. It's a statutory process
4 that was passed by the Iowa Legislature in the late '70s,
5 early '80s. I can speak for that more if you have
6 questions later, but it is a complicated process.

7 In addition, there are questions about procedures
8 for drawing district lines. One of the key questions is
9 how many votes are required to adopt a map. In most States
10 it is a majority vote in the State Legislature, but there
11 are some States that have higher thresholds. So in the
12 commission States there are seven which require some sort
13 of elevated voting requirement. Those are California,
14 Colorado, Idaho, Michigan, New York, and Utah starting in
15 2020, and Washington. In the legislative States, three
16 State Legislatures require an elevated vote to pass a map.
17 Those are Connecticut, Maine, and Ohio, again, beginning in
18 2020.

19 There are also public input mechanisms that a
20 State could consider if they were thinking about making
21 changes to their mapping processes, and so those would
22 include timing rules as there is a certain time by which a
23 map has to be adopted. Those could include whether public
24 hearings or public comment periods are required by law.
25 Some States require that; some States do not. It could

1 also be data transparency. Does the State provide software
2 to the public integrated with redistricting data to
3 facilitate public map submissions for considerations? Some
4 States do that. Some States that are known for having
5 relatively open data include California and Texas.

6 Of local note to Pennsylvania, a bill was
7 recently passed in the New Jersey State House unanimously,
8 which would simply take the election and district
9 information that's already available publicly and turn it
10 into a machine-readable format to facilitate that public
11 comment. So there is action on that issue in some of your
12 neighbors.

13 The last point is judicial review mechanisms.
14 Some States designate a particular court as the venue for
15 hearing redistricting challenges. An example of that would
16 be North Carolina, which requires that all redistricting
17 challenges be filed in a State court in the capital county
18 where Raleigh is. And then there are also some States that
19 mandate immediate judicial review of any map that's sort of
20 a prescreening cleansing process, and those States are
21 Kansas and Colorado.

22 There are also criteria. You're familiar with
23 the Federal criteria, one person, one vote, the 14th
24 Amendment, and the Voting Rights Act. Then there are
25 traditional criteria such as continuity, compactness,

1 preservation of political subdivisions, communities of
2 interest, cores of prior districts, avoiding pairing
3 incumbents. And then there are new criteria that some
4 States have begun to adopt in recent years. Those would
5 include prohibiting favoring or disfavoring parties,
6 incumbents, or candidates; prohibiting the use of political
7 data except where necessary to comply with the Voting
8 Rights Act; competitiveness; and proportionality or
9 symmetry, which are two different concepts, but they are
10 related.

11 And with that, I think that's just a very quick
12 and brief overview with a lot of numbers, so I'll leave the
13 rest of the time to your questions. Thank you very much.

14 MAJORITY CHAIRMAN EVERETT: Thank you, Ben. And
15 for those of you who don't have -- and I'm not trying to
16 make anybody leave the room. You're welcome to stay here.
17 But for those of you who do want to sit down, we have one
18 floor above us in Room 124 there's a big-screen TV that
19 live casting this if you want to have a seat to sit down
20 and watch. If you want to stand or sit on the floor,
21 you're more than welcome to do that also unless -- I don't
22 know how many people are supposed to be in this room or not
23 be in this room. I haven't called for security or
24 anything, but if they look in, they might say there's too
25 many people here, and then you might be moving off to Room

1 124.

2 Again, thank you, Ben. Questions, Members?

3 Yes. Representative Solomon.

4 REPRESENTATIVE SOLOMON: Thank you, Mr. Chairman.

5 Ben, can you talk a little bit about the Iowa
6 model, just lay it out, in particular the motivations for
7 the Legislature to engage in that process?

8 MR. WILLIAMS: Sure. So, Representative Solomon,
9 the Iowa model was adopted in the 1970s. I was not alive
10 then, but my understanding is that there had been some
11 contentious issues. The Legislature had been unable to
12 adopt maps. In the previous cycle there had been court
13 challenges, and the Legislature passed this system, which
14 did not exist prior to it. And it involves the nonpartisan
15 staff. Their division of legislative services would form a
16 redistricting drawing panel.

17 They are extremely limited in the types of data
18 they're allowed to look at when drawing the maps. They're
19 not allowed to take into account political considerations.
20 It's strictly census data except where necessary to comply
21 with the Voting Rights Act, although my understanding of
22 Iowa is that there aren't many, if any, voting rights
23 districts. And they draw maps.

24 There's an advisory commission that Members of
25 the Legislature appoint that the nonpartisan staffers work

1 with. Those maps are submitted to the Legislature for
2 approval, and it is a complicated process of back-and-forth
3 where you have up or down votes. So the Legislature for
4 the first time receives the maps from the advisory
5 commission, and they are not allowed to make any
6 amendments. They get up or down vote immediately. And
7 then if they reject that map, there is a second map that is
8 submitted after the commission receives feedback from the
9 legislators on the things that they didn't like about that
10 first map. They'll submit that. There's another up or
11 down vote. And if that map is also rejected, then the
12 Legislature is allowed to make amendments to the map as
13 they see fit.

14 And so far, since that process has been in place,
15 the Legislature has never gone to the third vote. They've
16 always approved the map for the first or second vote for
17 both Congressional districts and State legislative
18 districts.

19 REPRESENTATIVE SOLOMON: And just as a follow-up,
20 Mr. Chairman, Ben, what about public sentiment in Iowa? I
21 mean, has there been any polling of whether people like
22 this process or in terms of outcomes, are districts more
23 contiguous or kind of we keeping neighborhoods intact? Do
24 you have any of that data?

25 MR. WILLIAMS: I don't have any data about

1 polling information or satisfaction. I can say that the
2 process seems to work, and the Representatives I've spoken
3 to in Iowa are happy with it.

4 REPRESENTATIVE SOLOMON: Can you talk a little
5 bit more about that?

6 MR. WILLIAMS: I mean, I've only been to Iowa
7 once or twice, but just my conversations with people in
8 Iowa, they seem content with the way the process works for
9 them. And it's a process that works for their State and
10 their political culture.

11 REPRESENTATIVE SOLOMON: Thank you, Mr. Chairman.

12 MAJORITY CHAIRMAN EVERETT: Representative
13 DeLissio.

14 REPRESENTATIVE DELISSIO: Thank you, Mr.
15 Chairman.

16 Mr. Williams, when you had mentioned the number
17 of States which seem to be the majority by far that are
18 still controlling this process, how many of those States
19 are you aware are actively discussing doing it differently?
20 I was here in 2011, and even though that was my first year
21 in office, it became evident to me rather quickly that this
22 is about control and power. So I am not necessarily
23 surprised at those statistics where Legislatures are trying
24 to hold onto that control and power.

25 So I would like to understand, if you have that

1 information, are there other States similar to Pennsylvania
2 that have initiatives out there, or are all these other
3 States just really content with their current system? Does
4 NCSL track any of that?

5 MR. WILLIAMS: NCSL does track bills that are
6 introduced. You can decide for yourself whether the
7 introduction of bills is a good barometer of interest in
8 making changes for the overall legislative body. I will
9 say that the majority of commissions around the country --
10 and I do have that data with me -- were created by
11 legislative referral; they were not created by ballot
12 initiative.

13 There are certain high-profile examples of
14 redistricting commissions that were created by citizens'
15 initiative that bypassed legislative processes, probably
16 most notably Arizona and California and perhaps Michigan
17 this past year, although that commission hasn't been formed
18 yet. But the majority of commissions for both drawing
19 legislative districts and Congressional districts were
20 created by referrals from the State Legislature.

21 As to consideration about making changes, there
22 are certainly bills that are introduced every year. For
23 example, there was a bill passed last year in Virginia, a
24 Constitutional amendment that passed both chambers of the
25 Legislature. Because of Virginia's Constitutional

1 amendment process, it has to pass again. Or, sorry, it was
2 this past year. It just seems like a long time ago. But
3 it has to pass again in 2020 before it would be submitted
4 to the voters for approval or disapproval.

5 And New Hampshire's State Legislature adopted a
6 commission bill earlier this year, but that was vetoed by
7 the Governor. And my understanding is that there is some
8 discussion of a veto override, but to be honest with you, I
9 haven't followed that too closely.

10 REPRESENTATIVE DELISSIO: Thank you, Mr.
11 Chairman.

12 MAJORITY CHAIRMAN EVERETT: Representative Dush.

13 REPRESENTATIVE DUSH: Thank you, Chairman. And
14 thank you, Ben.

15 A couple questions. What kind of data is used by
16 the Iowa professional staff? Because it's supposedly a
17 nonpartisan staff. We don't have anything like that. What
18 kind of data do they use?

19 MR. WILLIAMS: So the Iowa staffers are
20 restricted to using census data, so they know anything that
21 the Census Bureau would report to them. But they don't
22 have incumbent locations, they don't have partisan data
23 except where that would be necessary to comply with the
24 Voting Rights Act because you have to do a racial
25 polarization analysis when you're complying with the Voting

1 Rights Act, and that does require you to consider political
2 data. Other than that, they don't do that.

3 And then they don't have any data on challengers
4 or other people who may potentially want to run in a
5 district. They only have the number of people, gender,
6 race. That's it, and they draw the maps on an equal-
7 population basis. They don't look at the prior districts
8 either, as I understand it.

9 REPRESENTATIVE DUSH: With Pennsylvania when we
10 do our State legislator maps, we don't have to have that
11 one-for-one that is required for the Congressional
12 districts.

13 MR. WILLIAMS: Yes.

14 REPRESENTATIVE DUSH: And as a Congressional
15 districts are significantly larger --

16 MR. WILLIAMS: Yes.

17 REPRESENTATIVE DUSH: -- what kind of an impact
18 does that have on the drawing of the maps?

19 MR. WILLIAMS: So the exact amount of equal
20 population that you have to achieve certainly has an impact
21 when you are looking at legislative districts. The Supreme
22 Court has said that there's a little bit more leeway, and
23 the exact numbers in order to comply with the criteria that
24 a State through its laws is deemed appropriate. So there
25 is an ability to achieve that somewhat more.

1 With Congressional districts, the Supreme Court
2 has historically declared absolute numerical equality since
3 the one-person, one-vote cases came down in the 1960s.
4 There was a case this past decade where the Supreme Court
5 allowed West Virginia to have a minimal Congressional
6 deviation to comply with their whole-county provision, so
7 there is some question about to what extent that
8 flexibility exists for other States. The Supreme Court did
9 not elaborate in that case. That's called *Tennant v.*
10 *Jefferson County* if you want to look that up. But it has a
11 significant impact.

12 When you're drawing the map, it is obviously
13 easier to comply with the criteria if you have a little bit
14 of wiggle room in the population as opposed to absolute
15 numerical equality where the county lines breakdown. And
16 I've never looked -- I've drawn example maps in some other
17 States just to get a feel for how the criteria work. I've
18 never done that for Pennsylvania, so I don't know how that
19 would affect here particularly.

