NEW YORK JOINT LEGISLATURE

LEGISLATIVE TASK FORCE ON

DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT

SENATE STANDING COMMITTEE ON THE JUDICIARY

ASSEMBLY STANDING COMMITTEE ON GOVERNMENTAL OPERATIONS

ONLINE PUBLIC HEARING

EVALUATING CONSTITUTIONAL PROVISIONS IMPACTING REDISTRICTING IN 2022

July 15, 2020

10:00 a.m. - 12:30 p.m.

Joint Task Force Reapportionment, 7-15-2020

SENATORS PRESENT:

SENATOR MICHAEL GIANARIS, Co-Chair, Legislative Task Force on Demographic Research and Reapportionment

SENATOR BRAD HOYLMAN, Chair, Senate Standing Committee on the Judiciary

SENATOR NEIL BRESLIN

SENATOR DIANE SAVINO

SENATOR ANDREW GOURNARDES

SENATOR ANNA KAPLAN

SENATOR KEVIN THOMAS

SENATOR TOBY STAVISKY

SENATOR THOMAS F. O'MARA

SENATOR ANDREW J. LANZA

SENATOR PHIL BOYLE

SENATOR TODD KAMINSKY

SENATOR JAMES GAUGHRAN

SENATOR LUIS SEPULVEDA

SENATOR SHELLEY MAYER

SENATOR ZELLNOR MYRIE

SENATOR JAMAAL BAILEY

SENATOR GUSTAVO RIVERA

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ASSEMBLY MEMBERS PRESENT:

ASSEMBLY MEMBER ROBERT RODRIGUEZ, Co-Chair, Legislative Task Force on Demographic Research and Reapportionment

ASSEMBLY MEMBER KENNETH ZEBROWSKI, Chair, Assembly Standing Committee on Governmental Operations

ASSEMBLY MEMBER SANDRA GALEF

ASSEMBLY MEMBER DAVID BUCHWALD

ASSEMBLY MEMBER HARVEY EPSTEIN

ASSEMBLY MEMBER PHILLIP PALMESANO

ASSEMBLY MEMBER ANDREW GOODELL

ASSEMBLY MEMBER ALICIA HYNDMAN

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New York Public Interest Research Group

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Branch President
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Northeast Director
National Association of Latino Elected
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(The public hearing commenced at 10:00 a.m.)

SENATOR MICHAEL GIANARIS, CO-CHAIR, LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT: Good morning, everybody and welcome to this hearing. I want to welcome everyone who took some time out of their day to join us on this important subject matter. A little bit arcane, but important nonetheless as it relates to our democracy and the districts that we run under. We are embarking on a new process in New York for redistricting, and one that we're all learning as we go because it's never happened before and it's got a lot of twists and turns to it, and so this is the first step forward in that process to talk to some of the experts, talk to some of the people who were involved both in establishing this and are just experts generally on the topic, so that we can make some evaluations as a legislature to what we need to do to make this work as efficiently, productively and fairly as possible.

There's been a lot of changes since we

first established this process. Most notably, the one that's necessitating some reevaluation in changes as the calendar when this reapportioning process was initially set up, our state primaries were in September, which fit easily within the calendar laid out in the constitution for the commission revealing its plans and the legislature reacting to them.

Since that time as everyone knows, our primaries have now been moved to June. The petitioning process begins late February or early March, and that has made the timing of the existing constitutional provisions impractical. So we thought as long as we're reevaluating, let's talk to folks about what other changes are important and necessary that we can make, as well as talking generally about the commission process and how we get that moving forward in the timeframe that we have to work with.

I want to recognize my colleagues who are here on the Senate side. Co-chairing this hearing with me is the chair of our judiciary committee, Senator Brad Hoylman, welcome Senator

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Hoylman. We are also joined by Senator Savino, Senator Breslin, Senator Gounardes and Senator Kaplan. Some of our members have through redistricting processes before, for some it's their first time, so we have a good mix of folks on both sides.

We also have with us our friends and colleagues from the Assembly, and I'm going to kick it over now to the chair of the Assembly Government Operations Committee, it's a committee that I was actually the staff counsel for many years ago. So it's good be working with them from this side as well.

And, Assemblyman Ken Zebrowski has done tremendous work in the Assembly, and I want to welcome and thank him for joining us as well as my co-chair on [unintelligible] [00:02:52] Assemblyman Rodriguez and I'll hand it over to Assemblyman Zebrowski.

ASSEMBLY MEMBER KENNETH ZEBROWSKI, CHAIR, ASSEMBLY STANDING COMMITTEE ON GOVERNMENTAL OPERATIONS: Thank you, Senator Gianaris. It's a pleasure to be here with you

today, all my colleagues and all of those that are both listening and ready to testify. Also welcome to senator co-chair, Senator Hoylman and to my assembly co-chairs, Assembly Member Rodriguez, great to be with everybody today in this important topic.

I just have a few comments to make, and then, we'll get this rolling. Every ten years, the nation undertakes the process of counting citizens, it's critical that New York State receive an accurate count of its citizens and apportion representatives in a manner that results in equal and just representation for the state. Next year, we will begin a new system of apportioning legislative representation to people in the state.

In 2014, New York voters approved amendments to the New York State constitution which changed the process for drawing legislative districts. An independent commission of ten individuals will meet to attempt to decide how to best construct the representation of the millions of diverse individuals that make up our state.

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We're here in an uncertain time. The results of the national census have been delayed due to the COVID-19 outbreak. In times like these, we need to be flex about and mindful of our future.

Thank you to all of the witnesses that agreed to testify today. We hope that your feedback and recommendations on our upcoming redistricting process will offer us some new insight that may then to guide us through this process.

First, on the assembly side, let me say, I mentioned Co-Chair Robert Rodriguez. We also have Assembly Member David Buchwald, Assembly Member Harvey Epstein, Assembly Member Sandy Galef with us this morning, and as additional people join, I'll announce them at that point. Thank you, senator.

SENATOR GIANARIS: Okay, thank you, assemblyman. We've also had some additional joiners, you'll hear us announcing the legislators as they arrive. But we have been joined by Senator Kevin Thomas, Senator Toby

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Stavisky and make this a bipartisan effort we have Senator O'Mara and Senator Lanza joining us from the senate side as well. I'm sure others will join in as we go.

Okay, so we're going to move on to our first panel, who I understand are all ready and waiting. Each witness will get five minutes to testify, followed by questions from the legislators. And in our first panel, I will read the names of and affiliations and please testify in this order. We're going to start with Blair Horner from NYPIRG, L. Joy Williams from the Brooklyn NAACP, Susan Lerner from Common Cause New York, Juan Rosa from the NALEO Educational Fund, and Lurie Daniel-Favors from the Medgar Evers Center for Law and Social Justice, so Blair, take it away.

SENATOR THOMAS F. O'MARA: Chairman, is there some reason that my video is blocked?

SENATOR GIANARIS: Not that I'm aware of. We'll take care of that, senator. Blair, whenever you're ready.

MR. BLAIR HORNER, EXECUTIVE DIRECTOR,

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NEW YORK PUBLIC INTEREST RESEARCH GROUP: Okay. Can you hear me okay?

SENATOR GIANARIS: Yes.

MR. HORNER: All right. Senators, assembly members, thank you for the opportunity to testify on this important topic. This is my first Zoom hearing, so if I seem a little discombobulated, please bear with me or tell me that I'm doing something wrong.

We've submitted our written comments and I will summarize our views here, but first, on behalf of NYPIRG, we commend the houses for this hearing, and for the scheduled hearings to come on a wide range of issues. It's important that the legislature reestablish itself as the primary policy making body in New York's governmental system. These hearings and the action on a wide range of issues are important and we applaud those activities.

As you may know, NYPIRG opposed the constitutional amendment in 2014 and our comments today may touch on some of those concerns that we had then and have now. But, the focus of our

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testimony is on what can be done now to deal with the reality of New York's untested redistricting system in 2022.

There are a number of issues that we're concern about including the timetable, which is already been discussed, which is now undermined by the change in primary date, as well as the impact the pandemic has had on the ability of the census to deliver data to the states. Our concerns are magnified by the fact this will be the legislature's first time working with the detailed, complicated redistricting scheme.

Redistricting is highly charged without adding a pandemic and a new law to the mix. If the census makes its data available for redistricting at the end of July, 2021, that will give the commission virtually no time to draft maps and make them publicly available for comment in September, as the constitution provides.

The public hearings are important and will inform the commission on weaknesses and plans. They have to then incorporate relevant recommendations and make their plan available to

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the legislature by January. The commission will have to operate at warp speed to make that all happen within five months plus.

So the pandemic has created real logistical problems for compliance with the constitution's redistricting requirements. Added to that is the candidates will be gearing up for primaries, were gearing up for primaries in early 2022, or the legislature may still be haggling over maps developed by the commission, or making their own.

Proponents of the amendment anticipated September primaries, so the new June primary date timetable may leave candidates unclear as to which districts they're running in. Neither of these problem can be remedied with constitutional changes in time, we don't believe. Statutory budget moves can bolster the ability of the commission to do its work, assuming that all goes well with it.

The commission is based on the model of the State Board of Elections, an agency notorious for gridlock when deciding important issues. The

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current commission hasn't yet jointly have chosen its two additional members and has done nothing that we can see to prepare for the daunting work ahead.

One of the key reasons that we opposed the 2014 amendment was our view that the commission would never be truly independent. The commissioners may act as agents of their appointing authorities instead of the public interest. Given the lateness of the action, the limited ability to publicly hash out needed changes, there seems to be not a lot of time that can be done to amend the constitution that would be consequential in 2022.