20 REPRESENTATIVE DUSH: Does that flexibility help
21 with compactness and contiguous -- like I notice our State
22 legislative districts are much more compact and contiguous
23 than some Federal and not just in Pennsylvania.

24 MR. WILLIAMS: It certainly could. I've never
25 done thorough analyses that one could use to determine the

1 exact extent to which it helps, but my understanding is
2 generally it is helpful, yes.

3 REPRESENTATIVE DUSH: Thank you.

4 MAJORITY CHAIRMAN EVERETT: Representative
5 Miller.

6 REPRESENTATIVE MILLER: Thank you, Mr. Chairman,
7 and thank you for your testimony.

8 MR. WILLIAMS: Sure.

9 REPRESENTATIVE MILLER: I have, having not been
10 through this process before, been learning a lot about it.
11 I was fascinated with your testimony about how many
12 different methods there are that the States utilize. And I
13 was trying to take some notes as you were going through
14 this.

15 Can you give me a ballpark about how many -- I
16 guess the simple answer is 50 different methods, but
17 there's a lot of different proposals out there. In your
18 studies of the different proposals and what States are
19 doing, how many different ways are there out there?

20 MAJORITY CHAIRMAN EVERETT: And, Ben, before you
21 answer and for all the Members of the Committee, as has
22 been mentioned, if you go to the NCSL website, there is
23 more information than you'll ever be able to digest, but
24 some of it is actually broken down simply enough that
25 legislators can understand it. So I would encourage you to

1 go there. They have criteria -- I mean, it's amazing the
2 amount of information they have on their website. But,
3 Ben, go ahead.

4 MR. WILLIAMS: Sure. So you're correct that
5 there are 50 different measures because every State has
6 different criteria, every State has slightly different
7 timing rules, different public input rules. Some States
8 use commissions, some States use different types of
9 commissions, so the permutations are endless if you wanted
10 to break it down into every different category.

11 As Chairman Everett said, the "Into the Thicket"
12 discussion for State legislators is actually broken down as
13 sort of a decision tree so you can look through every
14 decision you would make. If you were creating an entire
15 system de novo, you could go through and see every decision
16 you would have to make to set up a complete redistricting
17 process just to get a full idea of the complexity of it.

18 So there are the State Legislatures. There are
19 the State Legislatures that have voting rules other than
20 simple majority. There are State Legislatures that pass
21 bills via resolution instead of via statute, so the
22 Governor is not included in that process. There are
23 commissions that are appointed by Members of the
24 Legislature. There are commissions with even numbers of
25 Commissioners. There are commissions with odd numbers of

1 Commissioners.

2 There are commissions that have selection
3 processes that exist outside of the Legislature almost
4 entirely, and I think we have some Members of the
5 California commission here today. They can tell you more
6 about how that process worked for them. And there are
7 commissions that are considered bipartisan commissions with
8 tie-breaking votes, which is the system that New Jersey
9 uses. So it's endless, the number of different
10 permutations you could have.

11 And any change on any one of those decision
12 points, criteria, public input, data, software, commission,
13 super majority voting rules would make a change in any
14 given State. So it's constantly changing, and every decade
15 we have States that have entirely new setups that make the
16 process even more diverse.

17 REPRESENTATIVE MILLER: Are you familiar, do any
18 of the States have a system whereby the starting point for
19 drawing the map is determined? For instance, if you start
20 drawing the map, let's say, in the northwest of
21 Pennsylvania, you're going to have a different map than if
22 you're starting in the northeast and drawing your map. Are
23 there any States that do something with that as a criteria?

24 MR. WILLIAMS: Yes. I can look up for you
25 whether there are other States. The only one that I recall

1 off the top of my head is Arizona does that for their
2 Congressional districts. They start in the northwest
3 corner of the State, and they move down with a grid and
4 they get evenly populated squares. And then the commission
5 makes changes to the squares from there to comply with the
6 State's redistricting criteria.

7 REPRESENTATIVE MILLER: Is the northwest
8 selection, is that by law or is it arbitrary that next time
9 they start in the southwest?

10 MR. WILLIAMS: It's in the Constitution, yes. It
11 was part of the citizens' initiative that created the
12 Arizona Independent Redistricting Commission.

13 REPRESENTATIVE MILLER: Thank you.

14 MAJORITY CHAIRMAN EVERETT: Thank you.
15 Representative Diamond, we have just a few minutes left, so
16 we'll try to be swift here.

17 REPRESENTATIVE DIAMOND: Thank you, Mr. Chairman.
18 Thank you, Mr. Williams, for appearing today.

19 One of your responses to Representative Dush
20 intrigued me, and I'd like you to elaborate on it, please.

21 MR. WILLIAMS: Sure.

22 REPRESENTATIVE DIAMOND: You mentioned that in
23 West Virginia there was deviation allowed for population
24 that basically wouldn't apply to, say, Pennsylvania
25 following along the *Baker v. Carr*, one person, one vote,

1 because they have a whole-county rule in West Virginia.
2 Can you explain to me why their whole-county rule kind of
3 supersedes *Baker v. Carr*?

4 MR. WILLIAMS: Well, that's an interesting
5 question. The Supreme Court did not elaborate on why. I
6 think it's just because West Virginia drew a map with a
7 slight population deviation to comply with the whole-county
8 provision --

9 REPRESENTATIVE DIAMOND: Um-hum.

10 MR. WILLIAMS: -- and then they were sued and it
11 went to the Supreme Court so you got an opinion. And I
12 don't think, as I understand it, any other States had done
13 anything like that. So it's unclear to me, and I would
14 advise any Member of this Committee who's interested in
15 learning about that more to speak with your counsel to
16 learn about their take on the potential ramifications for
17 redistricting moving forward in other States.

18 But it is a notable decision from the Supreme
19 Court this decade on redistricting that doesn't get as much
20 attention as some of the other ones. But the deviation was
21 small. I think it was less than half a point.

22 REPRESENTATIVE DIAMOND: Right.

23 MR. WILLIAMS: So it was a very small deviation.
24 And the Supreme Court said that it was acceptable for that
25 slight deviation in order to comply with a neutral criteria

1 like keeping counties whole.

2 REPRESENTATIVE DIAMOND: Yes, well half a point
3 is about 1,000 people --

4 MR. WILLIAMS: Right.

5 REPRESENTATIVE DIAMOND: -- with something like
6 that, but it's just interesting that one set of manmade
7 lines, which can easily be changed, I think, you know,
8 by -- any State can say, well, here's where the county line
9 is. I mean, we could always go through that rigmarole to
10 do that to manipulate those, but that that manmade line is
11 going to overrule another set of manmade lines that are
12 supposed to comply with one man, one vote. It's very
13 intriguing, and I appreciate that you brought that up to
14 our attention.

15 MR. WILLIAMS: Sure.

16 MAJORITY CHAIRMAN EVERETT: Thank you. Mr.
17 Williams, thank you. I think that's been very informative
18 and, you know, I really appreciate you coming here to help
19 us start our process. And I think we'll probably be seeing
20 you back again before we get to the end of it.

21 MR. WILLIAMS: Absolutely.

22 MAJORITY CHAIRMAN EVERETT: Thank you very much.

23 MR. WILLIAMS: Thank you, Mr. Chairman. Thank
24 you.

25 MAJORITY CHAIRMAN EVERETT: Our next panel would

1 be composed of -- we have individuals here from the
2 California Citizens Redistricting Commission, and we have a
3 couple folks from the Fair Districts, and an individual
4 from the Concerned Citizens for Democracy. I'll allow you
5 to come up, and we'll get chairs for you so everybody can
6 get at the table. We'll go across and I'll allow you to
7 introduce yourselves. And each of those three groups gets
8 about five to seven minutes for a presentation. You can
9 make your presentation as you see fit because we want to
10 obviously -- questions normally are the things that we'd
11 like to get to.

12 Just for introductory purposes, we'll start on
13 your right, my left, and we'll just go across the table
14 introducing ourselves.

15 MR. GORDON: Good morning. My name is Brian
16 Gordon. I'm with Concerned Citizens for Democracy, a
17 thinktank on gerrymandering.

18 DR. KUNIHOLM: I'm Carol Kuniholm, Chair of Fair
19 Districts PA.

20 MR. FORBES: My name is Dan Forbes. I'm the
21 California Commissioner.

22 MS. DAI: Cynthia Dai, California Commissioner.

23 MR. YAO: Peter Yao, California Commissioner.

24 MR. BEATY: Patrick Beaty, Legislative Director,
25 Fair Districts PA.

1 MAJORITY CHAIRMAN EVERETT: Thank you. And we'll
2 start with the folks from the California Commission, who I
3 want to thank for coming here, the longest distance I
4 imagine of our testifiers, and we really appreciate it.
5 Thank you.

6 MS. DAI: Good morning, and thank you, Chair
7 Everett and Boyle, for inviting us to testify. I'm
8 Commissioner Cynthia Dai, one of five Democrats serving on
9 the California CRC. I run a business strategy firm that
10 serves Silicon Valley's tech startups.

11 The California Legislature used to draw electoral
12 districts, but in 1991 special masters drew the lines
13 because our Republican Governor vetoed the Democratic
14 Legislature's plan. To avoid this in 2001, the Legislature
15 agreed to a bipartisan incumbency protection plan. For
16 \$20,000, a consultant would draw a safe district, virtually
17 guaranteeing reelection.

18 And it worked. In the 765 legislative and
19 Congressional contests over the next 10 years, only five
20 seats changed hands. This extreme gerrymander sliced
21 through cities, counties, even college campuses to select
22 voters and cut candidates out of districts with careful
23 precision. The most infamous districts garnered nicknames
24 such as the "Stockton finger," the "low-tide district," or
25 the "ribbon of shame."

1 With entrenched politicians held hostage to the
2 extremes of their parties, State Government was gridlocked.
3 The economists announced that California was ungovernable.
4 We had the lowest bond rating in the Nation. The
5 Legislature could not pass a budget or any other
6 legislation, earning a record-low approval rating of only
7 10 percent.

8 So in 2008 citizens revolted, passing the Voters
9 First Act by initiative giving an independent commission
10 the mandate to draw fair legislative districts in
11 collaboration with the public. It was proposed by a broad
12 coalition of good government groups, civil rights
13 organizations, business groups, and past Governors, both
14 Democrat and Republican, who had been frustrated by
15 unresponsive lawmakers.

16 In 2010 citizens rejected an initiative to
17 abolish the new commission sponsored by my Representative
18 Nancy Pelosi I'm ashamed to say, and instead passed the
19 Voters First Act for Congress, adding Congressional
20 districts to its purview.

21 The CRC is multi-partisan with five members from
22 the largest party, five from the second largest, and four
23 from neither in recognition of the growing number of
24 independent voters.

25 My colleague Commissioner Stan Forbes is one of

1 those independents, and he will explain how we drew the
2 lines.

3 MR. FORBES: Thank you. I appreciate the
4 opportunity to testify. I'm Commissioner Stan Forbes, and
5 I'm one of four independents serving on the California CRC.
6 I'm a third-generation California farmer and owner of the
7 largest independent bookstore in the capital of Sacramento
8 for 33 years.

9 Drawing fair districts trusted by the public
10 required four components. First, the Commissioners needed
11 to be selected in a manner that avoided actual or even the
12 appearance of conflicts of interest.

13 Second, a transparent process: Everything the
14 commission did was in public, live streamed, transcribed,
15 and translated into six languages. Private meetings
16 discussing districts were not allowed. Input, whether at
17 the microphone or in writing, was in public.

18 Third, the commission encouraged public
19 participation in the process. Thirty-four hearings were
20 held at times and locations convenient to the public. At
21 these hearings, the commission encouraged speakers to
22 describe their communities. These comments proved
23 invaluable in drawing districts that fairly represented the
24 people. Each speaker received the same amount of time at
25 the microphone with an ordinary citizen or a Member of

1 Congress.

2 The actual map drawing occurred in public where
3 anyone could make comments and suggestions and see them
4 considered. The mechanics of drawing was done by
5 contracted line drawers under the commission's direction.
6 Because of California's ethnically diverse population, the
7 commission hired a Voting Rights Act attorney to ensure
8 that each district complied with the Voting Rights Act.
9 The commission resolved disagreements through discussion
10 and a commitment to consensus, fairness, and a
11 determination to make the process work.

12 Lastly, accountability. There are many ways to
13 draw maps. The commission was required to prepare a report
14 which described how and why each district was drawn in
15 compliance with the criteria set forth in the Constitution.
16 Although the commission could have approved the maps with
17 nine votes -- three Democrats, three Republicans, and three
18 independents -- in fact, the process resulted in
19 legislative maps approved by 13-to-1 votes and a
20 Congressional map adopted by a 12-to-2 vote. The process
21 was furthered by the commission avoiding any appearance of
22 partisanship by rotating the chair position each meeting.

23 Now, I'd like to introduce my fellow Commissioner
24 Peter Yao.

25 MR. YAO: I'm Peter Yao, a lifelong Republican.

1 Before retiring from Raytheon, I started as a design
2 engineer and advanced to direct corporate R&D. I serve as
3 a mayor and councilmember of the city of Claremont, which
4 is a suburb of Los Angeles. I was honored to be elected
5 first chair of the CRC.

6 Professionally, as an executive, I care most
7 about end results. I believe the results of our commission
8 are good. The commission's map was more equitable than any
9 joined by politicians. Every map line was drawn in an open
10 public forum and replacing the secret backroom process.
11 The Center for Public Integrity singled out California's
12 redistricting due to its unprecedented transparency, giving
13 us a perfect score.

14 There were claims that the Democratic Party was
15 able to unduly influence the CRC because the maps were
16 perceived to favor Democrats. While both parties did send
17 operatives to testify before the commission, it's easy to
18 confirm that their testimony did not impact the results
19 except the changes reflect an unraveling of the bipartisan
20 gerrymander to protect incumbents while ignoring the
21 demographic shifts over the past two decades.

22 Satisfying everyone was impossible. Predictably,
23 the commission faced legal challenges. But the California
24 Supreme Court upheld all our maps in multiple unanimous
25 decisions and said that the commission's work is an open,

1 transparent, and nonpartisan redistricting process. By the
2 way, six of seven California Justices are Republican
3 appointees.

4 Independent experts like the Public Policy
5 Institute of California affirmed that our districts were
6 more compact, better reflect our growing minority
7 population, and according to the Brennan Center, California
8 has the most responsive district in the whole country. In
9 a statewide field poll, voters approve our maps two to one,
10 and they rejected a referendum overturning the maps.

11 Seven years after our maps became law, the
12 California Legislature enjoys an approval rating close to
13 60 percent. Passing budgets on time and our bond rating is
14 at the highest in decades. Independent redistricting
15 really is a keystone of our democracy, and it embodies the
16 words of Abraham Lincoln's Gettysburg Address, "government
17 of the people, by the people, and for the people." Thank
18 you.

19 MAJORITY CHAIRMAN EVERETT: Again, thank you for
20 your testimony. And we go to Fair Districts. I'm not sure
21 who's leading off. Could you grab your microphone as we --

22 DR. KUNIHOLM: Thank you, Chair Everett, Boyle,
23 and Members of the State Government Committee. I am Carol
24 Kuniholm, Chair of Fair Districts PA. We are a statewide
25 nonpartisan grassroots coalition dedicated to reform of

1 Pennsylvania's redistricting process for both Congressional
2 and State legislative districts.

3 I am a volunteer, as are all of our Fair
4 Districts PA leaders, speakers, and coordinators from local
5 groups across the State. Here today are supporters from
6 Altoona, State College, Allentown, Gettysburg, Pittsburgh,
7 Philadelphia, Chester County, Lebanon County, Adams,
8 Lancaster, Dauphin, Bucks, and I'm sure I have missed some.
9 We have passionate volunteers working hard on this issue
10 from around the State.

11 We shared written testimony that gives a lot of
12 documentation of the problem of gerrymandering in
13 Pennsylvania, lots of evidence of maps that we have
14 supplied, all that work by volunteers, and we also share
15 our proposed solution.

16 What I want to do today is just share my own
17 story about why I am concerned about this. Each person
18 here has a story. You have constituents who have stories.
19 You have your own stories, and I've heard many. I first
20 heard the word gerrymandering four years ago when Senator
21 Lisa Boscola convened a meeting of all the past prime
22 sponsors of districting reform legislation across several
23 decades. She invited members of advocacy organizations
24 that had expressed interest with the goal of reviewing past
25 bills, looking at legislation from other States, success in

1 places like California, and the impact of that on the State
2 itself, responses from colleagues over the years. And then
3 the idea was to craft a reasonable solution for
4 Pennsylvania's gerrymandering problem.

5 As the newly elected Election Reform Specialist
6 on the State Board of the League of Women Voters of
7 Pennsylvania, I did not know what the word gerrymandering
8 meant, and I started doing some research. The more I
9 learned, the more I wanted to learn. The discussions in
10 Senator Boscola's office resulted in bills in the Senate
11 and in the House -- the House in 2016 -- followed by
12 redraft discussions with legislators and policy staff and
13 advocates that resulted in Senate Bill 22 and House Bill
14 722 in the last session. Those bills then incorporated
15 feedback from legislators, which became the basis for the
16 current House Bills 22 and 23. This has been an ongoing
17 conversation incorporating many ideas, suggestions,
18 concerns, and ideas from legislators across several years.

19 I helped launch Fair Districts PA as a coalition
20 in early 2016 to give support to the work being done by
21 Pennsylvania legislators on those bills and to help
22 Pennsylvania voters understand the importance of underlying
23 systems that can protect or destroy the values essential to
24 our Nation's success.

25 Gerrymandering, we know, has been a concern for a

1 long time, but new mapping and data mining technologies
2 have made it increasingly more possible for those who draw
3 the maps to accomplish their partisan or their personal
4 agendas behind closed doors. Our 2011 Congressional map,
5 by most standards, was the worst in the Nation. But while
6 Congressional districts are easiest to measure and often
7 draw the most attention, our legislative districts have
8 also been distorted in ways that undermine representation
9 and diminish confidence in our elections. According to
10 recent research, ours are among the worst in the country.
11 Sources for some of that research are included in our
12 written testimony.

13 But the truth is we don't need research to tell
14 us something is wrong. In the November 2016 election I
15 worked a polling place in Phoenixville near my home in
16 Chester County. None of the poll workers or voters could
17 understand why there were two different ballots in one
18 polling place. I went home and looked at our district maps
19 and saw that my own House District 155 sliced through a
20 precinct in downtown Phoenixville, divided Phoenixville in
21 half, and then wanders through three more school districts.
22 You can see that divided precinct in Appendix 6 in your
23 testimony.

24 Distorted districts hurt all of us. I am an
25 unaffiliated voter and have been most of my life. I live

1 in a very purple part of Chester County. I attend church
2 alongside lifelong Republicans and passionate young
3 progressives. And once they look at our district maps, no
4 matter who they are, no matter what party, they want to
5 know why anyone would allow district lines to be drawn in
6 such a way.

7 In the past three years I've traveled around the
8 State from Lawrence to Lycoming to Luzerne to Lancaster
9 speaking with voters in rural, urban, and suburban
10 districts, all impacted by gerrymandering. I've heard
11 stories about ways maps have been drawn to punish
12 colleagues and entire communities for petty personal
13 reasons. I've heard stories of constituents rebuffed and
14 refused meetings because the legislator isn't interested
15 and doesn't need to be interested because of the way the
16 district map is drawn. I've had phone calls from angry
17 voters in places I've never been about districts dissected
18 by mountains, rivers, railroads, and turnpikes. I've heard
19 the stories about long drives through other districts to
20 reach a legislator's office.

21 Once citizens start to look at our House and
22 Senate maps, they see a cynical game in which we are the
23 pawns, a game that undercuts community, dilutes
24 representation, and diminishes accountability. I've shared
25 just a sampling in the appendix of our testimony of

1 counties divided in direct defiance of Constitutional
2 requirements, districts that have evolved over time into
3 strange shapes reaching across multiple county lines.

4 You can also see in our written testimony details
5 about county and municipal resolutions passed in support of
6 an independent citizens commission. These resolutions
7 cover over two-thirds of the State's population. Of the 21
8 counties that have passed resolutions, 15 did so
9 unanimately. About two-thirds of those county resolutions
10 were passed by Republican majorities.

11 In September 2017, 15 Republican statewide
12 officials, including past Governors John Kasich, Christine
13 Todd Whitman, and Arnold Schwarzenegger, as well as past
14 Senators Bob Dole and John Danforth, filed an amicus brief
15 in the Wisconsin *Gill v. Whitford* redistricting case. That
16 brief said emphatically partisan gerrymanderers are
17 repugnant to the Constitution. Partisan gerrymanders
18 violate the First and 14th Amendments. Partisan
19 gerrymanders are designed to subvert the principle of
20 republican government. Partisan gerrymanders frustrate
21 majority rule by entrenching political parties in ways they
22 do not earn on their merits.

23 As a result of partisan gerrymanders, politicians
24 feel constrained to tow their legislative leader's agenda
25 at the expense of their own, their constituents, or even

1 good governance. It is no surprise that intelligent
2 voters, regardless of party affiliation, resent this sort
3 of political manipulation and simply cease participating in
4 a game they view as rigged. All of that is true here in
5 Pennsylvania. All of it needs to change.