However, there is one area that could be fixed in time. That would be to remove the unconstitutional provisions adopted in 1894, provisions that violate the one person one vote requirements under federal law. But to change the deadline for a second submission of the commission's plan by the end of February, although it does say no later than, and that could probably be fixed statutorily.

But there are other areas that should be fixed. But they may have to be for the 2030 redistricting cycle. We discussed those in our written testimony, but two important ones are eliminating the partisan redistricting commission and using language akin to what the Congress uses for map makers to make districts be comparable in size, population wise.

Lastly, on a related issue, we think that you should consider capping the number of senators at whatever the number is that's appropriate, because, as you all know, the senate that grown from 50 members in the 1930s to 63 now. So thank you for this opportunity to testify. Again we applaud your interest in this issue, and I'm done.

SENATOR GIANARIS: I appreciate it. Let me just answer Senator O'Mara's question of earlier. I misunderstood his question. The members' videos turn on so they can be seen when they are speaking or recognized and then just the co-chairs and the panelists are on video. We've also have been joined by Senator Kaminsky,

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Senator Sepulveda and Senator Boyle. And next we have L. Joy Williams from NAACP. Welcome.

MS. L. JOY WILLIAMS, BRANCH PRESIDENT, BROOKLYN NAACP: Good morning and thank you very much for the opportunity to talk with you this morning. The New York State Conference of NAACP is submitting full written testimony, but I just wanted to highlight a number of issues that the NAACP are focusing now and will be focusing on throughout this process.

For those of you who don't know, I am president of Brooklyn NAACP, but I'm also the legislative coordinator for the New York State NAACP Conference of Branches, which consists of thousands of members. We have over 51 branches in the State of New York, under the leadership of our New York State Conference president, Hazel Dukes.

I'm sure you will hear from me a number of times throughout this process, not only on this issue but on a number of different issues. But there are some key pieces that I would like to highlight as you begin this process.

So, back in September of 2011, the late Reverend Anita Burson, who was then second vice president of Brooklyn NAACP, testified before the committee and she began her testimony highlighting the lack of diversity and minimal representation of people of color, as well as diversity in gender, both on the committee and on the staff.

And so as you begin the process and as the speaker before me mentioned, that we are in the beginning phases of how this process will play out, I urge you that as you are staffing up, if you will, that, you focus on ensuring that the entire operation of our redistricting process is reflective of the great diversity of this state.

This should be a guiding principle, not only for the individual staff, legislative aides and others and I'm talking about even a person making photocopies, but, also any contractors and vendors that will be used for this process.

In addition, I ask and urge the elected leaders to go a step further, and expect both the elected leaders and commission to produce a

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report demonstrating not only your commitment but your actions to this equity principle to ensure that our redistricting process is reflective of the people of state of New York.

Now, our redistricting process, as previously mentioned will have a number of firsts, it is the first time we will have an independent redistricting commission. And as you know, and as the previous speaker noted, the New York State NAACP also opposed the commission at that time.

But this is also the first redistricting process that will be doing since the Supreme Court struck down the preclearance directive under Section 5 of the 1965 Voting Rights Act. This means that states like ours, which had districts under preclearance, including Brooklyn, will not have that preclearance principle to the Justice Department or Attorney General.

Now, you may say given the current U.S. Attorney General and Justice Department that we may count that as a blessing. However, just because the federal version of preclearance is on

hold until Congress takes action, it doesn't mean that the state of New York should not have some process and we are advocating having a preclearance process with our state attorney general, in the passage of a New York State voting rights act that will ensure not only the voting rights and representation of people of color in state of New York.

The other issue that was highlight highlighted in the previous redistricting process, was that of counting those who are incarcerated. As you know, NAACP attempted to join on two lawsuits on this particular issue. And it was something that was done in the previous census operation and has not yet been for this 2020 cycle. So I'm urging the legislature to address this issue as well.

So, we are obviously behind the eight ball as I wrap up. The pandemic that is particularly ravaging communities of color, in addition to a number of wholesome different issues in terms of the rising costs of living in New York, housing gentrification and all of those

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issues. And at the center of this will be making sure that this process is inclusive and is not just a set number of folks that is separate and apart from the diversity of the state of New York.

So I urge not only in the hearings that will happen that are required to happen all over the state, but that the elected leaders, the committees and commission, also create a process for active participation of the public, because we know our communities, we know our districts in creating the maps in the process that will go forward to create a better New York. Thank you.

SENATOR GIANARIS: Thank you so much, L. Joy. Next, we have Susan Lerner from common cause New York.

MS. SUSAN LERNER, EXECUTIVE DIRECTOR, COMMON CAUSE NEW YORK: Thank you very much. And I want to join my colleagues, Blair Horner, in thanking the legislature for this hearing and to join in with the NAACP's call that the commission and all of its proceedings should be sensitive to diversity issues.

As you may be aware, Common Cause New York drew the only set of statewide reform maps in the last redistricting process. And as a national organization, redistricting is one of our key issues where we advocate across the country for fair redistricting processes and we are the organization which wrote and passed the California system of an independent citizen led redistricting commission process.

I'd like to point out that we did receive a court ruling in 2014, which clarified that the commission set up by our constitution should not properly be called independent because it really is politically appointed.

But, I do differ with Blair on the issue of what can be done currently to affect redistricting. I do believe that changes can be made timely to our constitution which will provide guidance to the commission, and improve our process. And there are four areas that we identify in our written testimony.

The first is of course the deadlines which simply have to be changed. We recommend

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that the first set of maps from the commission go to the legislature on December 1, and that revised maps also have to be completed in December. We recognize this is a very collapsed timeframe with the late provision of information from the census. But I believe that the commission's requirements in the constitution to hold hearings around the state, and get input from citizens should remain in place and that the commission should be given the resources to satisfy that requirement.

We agree with NYPIRG, the uncontrovertibly unconstitutional language that was placed in our constitution in 1894 and help unconstitutional by the U.S. Supreme Court in 1964 should simply be removed. It serves no purpose, it's confusing and a good draftsmanship requires that it should be removed.

We do advocate for some improvements to the redistricting process which we believe would improve and add some good redistricting practices. We agree with the NAACP, the ban on prison-based gerrymandering can and should be

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memorialized in our constitution. It is an important public policy, and there should not be any confusion regarding its application in any redistricting process for our state.

We also believe that there should be a standard set for population equivalence. Based on our experience drawing maps, we believe that standard should be plus or minus two percent to give map drawers sufficient flexibility to respect communities of interest and other necessary standards for good redistricting.

And we also believe that there should be some language changes to encourage new and fair maps. We believe that the requirement that the map drawers must start from the core of existing districts really impedes an open and fair redistricting process and should be stricken.

Finally, we believe that the language in the constitution should be changed to set a fair and politically neutral voting process for the commission and for the legislature. As a matter of policy, we do not support shifting rules of procedure based upon the results, the political

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results of elections. We think particularly, in this divisive time in our country, that that precedent is a dangerous one and should be changed so that, the rules apply equally irrespective of election results.

To the extent that there is a concern in a not independent commission, that one party or another would take advantage, we believe requiring that the approval of the final maps must include the vote of at least one of the non-affiliated members of the commission would alleviate those concerns.

And I look forward to further discussions of changes and improvements to our redistricting process. Thank you.

SENATOR GIANARIS: Thank you Susan. And I want to thank all of the witnesses to being incredibly timely to the five-minute requirement. And next we're going to hear from Juan Rosa from the NALEO Education Fund.

MR. JUAN ROSA, NORTHEAST DIRECTOR, NATIONAL ASSOCIATION OF LATINO ELECTED AND APPOINTED OFFICIALS: Good morning and thank you

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so much to Chairs Gianaris, Rodriguez, Hoylman, Zebrowski and the committee members from the Senate and the Assembly for providing us the opportunity to testify on this important issue. I am Juan Rosa, the NALEO Education Fund. We are the nation's leading nonpartisan organization which facilitates full Latino participation in America's political process.

We have had a physical office here in New York City for the last 25 years, in which we have implemented multifaceted voter assistance and vocational programming.

Because redistricting shapes the contours of our [unintelligible] [00:23:25] of democracy, we have been involved in several national and state dialogues for the last two decades about how to ensure that all redistricting provide Latinos with a meaningful opportunity to participates in the process. We also believe that all redistricting must produce maps which provide Latinos with a fair opportunity to elect the candidates of their choice.

Back into 2005, our board of directors articulated principles to guide our assessment of redistricting whether lines are drawn by legislature, a commission or some other entity. In my testimony, I will address the extent to whether New York's current constitutional provisions comply with our principals and the impact of the delay in the delivery of census data on the process and the Latino community.

First, our principles require that all redistricting comply with the U.S. Constitution and the federal Voting Rights Act. Generally, the criteria for redistricting set forth in New York's Constitution appear consistent with this goal. We are concerned that the provision prohibiting the drawing of districts that discourage competition could under certain circumstances make it more difficult to draw districts that comply with the DRA.

And we will be watching carefully as the state's redistricting process moves forward to see if the provision of competition interferes with the DRA compliant districts.

One of our key principles is the application and selection process for members of a commission must result in a commission that reflects the geographic, racial, ethnic, gender and age diversity of the political jurisdiction. We will note that there is language in the Constitution that requires to the extent practical that New York's redistricting commission achieve this goal. Yet, we're extremely dismayed that New York's redistricting commission -- I'm sorry, I lost my place here. That no one Latino was selected for any of the first eight seats in New York's commission.