6 The people of Pennsylvania want a fair
7 redistricting process and a responsive Legislature. We
8 believe House Bills 22 and 23 contain the best avenue to
9 ensure a truly independent commission in time for the 2021
10 redistricting process. At the same time, we welcome
11 continued conversation. Those bills have been shaped by
12 years of conversation. We expect there will be further
13 conversation. We would like to be part of that.

14 Again, thank you, Representatives Everett and
15 Boyle, for furthering this important work.

16 MAJORITY CHAIRMAN EVERETT: Thank you. And
17 Patrick, unfortunately, Carol has exceeded your time
18 allotment, and so will now go to Brian Gordon from the
19 Concerned Citizens for Democracy.

20 MR. GORDON: Thank you very much for allowing me
21 to come speak with you, Chairman Everett, Co-Chair or Vice
22 Chair Boyle, Members of the Committee, and public. My name
23 is Brian Gordon. I'm a Member of the Board of Directors of
24 Concerned Citizens for Democracy, which is a thinktank of
25 engineers, lawyers, and activists laser-focused to create a

1 method for redistricting that's fair to all parties and
2 that prevents both partisan and individual gerrymandering.

3 Partisan gerrymandering, as you know, is to
4 manipulate the boundaries of districts in order to favor or
5 disfavor a party, and individual gerrymandering would be
6 the same thing to sort of do a loop to favor or disfavor an
7 individual legislator or candidate.

8 Our goal was to answer the plea of Justice
9 Anthony Kennedy in *Vieth v. Jubelirer*, a 2004 case to find
10 a method of redistricting that was neutral and created a
11 judicially manageable standard for evaluating electoral
12 maps, for calling strikes and fouls, and for ordering when
13 new maps should be drawn.

14 We succeeded by looking at the Pennsylvania
15 Congressional maps of 1951, '62, and '72. And I'll note
16 that our packet comes after this list of legislators from
17 Fair Districts who -- or, I'm sorry, a list of
18 municipalities in the past. It's kind of distinct in your
19 packet. And if you want to turn to it, there are a few
20 maps that are kind of important as it's a visual topic. So
21 we're just after this list of municipalities.

22 So what the earlier maps have in common is that
23 the districts are compact. The districts follow county and
24 municipal boundaries and, where necessary, to divide
25 communities to equalize district populations, whole

1 municipalities were added or removed in layers at county
2 boundaries in order to achieve equal population districts.
3 This is particularly evident when looking at the 1972
4 Congressional map.

5 We were studying this for about a year. Our team
6 decided to join the *Agre v. Wolf* team, a Federal anti-
7 gerrymandering case, and the idea of our methodology came
8 to us during the case when I was on the phone with one of
9 our Caltech physicists and engineers Ann Hannah. And we
10 were looking at the 1972 map and suddenly an epiphany came
11 to us. If we can devise a set of rules that created
12 rigorous design standards that followed Pennsylvania law,
13 that followed Congressional and Supreme Court -- that
14 didn't violate any Supreme Court precedents, if the maps
15 would come out compact and avoided breaks and
16 municipalities, wouldn't that be wonderful? And that's
17 exactly what we did.

18 Each of the earlier maps were drawn at a time
19 when the Pennsylvania Legislature continued to follow the
20 redistricting methodology set forth in the Federal
21 Apportionment Act of 1911, and that's important because if
22 any speaker ever comes before you and tells you there's no
23 such thing as historic redistricting standards or effective
24 redistricting standards, they're wrong.

25 The original gerrymander, that salamander-like

1 creature, could never pass muster if compactness were the
2 rule. Compactness was a rule in the 1901 Federal
3 Reapportionment Act, and it was again reenacted in 1911.
4 And then it was enacted into the Pennsylvania Constitution
5 in 1968 in Article 2, Section 16.

6 The Pennsylvania maps were not completely free of
7 small personal gerrymanders to favor or disfavor individual
8 legislatures. However, they did follow that act in that
9 Congressional districts were contiguous and compact
10 territory containing as nearly as practical an equal number
11 of inhabitants.

12 Concerned Citizens for Democracy added a fourth
13 requirement to these districts, which is derived from
14 Article 2, Section 16, that states that, unless absolutely
15 necessary, no county, city, incorporated town, borough,
16 township, or ward -- and cities of course -- shall be
17 divided in forming either a Senatorial or Representative
18 district. The team examined each of these elements and
19 found the following method, which is the -- for
20 redistricting. So I'll review it kind of quickly because I
21 know I'm running out of my seven minutes if I'm not out
22 already.

23 But step one, essentially, what you want to do is
24 you start with a blank slate and then you assemble either
25 visually or with the use of a computer -- if you're doing

1 Congressional districts or even State districts, you
2 assemble the largest pieces. If it's Congressional
3 districts, you would assemble counties roughly in a compact
4 manner to create roughly equal -- whether it's 18 districts
5 or 17 districts or 203 districts or 50 districts, you
6 assemble the maps in a relatively compact manner.

7 And then the second step is you add or subtract
8 territory at the boundaries of the largest political
9 subdivisions to begin to equalize population between the
10 districts using smaller political subdivisions to further
11 equalize the population.

12 Step three is you repeat step two and you get
13 finer and finer, so essentially, if you're imagining a
14 Congressional district, you would add layers of townships
15 along the border in a layer-by-layer manner, which creates
16 an already compact district, and you need to break only one
17 township in order to get to plus or minus one requirement
18 of equal population.

19 Then you measure the compactness. We have
20 this -- it's not just an eyeball test. There are now at
21 least four mathematical measures for compactness, which
22 were invited by the Pennsylvania Supreme Court.

23 Step five is to make sure the districts comply
24 with the Voting Rights Act and other criteria. And this
25 usually happens because when you have compact districts,

1 you don't fragment minority communities, so it's kind of
2 already done for you.

3 In seeking the remedial map, the Pennsylvania
4 Supreme Court -- I was asked or suggested that I file an
5 amicus brief with our methodology. I was on the Federal
6 team with the Pennsylvania Supreme Court. These are the
7 two briefs that our group filed, and there seems to be some
8 mystery as to what standards they use. Interestingly, the
9 map that we had proposed -- this is Concerned Citizens for
10 Democracy in both the first and second brief -- was very
11 similar to the Congressional map that was ultimately
12 created. And what it did was it did exactly what it said.
13 It created districts compactly, and that added territory in
14 a linear manner at the borders.

15 The court acknowledged us in their final opinion,
16 but it was from the map itself, the final map, which is in
17 your materials on the next page, that shows what the court
18 did. The remedial map is an example of a well-drafted map
19 following strong design standards, neither packing or
20 cracking or distributing votes for the drafter's part as
21 possible if the court or you require county boundaries to
22 achieve maximum compactness -- I should say electoral
23 boundaries to achieve compactness. In brief, partisan
24 electoral boundaries are replaced by mandated historic
25 county and municipal boundaries.

1 I mentioned the communities of interest, and
2 probably the most important thing is that if the
3 Legislature follows this methodology and it sets up a
4 method for redistricting, which can be used both with an
5 independent commission or without an independent
6 commission, it would create a judicially manageable
7 standard so you can have a referee in the process and call
8 it when there are fouls.

9 Our group is aware that the gold standard if you
10 want to take this off your -- not be an issue every 10
11 years is to have an independent commission because there's
12 nothing that really replaces someone trying to be neutral.
13 But if you don't trust -- if you don't want or it's not
14 feasible to have an independent redistricting commission or
15 if you have a commission, you should still have these
16 design standards to have guardrails and to keep it from
17 going off the rails.

18 And the other items are probably going to be
19 repeated by the other groups, so I won't go into them. I'm
20 available for questions. Thank you.

21 MAJORITY CHAIRMAN EVERETT: Thank you. And I
22 think all those presentations were excellent. And I think
23 we'll now go to questions. And I'm going to recognize --
24 even though he hasn't asked to be recognized,
25 Representative Ciresi, since you didn't get to ask a

1 question last time, do you have a question this time?

2 REPRESENTATIVE CIRESI: I appreciate that. I
3 want to thank you all for being here today. This is a very
4 important issue to all of us in this room as Pennsylvanians
5 and really as Americans as we look at this problem across
6 the Nation.

7 My district is somewhat gerrymandered. It didn't
8 matter to me. I ran even though I didn't have the
9 advantage. But I was sitting here thinking for a little
10 bit, my first election was for school board, and I had no
11 clue on anything and knocked on every door, was new to the
12 community. It didn't matter how it was districted; I told
13 my story. And what bothered me the most out of this
14 testimony is what Carol said, a game that is rigged. We
15 should not ever have that phrase in an election anywhere in
16 this State, let alone the Nation.

17 And, you know, I think of my years in college and
18 I guess I absorbed something, marketing class where we used
19 the KISS method, "keep it simple, stupid," when you went
20 out to market. This is the way this should be. When we
21 could see eighth graders and third graders who can draw
22 districts --

23 MAJORITY CHAIRMAN EVERETT: Representative
24 Ciresi, I don't want to --

25 REPRESENTATIVE CIRESI: I'm sorry. I need to get

1 to the question.

2 MAJORITY CHAIRMAN EVERETT: Yes, ask a question,
3 okay?

4 REPRESENTATIVE CIRESI: I'm sorry. I'm
5 pontificating a little bit. But the question to you is
6 you've done countless hours on this, and we've met a couple
7 of times. What really is the response from the public?
8 I'd like to hear what you're hearing from the public. You
9 went through some of it, but really tell the stories. Do
10 people understand what we're talking about here 100
11 percent?

12 DR. KUNIHOLM: When people look at maps, they are
13 shocked. And we have spoken to thousands of Pennsylvanians
14 across the State at polling places as they leave their
15 polling places to say have you ever looked at your district
16 map? When people look at their districts map, they are
17 shocked. We've done over 750 public informational meetings
18 attended by over 28,000 people. We show maps of their
19 districts. And as soon as they look at them, people know
20 exactly what's going on. They look at them and they say
21 there's communities that have been divided. Those district
22 lines have been drawn very deliberately to predict, to
23 control the outcomes.

24 Many have never heard the word gerrymandering.
25 They've never look at district maps. Once they do, the

1 polling numbers are very high that people understand this
2 and do not like it when they look at the maps. They want
3 maps that reflect their communities.

4 REPRESENTATIVE CIRESI: Thank you.

5 MAJORITY CHAIRMAN EVERETT: Representative Sims.

6 REPRESENTATIVE SIMS: Thank you, Mr. Chairman.

7 Mr. Beaty, as Dr. Kuniholm was wrapping up her
8 testimony, she was referencing the time frame with which
9 H.B. 22 and H.B. 23 could go into effect. Could you speak
10 a little bit more to putting these bills in place in time
11 to impact the next election cycle?

12 MR. BEATY: Certainly. Thank you very much. So
13 there are two bills, and the reason for that is because of
14 the very constricted time frame for amending the
15 Constitution in Pennsylvania. So the first bill in
16 opposite order, House Bill 23, amends the statutory law to
17 create an independent commission for Congress. And so the
18 expectation would be that that bill would pass by July 1st
19 of next year, 2020, and the commission would be appointed,
20 would be trained, and would begin the redistricting
21 process, collecting data, hiring consultants, hiring
22 attorneys, et cetera, do all those things beginning
23 probably at the very beginning of 2021, January, February.
24 There is a timeline attached to our testimony that
25 addresses this.

1 At the same time, House Bill 22 would also be
2 moving forward and would hopefully also pass for the first
3 time by July 1st of next year. It would then have to pass
4 again very early in the next session, 2021. That same
5 process was followed in 1971 when the environmental rights
6 amendment was approved by the voters. It was approved for
7 the second time by the General Assembly in February of 1971
8 and was on the May primary ballot in 1971. So the same
9 process was followed before. It can be done.

10 REPRESENTATIVE SIMS: Thank you, sir. Thank you,
11 Mr. Chairman.

12 MAJORITY CHAIRMAN EVERETT: Representative
13 Diamond.

14 REPRESENTATIVE DIAMOND: Thank you, everyone, for
15 your testimony. Thank you, Mr. Chairman.

16 I wanted to talk about a term that was brought up
17 at least once in the testimony, which is communities of
18 interest. And the reason I want to bring it up is because
19 I want to ask what a legitimate community of interest is.
20 And the reason I bring that up is because I had a group
21 come to my office to talk about gerrymandering and
22 redistricting, and they brought a map that they had won
23 some award for drawing. And, quite frankly, although I
24 wouldn't have voted for the 2011 Congressional map here in
25 the General Assembly -- I wasn't here, though -- but I

1 objected to it personally because it split my county right
2 down the middle.

3 Unfortunately, the map that they drew, which they
4 thought was fantastic, also split my county right down the
5 middle almost in the exact same fashion. The difference
6 was was that their map was based on what they called an
7 environmental community of interest. So I want to know why
8 anyone would think gerrymandering for environmental
9 purposes is any better than gerrymandering and cracking
10 counties for partisan or political interests?

11 DR. KUNIHOLM: I'll answer this. We've had lots
12 of discussion with our California counterparts.
13 Pennsylvania are -- the bills we support do not talk about
14 communities of interest and do not support the idea of
15 communities of interest. The mapping process that draw the
16 lines, that's one of the options that they could consider.
17 The bills that we support don't include that.

18 And early on there was the recognition that in
19 Pennsylvania counties and municipalities are the essential
20 communities of interest and they can't be rigged. They can
21 be hijacked. No one can come and say, oh, our community of
22 interest lines, you know, follows this highway. They're
23 very clear. So the bills that we support don't discuss
24 communities of interest, don't give preference to
25 communities of interest. They recognize counties and

1 municipalities.

2 The process we suggest, though, is there are
3 times when some things need to be split and there needs to
4 be an opportunity for the public to say if the county needs
5 to splinter over into one other county -- and sometimes
6 that's necessary -- do it here, don't do it there. You
7 know, there are some places where counties would say this
8 makes more sense for us, as we know there are some school
9 districts that straddle county lines, as we know there are
10 some towns that straddle -- State College is a place that
11 municipalities really consider themselves one entity rather
12 than multiple entities. So it's important for the public
13 to have a chance to say when you draw the maps, please
14 recognize this reality.

15 But the bills we support do not talk about
16 communities of interest, and they are very specific about
17 no more county splits than mathematically necessary, plus
18 one per county or House plus two for House districts. So
19 counties and municipalities are strongly recognized in the
20 bills we support.

21 REPRESENTATIVE DIAMOND: Well, let me just follow
22 up on that, though. You say, okay, if you have to, you
23 know, sprawl into another county, don't you think that one
24 of the people who is most expert in which place to do
25 rather here than there, I mean, who's going to set the

1 guideline as to why is here better than what's there? And
2 I think one of the best experts is somebody who's actually
3 in the General Assembly and serving those areas, that sort
4 of thing. Why would we not rely on them? I mean,
5 honestly, your elected Representatives are political
6 experts on what's going on in their own community.

7 DR. KUNIHOLM: I think that's directed to me. In
8 the California process legislators were allowed to come to
9 public hearings and offer their input in the same way the
10 public would, but I think it's important for the public to
11 be able to say this is where it would sprawl, this is where
12 it not, and their voice should be heard as much as
13 legislators who do have a vested interest in having those
14 lines drawn in a way that might benefit themselves.

15 MAJORITY CHAIRMAN EVERETT: Mr. Gordon.

16 MR. GORDON: Thank you. You are right that
17 communities of interest are a horribly mushy standard to be
18 the leading standard. And Carol is right that there are
19 appropriate but really at the end. And if you adhere to
20 the Congressional standards already of compact districts
21 that follow -- you asked what is a community of interest.
22 I would say, as a 12-year Lower Merion Township
23 Commissioner and someone who's run for Congress a couple
24 times, I would say a community of interest is a place where
25 people choose to live, a municipality where people live. I

1 chose to live in Montgomery County. I chose to live in
2 Lower Merion and run for office. People choose to pool
3 their tax dollars, rich and poor, you know, black and
4 white. We choose to be together in that community. That's
5 a community of interest. And those are -- you can't move
6 county and municipal boundaries that easily, so they're
7 fairly static and they're good sort of measuring posts.

8 And if you did adopt a method that said respect
9 these and then add territory just bit by bit along the
10 borders as you attempt -- because you have to get to equal
11 population districts under the law. But if you do it at
12 the borders, then it won't tear apart and fragment
13 counties.

14 And another rule is you don't want to have
15 counties -- if a county is divided, you want to avoid
16 multiple breaks in a county, so you don't want to have
17 people -- you want to have it split as few times as
18 possible. So that addresses it.

19 But I wanted to say one thing where it is
20 appropriate. So in the 2011 map, as a candidate, I
21 observed that the line between the first and second
22 district, Brady and Fattah, went straight down 5th Street
23 in north Philadelphia, which divided the Latino community
24 literally in two in Philadelphia. It didn't have to be
25 there. It could have been moved over to Broad Street, and

1 would have been fine and no one would have squawked.

2 So it is appropriate as a subordinate criteria
3 after you initially draw the map. So once you've done sort
4 of your rough outlines, you can have subordinate criteria
5 be things like don't have incumbent Members of the House
6 run against each other, so you can move the boundary just a
7 little bit in order to avoid incumbent contest. Avoid
8 splitting communities of interest. You can move it off of
9 5th Street and have a whole -- if you did a whole ward, you
10 wouldn't have had that happen anyway. But you can adjust
11 it for real communities of interest. But it should be
12 minor adjustments at the very end. There was a third one.
13 But that's what you would do. As long as they are -- oh,
14 the VRA, to make sure you're not fragmenting a minority
15 community, you can adjust it as a final step without
16 violating the dominant criteria. And the maps work.

17 MR. FORBES: Mr. Chairman?

18 MAJORITY CHAIRMAN EVERETT: Anybody from the
19 California delegation want to add to anything on this
20 question?

21 MR. FORBES: Well, I think that in California we
22 viewed that the public has the best knowledge of their
23 community of interest. Because we had such a history of
24 gerrymandered incumbents who never lost, they really, I
25 think, didn't care about the community of interest. And we

1 had some very interesting stories that we were able to take
2 into account testimony from citizens. We actually had
3 2,700 people come and testify to us and 23,000 written
4 submissions to us to tell people so people could tell us
5 this is what we think we should be doing. This is our
6 community of interest. And that was incredibly valuable.
7 And there's no evidence at all that the politicians drawing
8 the lines took any of that into account.

9 MS. DAI: And we also ended up with way fewer
10 city splits than the previous maps.

11 MAJORITY CHAIRMAN EVERETT: Thank you.

12 REPRESENTATIVE DIAMOND: Mr. Chairman, a follow-
13 up, please?

14 MAJORITY CHAIRMAN EVERETT: Real quick,
15 Representative Diamond.

16 REPRESENTATIVE DIAMOND: Okay. Thank you.

17 You suggested -- and I took from your testimony,
18 ma'am, that because the bad map was drawn in 2011 that we
19 have to change the system. Why would it not dawn on you
20 that we would do a better map the next time around? And
21 I'll give you an example. In 2005 the Legislature gave
22 itself a pay raise in the middle of the night. We didn't
23 fight to change the way the Legislature was built. We
24 fought just to get new legislators in. And they've done a
25 much better job, myself excluded. They've done a much

1 better job since then of doing better policy than they did
2 before 2005. So why change the entire system? Why not
3 just count on the new people that are here to do a better
4 job this time?

5 DR. KUNIHOLM: The quick answer is we're the only
6 democracy that allows that conflict of interest of
7 legislators drawing their own district lines. There are no
8 other democracies that allow it.

9 And what you're saying is, well, you know, we did
10 a bad job but why don't you trust us to do it again? Trust
11 is broken, and we need to restore trust. Trust is an
12 essential piece of the democratic process, the response of
13 government, and trust is gone. And to say -- the League of
14 Women Voters in 1990 asked for the Constitution to be
15 recognized and for districts to be compact and contiguous
16 and minimize splits. That was ignored. League of Women
17 Voters asked again in the year 2000. That was ignored. In
18 2010 it was worse.

19 So the suggestion that we would now say, oh,
20 right, you're going to do a trustworthy job the next time
21 around without any changes in the process, I'm sorry, but
22 trust, as you can see, is very much broken and it needs to
23 be restored.

24 MAJORITY CHAIRMAN EVERETT: Representative
25 Miller.

1 REPRESENTATIVE MILLER: Thank you. To the
2 California folks, thank you all for your testimony. What
3 if anything would you change about your system?

4 MAJORITY CHAIRMAN EVERETT: And, Representative
5 Miller, in answers, I'll add you have like a minute and a
6 half.

7 MS. DAI: So this is actually in our written
8 testimony. We were asked that question by the State Senate
9 Committee as well. So basically we were allowed to propose
10 legislation, which the California Legislature did pass.
11 The biggest issues that we had were not enough time and not
12 enough money. So that was changed. The new commission,
13 which is being recruited right now, will have a full year
14 to do their job, and they will have a real budget to do
15 their job, so that has been fixed.

16 The one item that we had discussed among
17 ourselves to change was to add a fifth independent. As you
18 noticed, it was five, five, and four. And that is to
19 prevent the possibility of having only two Commissioners be
20 able to block any final map because it requires a super
21 majority of three of each artisan pool. And so that means
22 three out of the four independents have to agree. We
23 didn't have that problem this time, but, you know, it was
24 something we were consciously aware of during the entire
25 process. All of us were always thinking we need a super

1 majority, we need a super majority, we need a super
2 majority, which is why we operated by consensus all the way
3 through.