Given that Latinos compromise nearly 20 percent of the state's population, the commission cannot reflect the state's diversity with an absence of Latinos and without a significant increase in Latino representation. Thus we urge the first eight commissioners to select qualified Latinos for the remaining seats.

We will also note that the constitution requires legislative leadership selecting the commissioners to the extent practicable, consult

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with voting rights advocates and voters from underrepresented communities. To the best of our knowledge, this consultation did not occur with respect to the Latino community. In the future, it is critical that Latinos have a voice early on in the selection process.

Our principles finally call for reasonable requirements for the qualifications and conduct of commissioners to ensure they avoid conflict of interest and the appearance of impropriety. While we very much understand the importance of avoiding conflict of interest for any commission, we suggest that the restrictions in New York's Constitution may prevent civically engaged Latinos from being able to serve on the commission for past activities which do not create a meaningful risk of conflict of interest.

For example, having served as a professor administrator at either CUNY or SUNY at some point in the last three years would bar anyone from being appointed to one of the last two seats under the current restriction of the state employment. Thus, we suggest that these

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restrictions in the constitution be reexamined to determine the extent to which otherwise qualified, civically engaged Latinos have been prevented or deterred by the commission service, for these restrictions.

With respect to the potential delay in the delivery of resident data by the census to the state of New York, Congress is considering the legislation which would provide for a 120 day delay in the delivery of census redistricting data to states, which would mean the New York might obtain its data as late as July 15, 2021.

Given that the state's commission can complete its maps by as late as January 15, 2022, it is possible for the commission to meet its deadline, even with the delay in delivery of data. However, the commission must take several steps to ensure the public has a meaningful opportunity to participate in the process, given this delay. For example --

MODERATOR: Time has expired.

MR. ROSA: Oh, thank you.

SENATOR GIANARIS: You can finish up,

Juan, if you just have a couple more sentences.

MR. ROSA: Yes, I'll finish up this one sentence. Thank you, senator. Actually, no, we will just submit the rest. Thank you, senator.

SENATOR GIANARIS: Okay, thank you. Next, we're going to hear from Lurie-Daniel-Favors from Medgar Evers Center for Law and Social Justice.

MS. LURIE DANIEL-FAVORS, INTERIM EXECUTIVE DIRECTOR, CENTER FOR LAW AND SOCIAL JUSTICE: Hello, good morning. I apologize as lawn mowers literally just started blowing outside my window. Hopefully you are still able to hear me well. Greetings to all, and thank you for the opportunity to present today. My name is Lurie Daniel-Favors and I am the interim executive director and general counsel at Center for Law and Social Justice, a unit at Medgar Evers College at CUNY.

At the outset, I would be remiss if I did not state that if this body is considering a constitutional amendment to make a correction and eliminate the minority party detail plan which is

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currently contemplated in the redistricting commission provisions of the state constitution, I would be very happy to comment on that and would encourage your investigation of that option.

As it now stands, we don't see how a minority party veto aids black voters and voters of color across the state, and to the contrary, this provision is actually disempowering to members of these communities. And if this body is considering such an amendment, it should be publicly announced as soon as possible so that we can provide comment and we would welcome the opportunity to do so.

During our 35-year history, CLSJ has consistently worked to defend the voting rights of New Yorkers of African descent and other racial minority New Yorkers. We have led or co-led numerous historic voting rights advocacy initiatives or litigation across the state, the details of which are contained in our written testimony.

As it pertains to the upcoming

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redistricting cycle, we continue to advocate that new districts be drawn such that they comply with the Voting Rights Act one person, one vote rule. While the Supreme Court adopted a stricter standard for congressional districts than those employed for state and local districts, equitable access to the ballot requires the state legislature to seek to achieve population equality among the state legislative districts.

Thanks to improvements in computer software, population equality is far more possible today than it was even ten years ago.

And this is particularly notable in light of the nationwide calls for racial equity and justice following the killings of members of our community like George Floyd, Brianna Taylor, Ahmaud Arbery and the many others who have lost their lives due to systemic racist violence.

It would be untenable to face another decade in New York State with small districts upstate and larger districts downstate, particularly when these disparately drawn districts disenfranchise wholesale black

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communities and communities of color on a statewide basis.

The requirements of the Voting Rights Act must also be adhered to. As noted by my colleagues the SCOTUS Shelby decision gutted the Section 5 provision preclearance provision of the VRA and with that demise, New York State must pass a state Voting Rights Act which contains a preclearance provision into law, particularly due to the fact that several New York jurisdictions were covered by the VRA Section 5. And underlying reasons for that coverage have not been ameliorated and a state Voting Rights Act is necessary. According to Section 2 of the Voting Rights Act, redistricting plans must not unfairly [unintelligible] [00:31:04] minority voting strength and they should not be drawn such that they reduce the number of minority, majority minority districts. Nor, such that the minority population percentage is reduced to such a level that it makes more challenging for minority voters to continue electing candidates of their choice.

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In light of these requirements, and the history of the racially polarized voting [unintelligible] [00:31:23] in New York, including New York City, when drawing minority majority districts, we maintain that the minority voting population should be at leave 55 percent to ensure that minority voters will be able to elect candidates of their choice.

The reformed state redistricting process must be transparent and open, which means that the commission should make public all of its redistricting criteria and procedures. There should be public access to redistricting data within weeks of its receipt from the state by the Census Bureau, and there should be as many public hearings across the state as possible with several densely populated area of the state.

This is particularly significant as the commission must hear directly from the people, especially during this heightened age of mass civic engagement. This is how we ensure that the process is informed of the concerns and values of community leaders, residents and activists. Those

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voice must not only be welcomed, but they must be centered throughout the process.

To these ends we urge that you make your data publicly available and that you advocate for the redistricting commission to hold as many public hearings as possible.

It must also be noted that contrary to the provisions the New York State Constitution, which calls for the members of the commission to reflect the diversity of residents of this state with regards to race, ethnicity, gender, language and geographic residence, there is currently a stunning lack of diversity to the current composition of the commission. Current membership only includes one man and one woman of African descent and does not include a single Asian or Latinx member. Racial, gender and geographic equity must be enforced for all redistricting bodies and their staff.

Additionally, as noted, legislators must advocate to maintain the end of prison gerrymandering. While prison gerrymandering was addresses in 2010, it has not yet been resolved

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for the 2020 cycle and we're demanding that this commitment to abolishing prison gerrymandering for the purpose of redistricting continues. And we ask that our legislators do the same. And to be clear, this is a part of the process that can happen now. The prisons are well aware of the jurisdictions from whence incarcerated persons come and they do not wait until 2021 to receive additional data. And we encourage for you to advocate for them to start now.

We also know the commission has not been empowered by a budget and cannot functionally operate. The commissioners are volunteers and need to have administrative backing behind them in order to be effective. Upon current knowledge, it remains an open question as to whether or not the legislature will allow the commission to use the LATFOR agency or if the legislative body will retain control over LATFOR for its own use. We are encouraging you to give it over to the commission so that the redistricting process has the full benefit of the decades of knowledge held by this agency.

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Thank you and we look forward to remaining engaged with you and all interested parties to ensure the equitable drawing of maps that reflect the true diversity of New York State.

SENATOR GIANARIS: Thank you, Lurie, I appreciate it I also appreciate the dynamic camera work and the mobile nature of your testimony. And you reminded me. I should have apologized in advance. We're all in New York, so if anyone hears helicopter noise, or airplane noise, welcome to Queens.

For questions, we're asking the legislators that are interested to raise hair hand and I don't mean actually raise your hand. I mean hit the raise hand button on this Zoom application. And then you'll be called on. We're going to alternate between the Senate and the Assembly. And I will begin with a question.

There were a couple of witnesses that had made reference to unconstitutional provisions of the constitution in Article 3 as it relates to things that are over 100 years old that have

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since been ruled invalid by various rulings of the Supreme Court and otherwise. So, I guess this is a question for Blair Horner. Can you just outline what those provisions are or at least some of them, so we get a sense of what we're referring to?

MR. HORNER: Well, in the state constitution, there is language that basically allocates legislators based on geography instead of population. And, the Supreme Court, as Susan mentioned, in the 1960s struck down those provisions for the country, and said you should adhere to a system of one person, one vote.

Now, I don't know why that language is still in there. I mean, you would think it would have occurred to people in 2012, that having dead letter language in the state constitution doesn't make any sense and they should take it out. I never got a good explanation as to why it was in there other than they were too busy. So, the fundamental issue really is the issue of basing legislative district on something other than population.

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SENATOR GIANARIS: Thank you. Thank you very much, Blair. And I think that Susan Lerner mentioned as well. Do you have anything that you want to add to that?

MS. LERNER: Yes. In my written testimony, I specified the provisions that I believe should be stricken, in Article 3, it's Section 4D and specific language in Section 5. And, we also recommend that language in 4C, which references state constitutional standards, should be stricken.

I fear that the unconstitutional language was left in and this additional reference made to muddy the waters should there be any litigation on further maps. And so we believe for clarity's sake and just, you know, good drafting, that the unconstitutional provisions should be removed, along with the reference language.

SENATOR GIANARIS: Thank you, Susan.

ASSEMBLY MEMBER ZEBROWSKI: Senator, thanks. I want to first mention that we're joined by Assembly Member Palmesano and Assembly Member

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Goodell, and our first assembly member to ask questions will be Assembly Member Buchwald.

ASSEMBLY MEMBER DAVID BUCHWALD: Hi thank you, Chairman Zebrowski and to all the chairs and everyone for putting together today's hearing and to all of the panelists who presented. First, just as a, [unintelligible] [00:37:13] for clarification, I think a statement was made that there are no Asian Americans on the commission and I think that's incorrect. I think one of senate majority leader appointees qualifies.