4 So that is something we wanted to change, but
5 because it requires a Constitutional amendment, no one has
6 had kind of the stomach to do that. So we will live with
7 the current process.

8 MAJORITY CHAIRMAN EVERETT: I want to thank the
9 panel for your time and energy and enthusiasm. And we
10 really appreciate it. And to those of you who didn't get
11 to ask questions, I apologize. We'll have plenty of time
12 as we go through the process.

13 So we'll now switch to our next two-person panel.
14 We have David Thornburgh, the President and CEO of the
15 Community of Seventy; and Mr. Michael Watson, Research
16 Director for the Capital Research Center. David, thank you
17 for coming, and it's all yours.

18 MR. THORNBURGH: Thank you, Chairman Everett,
19 Chairman Boyle, Members of the Committee. It's a pleasure
20 to be here, and I appreciate your leadership on this issue.
21 It's a huge stride forward.

22 So you mentioned by day I am the President and
23 CEO of the Community of Seventy, a long-standing
24 nonpartisan, nonprofit, good-government organization in
25 Philadelphia, but I'm here today to talk about my role as

1 Chair of the recently concluded Pennsylvania Redistricting
2 Reform Commission that was created by Executive Order last
3 November.

4 And I want to recognize the folks that
5 participated on that commission over the last nine months.
6 I know at least one is here today, Amanda Holt from Lehigh
7 County. And we put a lot of blood, sweat, and tears into
8 our work, and I'm glad to recognize those folks and talk
9 about our report today.

10 I believe we've provided you copies of the
11 report. I will not read its 35 pages or nine appendices,
12 nor will I read my five-page summary, which I've also -- I
13 think we've provided to you, but I did want to offer some
14 less formal remarks just to pull out some of the high
15 points of that report and our experience.

16 And I want to set this up by talking about the
17 challenge that we set for ourselves and the Governor
18 encouraged us to take on, that clearly over the course of
19 nine months we wanted to hear the people of Pennsylvania
20 and what was on their minds. We wanted to reflect what we
21 heard. We wanted to reflect what we had learned from other
22 States, particularly those in recent years that have
23 changed their redistricting process. And of course we
24 wanted to draw on our own experience.

25 And we were fortunate on the commission. We had

1 two former Members of Congress, Charlie Dent and Kathy
2 Dahlkemper. We had Amanda Holt, as I mentioned, who is a
3 current elected official. We had business and civic
4 leaders and also some really provocative academics.

5 One of the things that we resolved early on is
6 that we wanted to reflect Pennsylvania's distinctive
7 nature, our culture, our politics, our system of government
8 that, as much as we could, we wanted to come up with some
9 observations, recommendations that felt like Pennsylvania.
10 With no disrespect to our wonderful colleagues from
11 California, but it really feels important to ground this in
12 the realities of our culture and our politics. And I say
13 that as a nearly lifelong Pennsylvanian and one who learned
14 a great deal at the foot of my father Dick Thornburgh, I
15 think our great Governor during the late '70s and '80s.

16 We also wanted to, importantly, ground our
17 observations and our recommendations in a way that restored
18 rather than diminished the sense of trust that people had
19 in this process. And I'll talk a little bit later about
20 our findings on that. But I think that is, at the end of
21 the day, what we're after here is a process that people can
22 understand and trust. And if you know in business, in
23 government, in life, that if we have a process that works,
24 we're going to get results that we can have faith in and
25 abide by.

1 So let me first talk about what we heard when we
2 went across Pennsylvania. We had nine public meetings. We
3 were only required to have six, but we wanted to make sure
4 that we gave everybody in this great Commonwealth a chance
5 to come and talk to us. We started in Williamsport,
6 Chairman Everett, your home territory, ended up in
7 Harrisburg, and hit all points as much as we could in
8 between. We had about 600 people come out, and a good
9 number of them testified to those public meetings along the
10 way. It was, I think, a very rich and robust conversation,
11 and it was clearly a conversation. It wasn't just tell us
12 how to fix this in 30 words or less.

13 We also fielded an online survey and offered
14 people the chance to comment online on questions,
15 fundamental questions about who do you trust in this
16 process, what kinds of values would you like to see
17 reflected in the maps, and how we can organize this in a
18 way that, again, restores rather than diminishes trust.

19 The topline -- and a question came up earlier
20 about how the people of the Commonwealth see this. This is
21 the most comprehensive and, I think, disciplined
22 conversation that anybody in recent years at least has had
23 with the people of Pennsylvania. And in reflecting on what
24 we heard both online and in person, a few words come up.
25 There's a sense of frustration, sometimes outrage,

1 sometimes just a sense of being dispirited about the way
2 this has turned out, the sense that some folks said, you
3 know, it feels like there's just too much cheating going on
4 in this process, that I don't know what the set of rules
5 are by which these maps are drawn, but when I look at them
6 and I learn about them, it feels like there's people taking
7 unfair advantage of the process. And I'm sure, as with
8 you, that's hard to hear. It's hard to hear that the
9 fundamentals of the way government works and politics works
10 in Pennsylvania has landed in that way.

11 There's also a clear sense that -- and this has
12 come up already, that too often maps divide. And this is
13 particularly relevant in Pennsylvania where we have over
14 2,600 units of local government, which is, I think, a
15 pretty good proxy, better than other States, for
16 communities of interest. And whether we were in Indiana
17 County or Erie County or Berks County or Northampton
18 County, we heard story after story about a line seemingly
19 arbitrarily drawn down the middle of a street that put one
20 side of a community on one district and another side in
21 another, which makes it very frustrating and difficult for
22 citizens to voice their ideas and their support. It
23 requires them to negotiate between two or three different
24 Representatives to move a particular interest, and that,
25 again, is very dispiriting to people.

1 Folks, this issue is on people's screen. Eighty
2 percent of the people that we surveyed -- and we surveyed a
3 general population, Republican voters, African-American
4 voters, and Hispanic voters with the help of my colleague
5 on the commission, Dr. Lee Ann Banaszak from Penn State.
6 Eighty percent of all groups said this is a very important
7 or at least somewhat important issue for the Commonwealth.

8 They also, again, said -- we gave them a chance
9 to say who would you trust to draw these maps in a way that
10 gave you confidence, and everything from a citizens
11 commission to elected Representatives to have them done by
12 a computer and everything in between? Perhaps not
13 surprisingly, across the board folks trusted an
14 independently constructed commission of citizens and
15 trusted least elected Representatives. And I say that --
16 again, this was across all populations that we surveyed,
17 and so I think it's worth hearing that.

18 We also know -- and, Chairman Everett, you made
19 reference to this and it has come up before -- we live in
20 an era where the tools of redistricting and the data to
21 draw maps are accessible to everyone, so there's a lot more
22 awareness and engagement in this issue than ever before in
23 the history of the Commonwealth. And some of you know, my
24 organization the Community of Seventy has fielded a
25 creative public map-drawing competition called Draw the

1 Lines in which we've engaged over 3,300 people across the
2 Commonwealth to actually take up the task of drawing
3 Congressional maps.

4 Some of you know -- this is the time in which we
5 live -- there's a tool called Dave's Redistricting, which
6 is a free online tool available to anybody where, in a
7 couple hours, you could sit down and draw legislative maps,
8 Congressional maps in any State in the union, again, in a
9 matter of hours. So we live in a time where the tools and
10 frankly the awareness and the engagement in this issue is
11 really unprecedented.

12 Let me talk about what we learned from other
13 States. And we looked at in the commission report and in
14 our work a subset of States, not all 50, but particularly
15 those eight States that have changed their processes in the
16 last 20 years because I think it's significant to see where
17 they're headed. We looked at Ohio, Missouri, New York, New
18 Hampshire and how they organized the who, what, and the how
19 of redistricting. So I commend that portion of the report
20 to you.

21 Let me talk about conclusions, and then I'm happy
22 to take your questions. We, again, looked at the who,
23 what, and the how of redistricting. Who draws the maps, by
24 what criteria and what public process? We wanted to
25 construct a model that was driven by consensus, that had

1 checks and balances in it, but it also gave a legitimate
2 and proper role to legislators themselves. So in our model
3 a commission was constructed with choices from the
4 Legislature but in a creative way that prevented you from
5 essentially, as they say in pool, running the table.

6 We also said at the end of the process we wanted
7 the Legislature or some subset to approve the final map but
8 only after an enormous amount of public input, adherence to
9 strict criteria, and a process that winnowed a set of maps
10 to the point where that body would choose from three
11 without any additions, subtractions, or changes. So there
12 was a sense of choice, but constrained choice and, again,
13 after an enormous amount of public input.

14 So let me conclude with that. And again, just to
15 say our goal here was to try to outline a process that
16 restored people's trust and confidence in the process
17 because, again, the people understand the process. If they
18 know what the rules are, they're much more likely to,
19 frankly, give you your due as their Representatives because
20 they understand that everything is aboveboard and that
21 you're playing by those rules. So thanks again for the
22 invitation. I look forward to your questions.

23 MAJORITY CHAIRMAN EVERETT: Thank you, David.
24 And I can envision a time when we may have you back to
25 drill into more of the details of your plan, more of the

1 details of the 22 and 23 when we actually move down that
2 path. You know, today we're starting at a high level, at
3 the 30,000-foot level, and we'll start drilling down into
4 more details as we move. And again, thank you.

5 And before questions we'll do the other
6 presentation, and then we'll move on to questions for both
7 of you.

8 MR. WATSON: Thank you, Mr. Chairman. Good
9 morning. My name is Michael Watson, and I am Research
10 Director of the Capital Research Center, a nonprofit based
11 in Washington, D.C.

12 MAJORITY CHAIRMAN EVERETT: I can't tell. Is
13 your microphone on?

14 MR. WATSON: Is that better?

15 MAJORITY CHAIRMAN EVERETT: That's better.

16 MR. WATSON: Okay. A nonprofit based in
17 Washington D.C. that studies organizational interests and
18 their effects on American public policy. I would like to
19 thank the Committee for inviting me to speak today.

20 Before we can consider what sort of -- what
21 districts would be fair, we have to have a basis for
22 comparison. And looking at a piece of pending Federal
23 legislation, H.R. 1, which seeks changes to the process so
24 that when, quote, "considered on a statewide basis," the
25 Congressional redistricting would not, quote, "unduly favor

1 or disfavor any political party."

2 I conducted an analysis taking the real-world
3 election results for the U.S. House of Representatives from
4 the elections from 2010 through 2018 and then ran them
5 through a mathematical process that is a simplified version
6 of the one used by the European Parliament to allocate the
7 Representatives of each country to the European Parliament.
8 The method allocates seats proportionally to the competing
9 parties based on the total votes cast for each party in the
10 jurisdiction to equalize the votes cast per seat won by
11 each party to the extent possible given the number of
12 available seats. Proportional representation in some form
13 like this has been advocated by a number of supporters of
14 changing Congressional reapportionment procedures, though
15 Federal law that would not be affected by H.R. 1 currently
16 prevents it from being used.

17 If a Congressional map does not unduly favor a
18 political party, then, all else being equal, a State with
19 multiple Congressional seats should elect a delegation of
20 Representatives whose ratio of functionally Democrats and
21 Republicans approximately matches the proportion of the
22 total votes cast in the States for each party.

23 Interestingly, the analysis found that the
24 present Congress already has essentially the same partisan
25 breakdown it would have had if the 2018 vote totals were

1 used using this proportional State-by-State method. The
2 Democratic Caucus would have an identical 235 Members.
3 Pennsylvania's districts, as redrawn by the State Supreme
4 Court, would have gained one Republican -- or, I'm sorry,
5 would lose one Republican replaced by one Democrat, the
6 vagaries of district drawing between each State canceled
7 out over the nationwide.

8 Another major finding of the analysis calls into
9 question the idea that independent commissions by
10 themselves draw Congressional districts that necessarily
11 end up closer to the State's proportional vote than do
12 States that draw their districts under a legislative,
13 judicial, or politician-commissioned system. From 2010
14 through 2018, States with independent commissions deviated
15 no less, and in a current Congress deviate substantially,
16 from the proportional allocation compared to States that
17 did not use such independent commissions.

18 California has been especially unfair when judged
19 by the proportional-representation standard. In all the
20 election cycles studied, California deviated by at least 9
21 percentage points in favor of excess Democratic
22 Representatives by the 53 seats in each election. In 2018,
23 California produced a dramatically disproportionate result,
24 returning the Democrats an extra 10 seats relative to the
25 statewide vote proportions.

1 The currently debated means of assigning
2 representations come with advantages and disadvantages, and
3 every manner of district drawing is subject to the
4 influence of organized political interests. Apportionment
5 of seats in the Legislature is a fundamentally political
6 act. There is no fundamentally scientific way to determine
7 how communities should be allocated and political ideals
8 should be contested. Current Pennsylvania law allows the
9 voters of the State at large, through elections for the
10 State Governor and Lieutenant Governor, for the Attorney
11 General, and for the judicial offices to act to reform the
12 representation if voters feel such representation is
13 inadequate.

14 Thank you for the opportunity to testify this
15 morning, and I welcome any questions you may have.

16 MAJORITY CHAIRMAN EVERETT: Thank you. And,
17 Members, if you have questions, let's -- Representative
18 Miller.

19 REPRESENTATIVE MILLER: Thank you, both of you,
20 for your testimony. Mr. Thornburgh, a question. Would
21 your proposal seek to start a new drawing of the maps using
22 existing maps?

23 MR. THORNBURGH: Using existing?

24 REPRESENTATIVE MILLER: Um-hum.

25 MR. THORNBURGH: I'm sorry, I missed the last

1 word.

2 REPRESENTATIVE MILLER: Using existing maps.

3 MR. THORNBURGH: No, it doesn't address that. It
4 could. What we were calling for is a robust round of
5 public comment and input much like the commission that I
6 chaired in our public meetings across the Commonwealth and
7 a set of specific criteria that would generate an initial
8 set of maps that the commission would review and then take
9 it from there. Those could be the existing maps, but
10 there's nothing in our proposal that specifically says it
11 has to or that it couldn't.

12 REPRESENTATIVE MILLER: And quick question for
13 both of you. Since this is a citizen issue for all, what
14 are your thoughts about putting this to vote or referendum
15 and letting the citizens vote on a series of maps since
16 they will be subject to them?

17 MR. THORNBURGH: That idea came up on the trail,
18 maybe not frequently but occasionally. I'd be a little
19 concerned that I don't believe -- you could ask your
20 representative from the NCSL. I don't believe there's any
21 State that does that, and I'd be a little concerned that
22 that's asking a lot of Pennsylvania voters to try to
23 understand the nuances and the choices that were made in
24 those maps.

25 MR. WATSON: I think I would concur with that

1 analysis that putting it to a statewide referendum might
2 not be ideal.

3 REPRESENTATIVE MILLER: Thank you.

4 MAJORITY CHAIRMAN EVERETT: Representative
5 Ullman.

6 REPRESENTATIVE ULLMAN: Thank you, Mr. Chair, and
7 thank you to all of the people who have come to give
8 testimony. I think that we are all really working hard to
9 make sure that we avoid the gerrymandering, which is
10 obviously subverting the basic tenets of representational
11 democracy.

12 My question is perhaps better suited to the
13 previous panel, but I'm going to ask you, Mr. Thornburgh.
14 And I appreciate your comments, Representative Diamond.
15 Can you expound on the distinction between communities of
16 interest which may perhaps have undue influence on district
17 lines while protecting the invaluable importance -- I just
18 want to make sure my phrasing -- the invaluable importance
19 of the Voting Rights Act because there is philosophical
20 overlap and literal overlap sometimes with communities of
21 interest, and I think we all recognize that one of the
22 primary problems with gerrymandering in its history and
23 causing distrust among communities has been intentional or
24 unintentional violation of the Voting Rights Act.

25 MR. THORNBURGH: Right.

1 REPRESENTATIVE ULLMAN: So maybe you could speak
2 to that.

3 MR. THORNBURGH: Sure. I would first note that
4 the communities of interest as a value or criteria was not
5 part of our recommended model I think for some of the
6 reasons that Carol Kuniholm addressed as well. And I would
7 repeat that, you know, the fact that, unlike a lot of other
8 States like, say, Maryland or Virginia, that Pennsylvania
9 has so many local governments makes those a better proxy
10 for communities of interest than they would in those other
11 States so that if we concentrated our efforts on the
12 criteria that says we really should avoid splitting these
13 unless necessary for population purposes, that might get us
14 to that same place of community of interest.

15 The only other thing I'd say is, you know,
16 there's a number of different criteria that you could bring
17 to this question of mapping, and we face the decision --
18 and all States do -- should we prioritize these criteria?
19 Should we say this is most important, followed by this,
20 followed by that, followed by the other thing? And we
21 decided not to because, frankly, it's hard to speak on
22 behalf of 12 million Pennsylvanians to say here's what's
23 most important. But instead we should have a robust public
24 conversation where those choices and trade-offs are made
25 evident and would allow for someone to articulate a version

1 of what a community of interest is and see if that would
2 hold forth in sort of swaying the decision.

3 MAJORITY CHAIRMAN EVERETT: I would just
4 interrupt for a second on the criteria. I would again
5 advise the Members to take a look at the NCSL page they
6 have. A separate page just on criteria that lists criteria
7 that are currently being used by various States, and then
8 emerging criteria that might be used and has a discussion
9 right there. I think that is one of the places, no matter
10 how we're going to do what we're going to do, is I think
11 that criteria. And I think Mr. Gordon kind of addressed
12 that in his presentation. I think that's the core starting
13 point is, you know, what are we trying to achieve when we
14 do our redistricting?

15 And do you have any follow-up?

16 REPRESENTATIVE ULLMAN: I just wanted to say
17 thank you, and I just think we need to really be determined
18 that the legacy of the wrongs of gerrymandering was
19 manifested first and foremost in communities who are now
20 protected by that act, and that needs to be just a prime
21 starting point. And I just wanted to reiterate that.

22 MAJORITY CHAIRMAN EVERETT: Representative
23 Solomon.

24 REPRESENTATIVE SOLOMON: Thank you, Mr. Chair.

25 David, two questions for you. So you got a lot

1 of citizen input. Can you talk about those that were
2 suspicious, pushing back against an independent commission
3 and how you would counter their claims?

4 And two, I mean, your report, is it arguing for a
5 process, outcome, or both? So it seems like the California
6 experience, they identified a problem, right, incumbency.
7 Incumbency is the issue, all these crazy districts. And in
8 the process, it seems that they got it right, open,
9 transparent, voter engagement.

10 MR. THORNBURGH: Yes.

11 REPRESENTATIVE SOLOMON: And I don't know what
12 actually happened in the outcomes that all of a sudden are
13 all of these incumbents being challenged? I'm not sure.
14 But would it matter? So if we got the process right and we
15 have a complete transparent process but in the end nothing
16 necessarily changes on the outcome and doesn't matter, do
17 you need both tied together?

18 MR. THORNBURGH: Yes.

19 REPRESENTATIVE SOLOMON: So those are the two.

20 MR. THORNBURGH: Yes. We were, I think, trying
21 to address the question of process, and there's a who, who
22 draws, who approves, you know, who appeals. There's a
23 what, the criteria by which the maps are drawn, and then
24 there's a how, which really relates to the public part of
25 the process.

1 And this question came up repeatedly. You'd run
2 into folks that say we really have to draw maps in such a
3 way so that, you know, the parties are more balanced across
4 the Commonwealth. And then they'd also say, well, but you
5 can't use partisan data in drawing maps or you can't use
6 election results in drawing maps. And you say, well, how
7 do you reconcile those two things? You can't have one and
8 not the other.

9 I frankly -- you know, but just to go back, we
10 believe that if we have a transparent participatory process
11 that's defined by a set of rules and that's governed by a
12 set of people that get there to try to do the right thing
13 for the right reasons, we have confidence that over the
14 long term, maybe not each and every time we draw maps,
15 we're going to get better outcomes. And frankly -- and I
16 think this is maybe where the two of us might agree -- I'd
17 be a little hesitant to start with a defined set of
18 criteria or outcome or a defined set of outcomes and define
19 that as sort of what we're after.

20 And, I apologize, I've forgotten the first part
21 of your question.

22 REPRESENTATIVE SOLOMON: Those who push back
23 against the --

24 MR. THORNBURGH: Oh.

25 REPRESENTATIVE SOLOMON: -- independent

1 commission, what were their concerns, and how would you
2 counter them?

3 MR. THORNBURGH: Well, frankly, there was an
4 overwhelming sentiment for an independent commission.
5 There were not that many folks that said, A, the status quo
6 was fine, I really like it, I understand it, I have faith
7 and trust. If anything, there were folks who were pushing
8 for, in their view, a construct of this commission that's
9 more independent, i.e., from elected officials, than we
10 ended up with in our model.

11 But, frankly, that's partly a recognition on
12 members of the commission and myself that we don't have an
13 initiative process in this Commonwealth and that most of --
14 I think actually all of the commissions, the randomly
15 selected commissions in States that have done this in the
16 last 20 years have come from initiative processes. So we
17 understand that for anything to move here you folks and
18 subsets therein are going to have to embrace it, and I
19 think that there's a proper role for legislators. And
20 that's what we reflected in the model.