But my question is more broadly, and for any panelist who wants to answer, a lot of the remarks up until now have been about what changes can and should be made to the state constitution following up on the last constitutional amendment. As everyone knows, our state constitution, the process for amending it is a multistage process that takes at least a few years, couple of passages through the state legislature and then a vote of the people of New York.

So, my more immediate question is, with the upcoming redistricting, under the existing constitutional provisions, what proposals do folks have as to how to address the concerns that have been expressed without yet getting to the further constitutional amendments, because we're going to have a section of redistricting that affects us for the next decade, and I'd like to hear the non-constitutional amendment solutions.

I do take note of some of the points made about appropriate appointments for the remaining commissioners and so forth, but in terms of the process the commission actually uses within the framework, that is laid out as is now, what are the steps that you think the commission itself, or the legislature should be taking to make sure that it is as productive and fair of a process as possible? And I direct that to whoever wants to take up the question.

MR. HORNER: I'll take an initial crack at it. I mean the -- you know, as Susan mentioned earlier, there are a number of issues that you could do constitutionally, but you could pass

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legislation to I think strengthen the prison gerrymandering issue more clearly. And one of the complaints that I've heard is since it passed in 2010, the constitutional amendment was passed in 2012, and did not include it that that might be an opportunity for mayhem. And so clarifying that that, in fact, is the law of the land, although I do know if you need a law to do that, but certainly some mechanism to make it clear to the commission they should include it would be one.

ASSEMBLY MEMBER BUCHWALD: Mr. Horner could I just ask, is the existing statute, did it expire or is it still on the books and applies? And --

MR. HORNER: It's still on the books.

ASSEMBLY MEMBER BUCHWALD: And can you just explain then why you believe the existing statute, which as far as I know was adhered to in the 2010 or 2011 redistricting, why that isn't sufficient?

MR. HORNER: Well, no, I think it would be sufficient. I mean I have heard people argue, that it is an issue because the passage of the

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constitutional amendment occurred after the use of it. But, again there's no -- you're right, the commission should follow the law and that is the law. The deadlines, you might be able to statutorily move them up beyond, although the constitution obviously trumps any statutory deadlines.

It's important that the commission act more quickly. I agree with Susan, that the deadlines that would have to be moved up. I think you could also argue to change the, through statute, to change the population variance. Right now under the Supreme Court decisions, the map makers have up to ten percent range in terms of population size, and as mentioned by one of the other testifiers that the senate districts in particular, the senate district have large populations, vis-a-vis upstate senate and the opposite is true in the Assembly, so those are issues that you can deal with I think constitution -- I'm sorry, statutorily.

But, I think it's really going to come down to the commission and the resources it has

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to getting the job done. And the commission is not fully appointed yet. It does not reflect the diversity of the State. And they're going to have a hell of a time to try to meet the various deadlines that are in the state constitution, even if you were able to move them up.

And so I think that's really where the action is in terms of statutory changes or budgetary changes for the commission.

MS. LERNER: And I would like to add that I think some of the things that we are proposing including, as Lurie Daniels-Favors mentioned, the minority veto provisions, even though they need to be changed constitutionally, they could through an immediate process be changed before the final votes on the maps are necessary. So, even with a constitutional change, I believe that there's significant ways in which that constitutional provision can be timely changed.

ASSEMBLY MEMBER BUCHWALD: Thank you, everyone. I see my time is up.

SENATOR GIANARIS: Thank you,

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assemblyman. We have also been joined by Senators Shelley Mayer, Gustavo Rivera, Jim Gaughran and senator Zellnor Myrie. And I would go to Senator Myrie for a question.

SENATOR ZELLNOR MYRIE: Sorry, I was just waiting to be unmuted. Firstly, good morning to everyone and thank you to all of the panelists. I wanted to direct this question primarily to Lurie and L. Joy, but obviously welcome responses from the rest of the panel. My concern is mostly around the communities of color that will be impacted by a census undercount, and no protection from Section 5, or it used to be known as Section 5 in the federal VRA. And I'm wondering if you can speak to what the implications might be if we do not have that protection and there is an undercount in our communities, what that means for redistricting, what that means for the political power of communities of color all across the state.

MS. WILLIAMS: Well, you know, I'm going to start off by first in our written testimony talking first and foremost, as you mentioned,

about the census. And while obviously, the census has been significantly impacted by the pandemic that we are experiencing and that we all experienced here in the state of New York, I think that it is unacceptable that organizations like ours, who are all volunteers, organizations were able to quickly determine how we can continue to do our census outreach and operation in the midst of a pandemic to ensure our communities were counted. However, the state process has been stunted.

And so, I find it very disappointing that a state with its resources, with the plan and execution that we are still, the State is still on hold in terms of how it's properly and I'm talking this is separate from whatever advertisement that may exist. Advertisement is different from outreach. It is a method of outreach, but it is not the sole determinant of how we ensure that people are counted within our communities.

And so the first piece that I would say about the census is obviously before we even get

to a redistricting process, we also have to make sure that people in New York State are properly counted. We saw and have experienced for the last decade what an undercount means in terms of resources for our community and our federal government. We already send more money than we actually give back. Why give the federal government additional ammunition to keep our money? So, that's one.

And so, I urge the legislators to call the state and operation to task on what is happening and what is the quick method, because if volunteers are able to quickly come together via Zoom and figure out how we can execute a census operation to ensure our communities are counted, by all means the state should do so.

And to your point, your later point in terms of what this means, this also means that if we do not have an accurate count, when we get to redistricting, that creates this fight and this tension for resources and for seats that additionally as the political connotation in it where we're then putting groups against each

other in terms of political representation.

And so, it has disastrous effect for people of color. You can go throughout the history in the State of New York on how many times the NAACP had to sue and black people in general have had to sue in the State to ensure that we have proper equal political representation in this state.

We did that on local levels across the State, in terms of the expansion of New York City Council, expansion in other councils and school boards across this state. And so if we did not start from that premise, and then also make sure that we have proper representation and equity throughout the process, we are setting our state up again to not only receive our fair share from resources, but further create political fighting within the State, and then, again, have a whole other decade where we are scrapping for resources. And who that hurts is always people of color that end up being at the bottom.

MS. DANIEL-FAVORS: I would also add that, with the absence of a Section 5

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preclearance provision, the redistricting, the portions of our state that were covered by Section 5 would have had to submit their redistricting plans for evaluation and approval prior to implementation.

The fact that we do not have a Section 5 now means that those same jurisdictions, and quite frankly others that were not covered but all honesty should have been, are not going to be held to the same standards of equity as it pertains to redistricting outcomes. And so, echo, in addition to what Joy said, there's just a practical matter of needing to have that additional referee on the field, who's going to make sure that the plans that are created are going to center the same principles that govern the application of Section 5.

And it's to be noted that the Section 5 covered those portions of our state because the need was ongoing. It had not been ameliorated. The issues that brought these portions of our state under the coverage of section 5 are still in a position where they require that level of

coverage and supervision. And so, I think having a statewide version is going to be fundamentally important, not only for redistricting but ensuring access to voting rights going forward.

And I would finally add it would be extraordinarily helpful if the $70 million that had been pledged to the state organizations and municipalities, for census outreach to go beyond the media activism that Joy mentioned were actually released. There was an entire process the governor announced in January. I actually spoke at the announcing conference and we were very excited about that and there has been radio silence on those funds ever since. So we need those funds to be distributed now, like two months ago, and that in and of itself would be significant as it pertains to helping to ensure that the first portion of this issue, the accurate count work was not going to be undermined.

SENATOR GIANARIS: Thank you both.

ASSEMBLY MEMBER ZEBROWSKI: Senator, thanks. And I'll take the next question and for

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Panelist Favors, you mentioned briefly and said you would expand upon it, that you felt that the minority veto would or could disenfranchise minority communities. Just so we have a complete record, could you expand on that? You said you'd be happy to expand on it, but I only heard that one sentence.

MS. DANIEL-FAVORS: Yes, are you able to hear me?

ASSEMBLY MEMBER ZEBROWSKI: Yes.

MS. DANIEL-FAVORS: Okay. So yes, so the minority veto as noted by myself and others, is something that because voters of color across the state are not equitably enrolled in various parties, the minority veto is something that could really work to harm communities of African descent, communities of color across the state because, it is essentially a provision that is not going to recognize the needs and the sanctity of those communities to have their preferences and to have their engagement with this process recognized and respected.

And, because the minority provision

essentially, now that we have two members or both houses, I'm sorry, both the Assembly and the Senate are both led by members of the same party, it essentially cedes the approval of the redistricting plans to the party that is not in power. And, so, that is a provision that will work to harm communities of color, particularly, communities of African descent simply because it does not allow for the equitable consideration of the concerns that go into determining where boundary lines should be drawn because, voters of color are not equitably enrolled across those two parties.

ASSEMBLY MEMBER ZEBROWSKI: Thank you.

SENATOR GIANARIS: Okay, next on the list, I have Senator Brad Hoylman.

SENATOR HOYLMAN: Thank you, Senator Gianaris and thank you for bringing us together here along with my Assembly colleagues and it's appropriate that we've heard already from Senator Myrie, the elections chair, who represents a district that looks like a steam shovel. I think people know about those lines in his district.

I just wanted to follow up on the census question. Because it's of great concern that not only are communities not possibly being counted, of course, the black and brown communities which is of great concern, but, also, the census itself may be delayed due to COVID-19 and I was wondering if any of the panelists had thoughts on how the delay of even an inaccurate count of the census will have an impact on redistricting moving forward.

And, my district, some of my neighborhoods, you know, have responded to the rate of like, less than 40 percent in some neighborhoods due to COVID-19. Any thoughts from any of the panelists on that point?

MS. WILLIAMS: I think this is where an issue I believe that Susan and others mentioned this where the state needs to be nimble and make sure that we have dates that sync up, this is things that we can do now to the process. I know that the federal government has put out an adjusted timeline as it pertains, right now, so, us taking action on the adjusted timeline as it's

been put out right now and then what are some of the things that we can do leading up to and in preparation for the redistricting process.

So, I think the timeline certainly has a direct effect and particularly as we talk about municipal elections that happen all across the state and as people are running for lines next year that will have to change, you know, further, so. Those are -- the calendar is something that we have to pay close attention to and be nimble enough that the session should not end, that the year should not end without the legislature addressing these issues as it pertains to the schedule right now.

MR. HORNER: And, senator, just to add one thing on that. I mean when you think about it, by the way, it's the huge unknown. I mean who know what the pandemic brings us, right. So as of now, you could have the commission dealing with the month of August when generally, people take vacation, and the first half of September, to get their act -- to get maps ready and materials out and everything, to hold public hearings across

percent the state and that really is hard.

Now they could be doing a lot of work to prepare for that in advance. And, that's why getting the commission up to speed quickly matters. But the census timetable, assuming it's the same next summer, gives it essentially including work weekends, somewhere in the neighborhood of 45 days to get the work done and that's going be really hard.

The timetable that's contemplated in the constitution was based on a non-pandemic, which of course why would they expect otherwise, and primaries being in September. And, those are real problems in terms of the commission getting your work done.

MS. LERNER: You know, there is no question that the commission is going to be squeezed in terms of the timeframe, but I would agree with Blair that advanced preparation is absolutely essential. You know, there will be some surprising demographic shifts, but, demographic trends are pretty obvious through the ACS during the entire preceding decade. And there

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are ways in which proper staffing and preparation can ensure that the commission is ready to draw down the demographic data, do the necessary evaluation, and have clear guidance in advance from the commission in terms of the standards which are to be applied in the map drawing.

As Lurie pointed out, we have advanced technology. We had it in the last cycle. It is usually the process of negotiating the politics of the district lines that take more time than the actual application of the technology to the data.

ASSEMBLY MEMBER ZEBROWSKI: Okay, and want to first mention that, Assembly Member Hyndman has joined us and our next assembly member, that's looking to ask questions is Assembly Member Goodell.

ASSEMBLY MEMBER ANDREW GOODELL: I sure if you can hear me or not.

ASSEMBLY MEMBER ZEBROWSKI: Yes, yes, can.

ASSEMBLY MEMBER GOODELL: Okay. Thank you. I had a question for Ms. Daniel-Favors. You

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mentioned that the minority voters should be represented at 55 percent if possible. Now, as you know, there are two ways to eliminate representation by members to the minority. One is by dilution, reducing them by gerrymandering so that they don't have a controlling influence. The other approach though is the opposite, by consolidating them all into one district so that the remaining districts that are around there, are clearly not under any influence of being taken over, if you will, or having a minority representative. How do you balance those two conflicting approaches, and, what are your recommendations on how we approach that? I would point out by the way, in a competitive district, it's not your basic results in winning or losing an election, it's your swing voters, how do you balance those?

MS. DANIEL-FAVORS: Well, I think as just noted by Susan, the capacity to have access to technology really does help us to draw districts that are neither packed nor cracked. I think that there is a world that exists between

those two goals that when applying principles of equity and when applying principles of justice in line with the principles that have been outlined for us by the courts, we are definitely able to draw districts that are reflective of the diversity of the state, and that empower minority communities to be able to have an equitable shot at electing candidates of their choice.

And I think this is not something new, this is something that we have seen done before. And so long as we're adhering to those same principles, and we're centering the needs of the community and employing the access that we have now to technology, which in 2010 was allowing for equitable drawing of districts, and has only improved since that time, I do not think that we are stuck between the two. I think it's a false choice to look only at packing or cracking a district.

And there are certainly tools available to us now, particularly in light of having the access of time that we do right now with forewarning and proper preparation, that we apply

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the judicial principles that should be guiding these decisions, along with the technology to ensure that these districts are equitably drawn in ways that empower minority communities to have access to the ballot and to have access to putting candidates into office reflective of their two choices.

ASSEMBLY MEMBER GOODELL: Would it be your recommendation then you look at all of demographic factors that you've mentioned, including communities, neighborhoods, school districts, things of that nature, trying to group people of similar interests and concerns together, rather than perhaps using an artificial threshold like 55 percent that would be packing or, a lower threshold?

MS. DANIEL-FAVORS: Well, I think if your 55 percent is informed by the principles of communities of interest, both existing and emerging communities of interest, then I think that you can strike gold. District plans should not divide populations and communities that have those common needs and interests as you noted.

And they can be drawn in ways that not just only consider census data, but they could also be informed by demographic studies, by surveys and sociological economic data to determine the shared social and economic characteristics of each community.

As we testified in 2010, some of those social and economic characteristics that should be considered include, but are certainly not limited to, income level diversity, educational backgrounds, housing patterns and living conditions, language and cultural characteristics, employment and economic patterns, health and environmental conditions.

All of these elements and pieces of data should be used to inform how these districts are shaped and they should be used to inform that 55 percent threshold that we are suggesting.

ASSEMBLY MEMBER GOODELL: I would agree with all of the comments that you made with the exception of an artificial percentage. And, I agree that our mission should be to avoid either cramming or cracking. And so, I would hope that

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as we move forward, we don't set artificial criteria, but look at all of the diverse factors that you mentioned, which I think are incredibly important.

I have one other question for any of the panelists. There's a lot of talk about the minority veto that's contained in the constitution. As you know, we for the first time in many years, at least a decade, have split houses with the Senate and the Assembly. We saw what happened when the Senate was under Republican control. We had small districts in New York, I'm sorry, small districts upstate, large districts downstate. The flip occurred in the Assembly. My district was the largest in terms of population. And the assembly districts in New York City were as small as they could be so they could squeeze out a couple of extra members.

If we eliminate the requirement that both parties agree that the redistricting is fundamentally fair, what would you suggest we do to protect the minority parties from being gerrymandered out of existence?

MS. LERNER: So, in my written testimony, I suggest that the way in which to alleviate those sorts of concerns for gerrymandering by either party in their own self interest, would be to ensure that the final maps must contain, the majority which would approve final maps, must include at least one unaffiliated member of the commission who, one would assume, does not have a particular political favorite. And therefore, would be representative of a class of voters who remain pretty much unrepresented in our process, which is the large number of unaffiliated voters. And so, I think that that would ensure a fairer and more open process in the final maps.

ASSEMBLY MEMBER GOODELL: Thank you, my team time is up, but I would note a lot of unaffiliated voters are anything but unaffiliated. Their only unaffiliation is their registration and, if we wanted to follow that process, we might want to consider having the commission representatives reflect the percentage of registered but unaffiliated voters. Thank you

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very much for your comments.

SENATOR GIANARIS: Thank you, assemblyman. And next we have Senator Gustavo Rivera.

SENATOR GUSTAVO RIVERA: Thank you. Thank you, senator. And thanks, everyone who is here today. My question is for Ms. Williams, a pleasure to see you, ma'am. You mentioned previously that the state needs to engage in additional outreach and participation for redistricting process. So I wanted to have you expand on that, beyond the hearing, what exactly do you mean?

MS. WILLIAMS: Yeah, I think this is an important point because I believe that people believe that the extension of outreach is just on the hearings, that you come and testify, and, that's outreach. We talk to the community. And, rather than having a process in which people are active participants in the process of drawing lines, and I'll do this by giving an example.

In a previous timeframe, I served on a local community board for nearly a decade,

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serving as a vice chair of our land use committee at that time, where we actually rezoned Bedford Stuyvesant. And in doing that process, there is the official process that happens, right, where the council actually puts it out and do the guidance and things of that nature.

But we did additional steps in the summer, before the process started. And those additional steps were walking through the neighborhood, talking to people and sort of creating -- and looking at what is existing, how people were using the space in different ways, in order to create the zoning that we now have.

The state can do a similar process and the commission and elected leaders should do a similar process as it pertains to redistricting. Certainly, I'm not suggesting y'all walk the state of New York, although that wrote be a great reality show.

ASSEMBLY MEMBER RIVERA: I commit to walking in my district, certainly, that's like you can walk around in my district.

MS. WILLIAMS: Right. But that we

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actively invite people as Lurie mentioned, sort of in this heightened period that we are of civic engagement and actively invite people that as we are preparing to draw maps and draw district lines, that you begin to give the commission, give that additional information on the communities that exist within the districts in order to keep them together as we are using the mapping technology.

So yes, technology is great, and everyone who knows me knows that, you know, that is something that I invest in and use. But, mapping software cannot tell you the break of a community that may be like, you know, different people living together or certain housing buildings and things of that nature, right. And so, I think that the commission, the elected leaders have to invite the public beyond public hearings, to actually participate in the process. I know that last time, we had draw your own maps, and that kind of software online, but actively invite people to participate in the process of drawing lines of their community for their

political power because people vote based upon their community. They vote based upon the resources and the things that they need within their community.

So making a redistricting process absent that community, absent that outreach, is taking out that life, that engagement that happens on a daily basis and also happens as it pertains to our politics.

ASSEMBLY MEMBER RIVERA: Would you agree then that also, that there needs to be a commitment from the commission that such participation is actually going to be taken into account in a real way, so it's not just ornamental?