21 MR. WATSON: Just following up on what you said
22 earlier, the importance of -- you know, the importance to
23 avoid the disproportional outcome if one of the things that
24 we are seeking is a relative proportional balance from the
25 votes cast and the partisan outcome, the traditional -- you

1 know, my experience, the traditional compactness, municipal
2 boundaries to the extent that they match identifiable
3 communities of interest, tends to have a bit more success.

4 This is Iowa, the gentleman from the National
5 Conference of State Legislatures speaking about the Iowa
6 system, the list of criteria that their civil servants are
7 supposed to consider is about like three pages long. And,
8 as a result, you know, again, they tend -- you know, my
9 report tends to put them -- that they should be getting 2-2
10 and they usually get a 3-1. But that has more to do with
11 the vagaries of the proportional allocation.

12 MAJORITY CHAIRMAN EVERETT: Thank you.

13 Representative DeLissio.

14 REPRESENTATIVE DELISSIO: Thank you, Mr.
15 Chairman.

16 Mr. Thornburgh, when you conducted these meetings
17 throughout the State, were people very familiar with the
18 current process, for instance, that our Congressional
19 districts are drawn legislatively but the reapportionment
20 commission is used for Reps and Senators?

21 MR. THORNBURGH: Not really honestly. Some folks
22 were, but I think the phrase we used in the report is --
23 and I suspect this jibes with your experience. Most folks
24 out there are much more familiar with the consequences of
25 process than they are with the process themselves, and then

1 the challenge is, you know, can they envision a better
2 process, which, again, most folks who don't do this day to
3 day are not terribly fooling with.

4 So we heard a lot of here's what's wrong and
5 here's what I don't like and here's what frustrates me
6 about the way we do this, but many folks I'll say didn't
7 delineate between -- partly because, as we recognize, this
8 only happens once every 10 years, so it's not a day-to-day
9 kind of a thing. There's an education process.

10 But, having said that, this general issue is more
11 on people's minds than I think certainly anytime in my
12 lifetime. So there's a general awareness even if it's not
13 particularly specific.

14 REPRESENTATIVE DELISSIO: Because I think most
15 folks would be surprised -- I think when that Congressional
16 legislation came through, if memory serves -- and this is
17 going back now almost nine years -- most of us saw that
18 legislation minutes before we voted on it. So, you know,
19 we have to -- you know, you can't fix a problem unless you
20 know there's a problem there --

21 MR. THORNBURGH: Right.

22 REPRESENTATIVE DELISSIO: -- so, you know, I
23 think that those efforts to endeavor to educate
24 constituents so those constituents can give all of their
25 State Reps and State Senators their feedback on this is a

1 good process to go by. And I think when we reference
2 political parties -- and I don't know if you found this --
3 where was the role of unaffiliated and independents in this
4 process? We see growing numbers here in the Commonwealth.
5 I have my opinions as to why we think we -- you know, I see
6 so many people becoming unaffiliated or independent. So
7 did you see this sort of Democrat versus Republican in
8 those hearings? Were people who were unaffiliated
9 concerned about their voices being heard and how they were
10 heard?

11 MR. THORNBURGH: Yes. Well, couple things. I
12 think, as you know, the ranks of unaffiliated voters is the
13 fastest-growing segment of the electorate in Pennsylvania,
14 as it is elsewhere. Frankly, when the issue of parties
15 came up in these public meetings, there was a lot of rancor
16 and disappointment and distrust. People do see what's
17 happened as, you know, what seems like an endless war
18 between these two forces that either don't pay attention to
19 them or take them for granted.

20 And one of the comments that I found most
21 dispiriting from a member of the public who came to talk
22 was she said she went to go talk to her local
23 representative, the township commissioner I think about
24 this, who was a Republican, and she said, you know, I'm
25 really concerned about gerrymandering and the redistricting

1 and so forth, and he said, "Don't you understand, to the
2 victor go the spoils." And she was offended by that. And
3 I would be, too, if I were she.

4 REPRESENTATIVE DELISSIO: Unless we wanted the
5 victor to be the citizens of the Commonwealth.

6 MR. THORNBURGH: Well, touché.

7 MAJORITY CHAIRMAN EVERETT: Representative
8 Gabler.

9 REPRESENTATIVE GABLER: Thank you, Mr. Chairman.
10 And thank you, gentlemen, for your testimony and helping
11 illuminate this process.

12 Since we are kind of starting this from the
13 30,000-foot level I wanted to benefit a little bit,
14 Mr. Watson, from your expertise and your comparison that
15 you've done across States. And I wanted to ask you to
16 speak a little bit to the effects of efficient versus
17 inefficient distribution of voters and how that can affect
18 a map. And then specifically how does the breakdown of the
19 results of a map, is it necessarily indicative of a
20 specific gerrymander or are there ways in which a non-
21 gerrymandered map can produce surprising outcomes?

22 MR. WATSON: Yes. It is possible for a non-
23 gerrymandered map to not be proportional. This is why
24 countries that use proportional representation -- Israel
25 voted yesterday. They used proportional representation.

1 They use proportional representation. They use a
2 mathematical allocation formula. Because if you have a
3 situation where a large number of members of one party live
4 in a mono-partisan area and members of the other party live
5 in less mono-partisan areas, maybe not purple areas but,
6 you know, if one lives in 90/10 and the other lives in
7 60/40, even if you're following the traditional
8 redistricting metrics of compactness, of preserving
9 communities of interest, preserving local municipal
10 authorities, you can end up in a situation where the number
11 of well-drawn districts you get of the party that lives
12 mostly in 90/10 is less than the number that was mostly in
13 60/40.

14 REPRESENTATIVE GABLER: And I appreciate that
15 because I think it is important as we look at the process
16 going forward and try to assess by outcomes -- I think one
17 of the things that we need to be careful of is that we
18 don't specifically look and say, okay, we've got 18 seats,
19 it's 9-8 this side, so this side is obviously gerrymandered
20 or it's 8-9, so the other side gerrymandered. No matter
21 what -- I guess 8 and 9 is 17. I apologize. I'm catching
22 myself there. But I think that one of the things that this
23 Committee definitely needs to look at is to determine how
24 do we achieve an outcome that can be agreeable by all sides
25 that was fair?

1 And I guess, Mr. Thornburgh, to your point it's a
2 question of process, and that's why I'm glad we're having
3 this discussion now. So I guess I'll just leave my
4 question and my comment there, but I appreciate you guys'
5 expertise. Thank you.

6 MAJORITY CHAIRMAN EVERETT: Representative Sims.

7 REPRESENTATIVE SIMS: Thank you, Mr. Chairman.
8 I'll be brief.

9 Chairman Thornburgh, your commission clearly
10 spoke to thousands, tens of thousands potentially of --

11 MR. THORNBURGH: Well, I wouldn't say tens of
12 thousands but in the thousands, yes.

13 REPRESENTATIVE SIMS: Thousands. You said 3,300
14 completed the mapping --

15 MR. THORNBURGH: Yes.

16 REPRESENTATIVE SIMS: -- program? Okay.

17 MR. THORNBURGH: Yes.

18 REPRESENTATIVE SIMS: During that time, you have
19 identified from the report here countless, numerous
20 supporters of redistricting or opponents of gerrymandering.
21 I don't want to split that hair. In that time did you come
22 across a coordinated effort in opposition of redistricting
23 reform? Did you come across a coordinated effort to
24 maintain the status quo? And if you didn't, to what do you
25 attribute our lack of movement on gerrymandering?

1 We heard from Dr. Kuniholm earlier that there had
2 been efforts and requests by citizens of Pennsylvania to
3 have this body review how we draw our own districts in
4 1990, in 2000, and 2010. So if you haven't seen a
5 coordinated effort against redistricting in this State and
6 citizens of the State have been requesting redistricting
7 for the better part of 30 years, as an expert in this
8 issue, to what do you attribute our lack of movement on
9 redistricting reform?

10 MR. THORNBURGH: Well, to answer the first and
11 simplest question, we didn't see evidence of a coordinated
12 effort to oppose change. We tried to run an open and
13 transparent process ourselves. We invited through all the
14 networks we could, including our local -- you folks in your
15 local areas, cast the net wide to have folks come out and
16 talk to us, to participate in the survey, and so forth, we
17 didn't see effort of which you talked about.

18 The only observation I would make is sort of the
19 simple and most obvious. The rules of the game by which
20 your offices are determined and these districts are
21 determined are one of the fundamental building blocks of
22 power in the Commonwealth and in the General Assembly in
23 the dance between the courts and the executive and the
24 General Assembly. And I think that in a nutshell explains
25 why it's so difficult to move change forward.

1 It's worth noting the last time we addressed this
2 issue was 51 years ago, and that was after -- that was the
3 Constitutional Convention of '67 and '68, of which my dad
4 was a delegate -- to which he was a delegate, which was, I
5 think, the last time we re-examined the Constitution in its
6 several pieces and I think was -- that convention took
7 place after about three or four failed attempts to hold a
8 convention. So maybe the short answer is that change
9 doesn't come easily in Pennsylvania.

10 REPRESENTATIVE SIMS: Thank you, Mr. Chairman.

11 MAJORITY CHAIRMAN EVERETT: And I thank you. And
12 believe it or not, we're wrapping up on time. And I
13 appreciate the Members and the presenters for making that
14 happen, and I'm sorry that everybody probably didn't get to
15 say everything they wanted to say. And I will ask Chairman
16 Boyle if he has any concluding remarks.

17 DEMOCRATIC CHAIRMAN BOYLE: Thank you, everyone,
18 for being here. And thank you for all the activists that
19 have really lobbied for the better part of probably about
20 eight years to change the status quo in Pennsylvania. What
21 came out of this building in 2011 was a disgrace. The
22 Congressional maps and the legislative maps were absolutely
23 reprehensible and really an affront to democracy. But it
24 was good to see that the citizenry responded. And I think
25 in many ways it's really surprising to many that such a dry

1 issue as redistricting has become such a passionate issue
2 to so many people. And, you know, I appreciate all the
3 pressure and all the lobbying that has taken place. This
4 legislative body has to do better when we do redistricting
5 in 2021. Thank you.

6 MAJORITY CHAIRMAN EVERETT: And I will again
7 thank our staff for putting this all together. I think it
8 worked rather well.

9 And to the Members of the House State Government
10 Committee, I think you see some of the complexities of the
11 issues that we're going to need to deal with as we move
12 forward on this. There's no set answer and no easy answer
13 to how to do this, and I look forward to working together
14 with the Committee to work ourselves through this. And
15 again, thank you very much and have a great day.

16

17

(The hearing concluded at 10:55 a.m.)

1 I hereby certify that the foregoing proceedings
2 are a true and accurate transcription produced from audio
3 on the said proceedings and that this is a correct
4 transcript of the same.

5

6

7

Christy Snyder

8

Transcriptionist

9

Diaz Transcription Services