MS. WILLIAMS: I would say, that is similar to my call in my testimony as well about making sure that the entire process has focused principles of equity and diversity. So I don't want to also, you know, hear commission members or elected say yes, we're committed to diversity, like I want to see a report specifically on how the staff, the vendors, and everybody that is

involved in this process, you know, demonstrates that commitment.

So, a line that I'm similar to say saying, I don't want to just see the mural in the press conference, I want to see the actual work that you did to demonstrate your commitment to those principles.

ASSEMBLY MEMBER RIVERA: Okay. Thank you. That's my time. Thank you, senator.

ASSEMBLY MEMBER ZEBROWSKI: Assembly Member Epstein.

ASSEMBLY MEMBER HARVEY EPSTEIN: I wa to thank the panelists. I want to thank the chairs for holdings this important hearing. I mean this is a really important topic and I think so few people actually know anything about redistricting. And I guess really, this goes to the crux of what we're trying to do is how do we engage people in a really meaningful conversation and where do we find people where they're at. And I'm wondering if we should be using existing systems and structures in place, like our CUNY and SUNY systems, our schools, you know, our

places of higher education, our places of worship instead of just having this traditional like come to a public hearing and talk about redistricting. And really how do people dig in deeper so we can have meaningful change and meaningful input. And I'm not sure it's geared to any specific panelist but I'd love to hear people's feedback.

MS. LERNER So, in the New York City redistricting, Common Cause developed a series of workshops along with partners to engage communities in a mapping exercise and thinking tangibly about what districts should look like. My favorite one was one we conducted in Sunset Park, where we have to have translators for both Spanish and Chinese.

I would certainly recommend to all of the elected officials who are here today that you could be leading similar discussions in your own districts. It was shocking to me for the New York City redistricting, that virtually none of the city council members engaged their constituents in that sort of a dialogue. And I would hope that, you know, the legislators would want to

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interact with their constituents, provide some services in helping them tangibly engage with the way in which people live, work and gather in their particular areas, which is a mapping process.

We are more than happy to share our experience with any legislators in leading those sorts of discussions, and that could then be handed to the commission. The commission itself should be encouraged to develop community mapping resources, not just technology, but guidelines for how to facilitate that sort of discussion.

MS. DANIEL-FLAVORS: But also I'd like to add to that, thank you so much for that, Susan. At the Center for Law and Social Justice, we, in collaboration with the members of the New York Voting Rights Consortium, Asian-American Legal Defense Fund and Latino Justice, engaged in a unity maps project over the past two cycles, where we came together for exactly that purpose. Not only to involve the community but to ensure that the community was clear about what the redistricting process is, add a voice in helping

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to determine, as Joy mentioned, where do our communities start and end, and it was one that was able to uphold principles of equity as it pertains to representation and fairness.

And so I think this is a process that certainly is one that various organizations have been involved in. And it's something that I think elected officials certainly could be doing more as it pertains to engaging your community members.

But organizations that are represented here and others that will be testifying later are already in the process of having those conversations. Support for that work would be wonderful. And being clear about value that communities bring to this process in the ways that allow them to determine what their communities look like I think is very, very important. And so that unity maps project is a project that is ongoing. And it's something that we will be doing again in this round, and they were literally able to create a set of New York State maps that respected and built upon the

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strength of the historically recognized racially protected groups under the Voting Rights Act. And we were able to increase the number of districts from [unintelligible] [01:12:21] Asian congressional district and kept communities of interest intact and avoided that typical cracking and packing of voters that I had mentioned earlier.

MR. HORNER: If I could just add one thing, on the colleges you referenced, I mean we have affiliates at a bunch of SUNY, CUNY and some private schools. And we found getting people engaged is hard because it's a pretty esoteric topic. And just by reading the state constitution, the rules are I guess could be best described as complicated.

But we, the last two cycles, we ran the name that district contest, which was a big hit on college campuses, one that became reasonably well known was Abraham Lincoln riding a vacuum cleaner in the cycle of 2002. And it was also a way though to sort of get people engaged and to talk about what happens.

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There was a district in, I think it was in 2002, where the map was drawn to cut out Hakeem Jefferies out of an assembly seat that he was seeking to run for. And I think we all know who he is now. So there's certainly ways to do it, but the maps are the tool, and getting it from the esoteric to real life has been certainly for us the challenge. We're planning another contest next year.

ASSEMBLY MEMBER EPSTEIN: Thank you. I think my time is up.

SENATOR GIANARIS: Okay. Thank you, assembly member. Next senator, Tom O'Mara.

ASSEMBLY MEMBER THOMAS F. O'MARA: Okay I think that's set now. Is that right? Can you hear me?

SENATOR GIANARIS: Yep.

ASSEMBLY MEMBER O'MARA: Okay. Thank you. And thank you to the panelists that are here today on this important topic, and I look forward to the next two rounds of panelists as well. I would note for the record that we did not receive a witness list for these witnesses until a

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quarter to 10:00 this morning, when this hearing started at 10:00. The witnesses have each referenced their written statements submitted. The minorities have not received those written statements. So I hope we do at some point and we'll be able to follow up with questioning of these witnesses if we deem it necessary.

Further, each of the panelists and each of the members that have spoken so far have discussed their concerns over the timeline here, the compressed timeline because of the census being delayed.

However, while money has been appropriated in this year's budget for the funding of the Independent Redistricting Commission, the majorities of the legislature have not released that money to the commission, therefore, they cannot hire executive directors, they have no resources to have an initial meeting and they have no resources to hire staff.

I just find that unconscionable in this compressed time frame that we're talking about, that these resources have not been released. The

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commission needs to get together because they need to pick two independent commissioners from amongst themselves. That needs to be done and there needs to be hiring of executive directors and staff. I would like the panelists here to please comment on your thoughts on why this funding has not been released, and do you think it's important that that money be released as soon as possible so that the commission's work can commence. Thank you.

MS. DANIEL-FAVORS: I guess I would just offer I do not know why the funds have not been released. It is untenable. And quite astounding that we are at this point of this process embarking on something this significant and the body charged with shepherding us through the process has not been properly funded. And I will leave it there.

MS. WILLIAMS: I will add that, you know, I understand, and given the pandemic that everyone is experiencing, that there are shifts and delays in all of our operations, and so I understand that. But here's where I think we can

move forward on this is I think the hearing today and in inviting us to participate and to express the concerns and also the principles that the commission, that the legislature and others will need to have in place in order to move forward is important.

But again, I know for a fact that government can move quick when it decides it wants to. And so in this instance, I think this is one issue, recognizing the timeline, recognizing the impact the pandemic has had on all of us, on all our normal operations and on our community operations, that we can quickly come together and that government and our leadership can quickly come together to execute a plan that we can begin to hire and execute an operation that will ensure that the state of New York has a fair, equitable census and redistricting process.

And so while, yes, I stand in agreement with Lurie and others that we are behind, I also know that with everybody committed to move forward, we can do so.

MR. HORNER: I'll just add, I guess from our perspective, yeah, the commission should get moving, the money should flow. Hopefully the hearing will act as a stimulant for that to happen. But as, senator, I don't know if you were here for my opening comments, but we were not big fans of the commission in the first place. I have to admit I am somewhat skeptical, but certainly there's no reason for them not to get moving and the money to flow and to hire the staff and then we'll get to see what happens with them. There's a lot of work that needs to be done.

We talked about getting the public involved. And there's no reason why the commission can't do some of that, even before they get the census dated to start collecting the kind of feedback that the Senate and Assembly is seeking today.

ASSEMBLY MEMBER O'MARA: Thank you. I would further note that none of the commission members are testifying today. My understanding is that they have not been requested to testify. My understanding is that Speaker Heastie's

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appointment, Elaine Frazier, has specifically requested to testify today and has been denied. I am somewhat skeptical of this hearing as a whole.

I am concerned with the lack of moving forward with the funding for this commission, the fact that the commission is not involved today, and I'm skeptical that the majority of the legislature want the commission to fail, so therefore the legislative majorities can then draw the lines themselves. Thank you, Chairman. Nothing further.

SENATOR GIANARIS: thank you, Senator O'Maraa. I will note that the testimony gets uploaded to the senate website as we receive it, so if you're interested in reviewing any of that, it's available instantaneously and I myself, as the co-chair of this hearing, only got the witnesses list last night. So sometimes it's not a conspiracy, it's just logistics working themselves through.

I believe that's the last legislator with questions so let me thank our first panel for their time and their input and I will hand it

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over to Assembly Member Zebrowski for the second panel.

ASSEMBLY MEMBER ZEBROWSKI: Thank yo

senator. Our second panel, I'll announce the names and give our folks running the hearing logistically the ability to get everybody up and running. We'll have Jennifer Wilson from the League of Women Voters, Arva Rice from the Urban League, Amy Torres from the Chinese-American Planning Council, Michael Li from the Brennan Center and Jose Perez from Latino Justice. So when everybody is up and ready, we will start with Jennifer Wilson from the League of Women Voters.

MS. JENNIFER WILSON, DEPUTY DIRECTOR, LEAGUE OF WOMEN VOTERS: Hi, can you guys all see and hear me? Okay. Fantastic.

ASSEMBLY MEMBER ZEBROWSKI: We can.

MS. WILSOM: Great. Well, thank you Senators Gianaris and Hoylman and Assembly Members Rodriguez and Zebrowski for the opportunity to testify today. I think it's great that we're starting this process so early. My

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name is Jennifer Wilson. I'm the deputy director of the League of Women Voters of New York State. And you may remember the League was actually one of the strong advocates in favor of 2014 constitutional amendment that created the new redistricting commission.

And we believe that the amendment was a significant improvement to the redistricting status quo that had the potential to fundamentally change elections in New York State. And we were not the only ones who believed this to be true. New York State voters were the ones who ultimately voted to approve the constitutional amendment.

Although we realize that some of our good government partners may be seeking to amend this process, our overwhelming interest here is that the process the people supported, be given the chance to work in the most transparent and inclusive manner possible. And we're primarily concerned with ensuring appropriate representation on the commission, keeping meetings open to the public, and allowing for

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ample community input, and providing assistance to the commission in a manner that allows them to remain independent, but also empowers them to fulfill their mission.

And in addition to those procedural concerns, we do recognize that there is an issue with the timing with respect to the release of the proposed maps and the June primary petitioning process. We don't believe that that needs to be a constitutional fix. We believe that can be done statutorily through the legislature to shorten the timeline for submitting the maps to the legislature. It doesn't have to be done through the constitution, especially considering if we did do it through the constitution, that wouldn't be in effect until January 1st of 2022 and at that point it's almost too late to have that make any sort of impact.

But outside of that, one of our chief concerns is still representation and in June of this year, we had actually sent a letter to all legislators and commission members that are currently seated commission members urging them

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to consider the need for greater gender and racial diversity on the commission.

Currently there is only one woman and no Latinx members that have been appointed to the ten-member commission. And, of course, we know that women make up more than 50 percent of New York's population and NALEAO has cited that more than 20 percent of New Yorkers identify as Latinx. We supported NALEAO Education Fund and also Latino Justice in their call for Latinx representation and believe that in order for the commission to truly be representative of all New Yorkers, these final two commissioners must embody New York State's population.

We are also very concerned over the undefined operational and procedural standards of the commission. We would urge the legislature to ensure that the commission adhere to open meetings laws and that the commission receive appropriate operational support that allows them to remain independent while they work to fulfill their mission.

In 2020-2021 budget, you allocated

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$750,000 for the commission through the Department of State, which Senator O'Mara mentioned previously, and we were very happy to see this budget allocation, but we were very confused as to why it was being made through the Department of State, considering that the commission is really supposed to work alongside the legislature and there really isn't supposed to be any sort of oversight or input from the governor.

We assumed that the allocation would have been paid out through the legislature because of this. And the commission is responsible for doing pretty everything itself, as Senator O'Mara mentioned, hiring its own staff, setting its own meetings, facilitating its own meeting space. And it could really benefit from assistance from an already operation a agency or the legislature.

In California, their Independent Citizens Redistricting Commission receives early assistance from the Secretary of State there. The California Secretary of State provides temporary

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staff and meeting space until the commission is fully up and running, and we think here in New York that could work really well, too. So either you or the Department of State could offer some sort of meeting space, some sort of temporary staff until the commission could be fully set up.

And finally, I want to drive home the importance of the ensuring that the commission stays on target with regard to appointing its final members and getting starting planning its meetings. Recent commissions, including the New York State Complete Count Commission and the New York State Public Campaign Financing Commission encountered serious issues because of delays in their operations and a lack of staff assistance. I'm not going to belabor those points, but I will say both commissions started with the best of intentions and were derailed because they didn't have any staff and they had very little assistance.

And that concludes my testimony. I want to thank you all again for holdings this hearing and we hope that you will review our full

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recommendations. We're very excited to see what our first independent redistricting commission will produce and we look forward to working alongside LATFOR and the new commission on ensuring ample public participation, public input and transparency in the state process. Thank you.

ASSEMBLY MEMBER ZEBROWSKI: Thank you very much. I announced second Arva Rice from the Urban League. I'm not sure I see that panelist up. I'll give it a second, if not, we'll go to the next person and come back.

MODERATOR: Not present.

ASSEMBLY MEMBER ZEBROWSKI: Not present okay. Next up we have Amy Torres from the Chinese-American Planning Council.

MS. AMY TORRES, DIRECTOR OF POLICY, CHINESE-AMERICAN PLANNING COUNCIL: Thank you. Good morning, everyone. Thank you to chairs and members of both committees for the opportunity to testify today. I'm just mahogany sure my volume is working. Yes, it appears that it is, for the opportunity to testify today. CPC is the nation's largest social services organization for Asian

Americans. We bridge social services to social change for over 60,000 low-income immigrant and Asian American and Pacific Islander New Yorkers each year. Our community members come from more than 40 countries, speaking 25 distinct languages and dialects. We provide over 50 contracted programs in 35 sites throughout Manhattan, Brooklyn and Queens. But we also serve a citywide population that commute to our site there.

Our services range from support, education [unintelligible] [01:27:41] empowerment and [unintelligible] [01:27:42] programs often [unintelligible] [01:27:43] in language [unintelligible] [01:27:45].

In addition to our direct services work, CPC conducts nonpartisan civic engagement and education across our sites each year. We've been very humble to join with many other organizations testifying today on census outreach awareness and education. And so for these reasons we feel well poised to comment on the impacts of reapportionment in our communities and again, we appreciate the opportunity to share our

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I want to review a little bit some of our experience and some of what we've been looking at for self-response to date, and then share a few top line recommendations of ours. The neighborhoods that CPC serves and the communities that we serve, these are communities that are historically marginalized and alienated from the political process. Before the census self-response period began, the federal bureau's own analysis found that Asian Americans and Pacific-Islanders were 55 percent less likely to fill out the census, 38 percent unfamiliar with the census and 41 percent concerned that the census would be used against them, forecasting that APIs would be the least likely of all immigrant groups to respond.

And indeed, in our own census outreach and awareness efforts, we found that many of these sentiments have only deepened between the xenophobic and anti-immigrant policies that have come out at the federal level, particularly once the implementation of public charge happened,

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which was very close to the start of the self-response period, as well as the rising hate crimes and related incidents in the preceding and early months of the COVID-19 pandemic where even before cases were defected in the United States, Asian Americans and particularly Chinese Americans reported verbal harassment, public shunning and customer discrimination at Asian-serving businesses.

So as of July 8th, the July 8, 2020 reporting period from the bureau, Asians in New York City overall lagged below the citywide self-response average. The citywide response rate for Asians is growing over time, but majority Asian tracts in certain neighborhood remain significantly below city and borough wide averages.

For example, in South Ozone Park in Richmond Hill, which is home to significant South Asian and Indo-Caribbean communities response rates are over ten percent behind city and borough wide averages. We see similar lags in Brooklyn, which has as borough has historically

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gone undercounted and in neighborhoods like Bensonhurst and Sunset Park and Sheepshead Bay. They're also falling significantly behind citywide average, which is behind the nationwide average as well.

And when we look outside New York City, we know new migration trends in asylee and refugee resettlement show that Asian American communities are growing, particularly in regions where those communities haven't historically settled, so Greater Utica and Rome, Buffalo, Albany, Syracuse and Rochester. And so we understand that the COVID-19 pandemic has cause both necessary operational and unintended delays to census operations and response rates, so we really want to issue two initial recommendations.

One is encouraging the final moment point of remaining seats to be timely and more reflective of communities across the state and to commit to a robust public participation schedule.

As already mentioned, this is a new process. It's untested. But the hope is that with the right composition and engagement of the

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public, the resulting map will more closely reflect the voters. The racial and gender diversity of seated commissioners has raised flags for advocates, a lot of which has been mentioned already. And without tokenizing the identity of commissioners appointed to date, we hope that the existing appointees will consider filling the final spots with commissioners who are reflective, whether that's by geography, by residency or experience of diverse and marginalized communities.

That's impossible to deal with two remaining seats, but as Ms. Williams mentioned in her testimony, there are also aides and staff engaged in this work and we hope for a transparent process so that those individuals more closely reflect communities of color and minority and marginalized identities.

We also urge a commitment to a robust public participation schedule and process. At this moment, community-based organizations and civic associations are stretched extremely thin. These groups already face limited resources, even

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in the best of times, but even more so as austerity budgets have forced many of our organizations in response to the economic downturn to downsize. And as these groups meeting rising service demands and priorities in their communities, we're finding less and less capacity to be able to challenge decisions and weigh-in in the public process so we really encourage, as many of my colleagues earlier testified, a process that invites the community in, in ways that are easy for them.

And that may mean going beyond the minimum number of geographic hearings to not only meet those required geographic minimums but also to bring together community and interest groups that have been deeply involved to date. The community surveys that happened during the unity map process, which were described earlier come to mind. Other organizations like CPC were part of the Asian Community Coalition on Redistricting and Democracy, the ACCORD Coalition and these invited the public in, in ways where we could block-by-block understand what the process would

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mean for us and put in meaningful engagement not just from experts but from actual community members themselves.

So we're thrilled to witnesses this new process. We appreciate the opportunity to testify, and we're humbled to do so amongst so many great and amazing advocates. Thank you.

ASSEMBLY MEMBER ZEBROWSKI: Thank you. Next up, we have Michael Li from the Brennan Center.

MR. MICHAEL LI, SENIOR COUNSEL, BRENNAN CENTER FOR JUSTICE: Thank you. Thank you to the committees for this opportunity to testify. New York will face a number of challenges when maps are redrawn in 2021, both because of COVID and because it will be using a new system to draw maps for the first time, and I want to talk about four challenges in particular.

The first is, as several other people have mentioned, redistricting will be delayed because of COVID. States normally get the census data that they use to draw districts in February or March after the census. That schedule was been

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pushed back because of census delays and it could potentially could be pushed back further because of the ongoing COVID pandemic elsewhere in the country.

But right now what those delays mean is that states won't get the data until mid-June to July of 2021, which means that map-drawing effectively will not to be able start until late summer at the very earliest.

That will make it is virtually impossible for the commission to submit meaningful draft maps by the September 15th deadline in the constitution, and it may be hard for the commission to meet the January 15th deadline for submitting final maps to the legislature. And those dates may need to be adjusted in some way.

And also because the New York process is iterative, the legislature could reject the first set of maps, if they are not approved, then the commission will have to draw a second sets of maps and they also -- it will have time to do that but that will bump up very closely against

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the filing deadline for the 2022 primary and that may need to be moved. In an outside world, it's possible that the data of the primary might have to be moved or you might want to consider that to allow a robust redistricting process to take place.

And the reason that you particularly want a robust redistricting process relates to second challenge, which is that New York has to unwind some fairly bad maps from last decade, particularly in the legislature where on the Senate side there's a significant bias in favor of republicans on the map because, as some speakers have already talked about, the under population of districts upstate, the overpopulation of districts in the New York City area.

The map was legal but it pushed things to the very edge of legality. And by some measures, New York City could support up to two additional senate seats, if you were using the aggressiveness of those population variances. So something similar happened on the Assembly side

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but it didn't really affect control of the body as much.

The third challenge is significant demographic change in New York. New York has grown this past decade, but barely compared to other states. The state, in fact, has lost over 620,000 white residents, while the black population has grown a little bit. The state, the fact that the state is growing at all is duty increases in its Latino and its Asian populations, mostly in the New York City and the downstate regions of the state.

Right now the state is the projected to lose one congressional district. It may, it would lose more if it weren't for that Latino and Asian growth. The state's electorate has also become considerably more diverse. The white citizen voting age population has decreased by about 50,000. Meanwhile, you have about 200,000 more black voters, 290,000 Asian voters and a whopping 540,000 Latino voters. In other words, all of the increase in eligible voters this last decade was attributable to people of color, which gets to

the fourth challenge.

Well, let me stop there. Because of that, I think it's important to get public input, and that's something that can happen right now. When undoing these gerrymandders and figuring out what the map should look like, it's really important to get public input and public feedback and that's something that the commission could absolutely do now and start hearings around the state in order to get that public input.

The fourth challenge which, I will mention just briefly is to make sure that the commission is robustly funded to be able to do its work. I realize that's a special challenge in this current fiscal landscape, but the process will not work, especially for the first time out for the commission if the commission doesn't have the resources to have field hearings and to have adequate staff and to be able to respond to the community.

So with that, thank you again for this opportunity to testify. We're happy to follow up on any of these issues.

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ASSEMBLY MEMBER ZEBROWSKI: Thanks very much. Next up we have Jose Perez from Latino Justice.

MR. JOSE PEREZ, DEPUTY GENERAL COUNSEL, LATINO JUSTICE PRLDEF: Good morning, everyone. Thank you for this opportunity to testify. Senator Gianaris, Hoylman, Assemblyman Zebrowski and Rodriguez and other elected officials. On behalf of Latino Justice PRLDEF, we were founded, some of you may remember us more as the Puerto Rican Legal Defense and Education Fund founded back in 1972. Democracy, civic engagement, and access for Latinos to be able to participate in the electoral and democratic process have been cornerstones of our work since our founding almost 50 years ago.

I think you heard references in the first panel to litigation involving the application of Section 5 of the Voting Rights Act to redistricting here in New York City. That was lawsuits brought by a group of racial civil rights groups known as the Unity Coalition. PRLDEF back in that day was among the leaders in

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those two lawsuits Herron v. Koch and Gerene-Valentin v. Koch, which dealt with the city's attempt to adapt new municipal districts without first getting preclearance from the Department of Justice.

The courts enjoined the primary days before the September primary back in 2011. We have a long history of continuing to engage in voting rights and redistricting litigation. After the last round, after in 2011 we participated again with our Unity partners at the Asian-American Legal Defense Fund and the Medgar Evers Center Law for Social Justice, enjoining and intervening in the Favors lawsuit again where LATFOR had not yet drawn congressional districts.

Our unity map, which was largely a joint community-driven effort respecting communities of color, communities of interest, not attempting to disenfranchise, but working united to preserve our communities and afford them their opportunity to elect candidates of their own choosing was largely adopted by the federal court balk in 2011-12.

There was a second phase to that Favors litigation or Favors 2 as it was called, which I think Michael referred to, again, the attempt to add a senate district, a 63rd senate district was drawn notwithstanding that all the population growth was downstate and in the Bronx and that's where an additional senate district should have been drawn. However, it was drawn up in the Albany Capital District area. Although the court ultimately sustained that district, again it was, as I think Michael alluded to, on the cutting edge of passing constitutional and legal muster.

Going from there, so in terms of going forward, and you've heard already this repeatedly, and I want to thank Jennifer on behalf of the League of Women Voters for the letter that they sent and made reference to this, the fact that our elected leadership has failed to appoint or nominate yet one Latino among the first eight appointments, its supposed so-called independent redistricting commission, is a travesty. How could this happen in today's day and age? It's inexcusable.

I appreciate and applaud the efforts of some of those that are this call, sitting on the panel, Assemblyman Rodriguez, Sepulveda and others who have joined with some of the other panelists. You heard from Juan Rosa and the NALEAO Educational Fund. You will hear from Eddie Cuesta from Dominicanos USA. We have joined together to express our outrage in the failure of our elected leadership to recognized and include Latinos in this political process. And that's what it is. It's not independent. It's political. Let's get real. Let's change the name as Susan Lerner mentioned earlier.

We have joined with our partners in sending letters. We've identified, we've done the homework of looking for the proverbial needle in the haystack, looking for those, are there independent Latinos in New York State? Well, we found at least five eminently qualified that we've identified and provided to the leadership and to the commission. And we urge members of both houses, the leadership, to consider and do everything in your power so that the existing

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eight members fairly evaluate, assess and vote to support the appointment of a Latino to this commission. Failure to have a Latino, and you have two independent spots right now. They should be permitted to testify, they should be included in order that we have a voice in this process.

The other things I wanted to mention is there are some changes, again that were touched upon by the first panel, Susan Lerner, I know Common Cause is supporting. One thing was not mentioned in terms of changing some of this outdated, old language in the constitution, there is currently a term called excluding aliens still in language in Article 3, Section 5.

As a Latino Civil Rights Legal Defense Fund uniquely cognizant of the diversity of immigrant statuses of our communities, we want to ensure that all New Yorkers counted and included during reapportionment and not limited to voting age population. The Supreme Court included that everyone counts. One person, one vote, as Justice Ginsburg eloquently cited in the Evenwel case. So we urge that that language excluding aliens which

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is more reflective of the administration and the politics emanating from Washington, that that should not be countenanced by a state as inclusive and diverse as New York.

So again, I would urge transparency. I would urge inclusion, respectful of communities of color and communities of interest, and not Withstanding the Shelby County striking down of the Section 5 preclearing, the principles of the Voting Rights Act Section 2 still apply and communities of color and minority communities rights must be respected. Otherwise, organizations such as Latino Justice will continue to be in business and back in the courts. Thank you.

ASSEMBLY MEMBER ZEBROWSKI: Thank you very much. And I want to thank the panel for your testimony today and for your insights. We do have an assembly member who wishes to ask a question. Assembly member Harvey Epstein.

ASSEMBLY MEMBER EPSTEIN: Again, I want to thank all panelists on really good questions. And Jose, to you, what do you think we need to do

to push, to ensure that the Latino get appropriate representation on the commission, and you know, the things that you think we otherwise should be doing to ensure the diversity of representation across this state to ensure that we include those voices that are being excluded? Is it a letter to the governor? Is it something you guys need us to do? Or do you feel you've bean pushing on your own and you think that you're going to be successful?

MR. PEREZ: We, again, there have been its sent by -- and not just Latino groups, again, groups such as the League of Women Voters also reached out and have identified this, Assemblyman Epstein. What I think is again was alluded to in the earlier panel, for in the future, inclusion in the process, why weren't we invited to be part of the discussions on these things. If this is going to be an independent redistricting commission, maybe we should revisit, you know, this is not an independent redistricting commission if the political leaders are appointing the individuals.

Are we going to be part of that discussion? We can make suggestions. We did the work and we've identified candidates, which whom I understand are being evaluated and perhaps then being considered, but given it's the existing eight members that vote upon them, you as an elected official on behalf of your constituents, communicate with the existing commissioners. They have to do that. Communicate this to Speaker Heastie, technically the leader of your house, that this is imperative that they consider and answer, you know, identify suitable candidates.

We did homework. We spent hours and we searched and we found at least five, so we made it easy. We identified people. Lawyers, I'm a lawyer, right, doctors, community leaders. It's imperative that they be able to bring their life experience.

The other part of it is language. I mean everything is in English. Where is the bilingual? We're going to be multi-cultural. Language accessibility has to be recognized, notice of these proceedings, notice of when their review of

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candidates being considered has to be multicultural, culturally sensitive and language accessible.

ASSEMBLY MEMBER EPSTEIN: So you're saying that the materials that they're publishing are not accessible in multiple languages?

MR. PEREZ: Well, if they were, I mean, this is going forward, again, with the initial appointments, there were no public notices that the speaker or the senate leaders were considering who they were accounting. Were there meetings? Were we -- we were not invited.

ASSEMBLY MEMBER EPSTEIN: Right.

MR. PEREZ: If there were meetings for consideration. So that's something. Were members of the House, members of the Assembly or the Senate included or asked to weigh in or to do this? Probably, I think not. So again, if you were not aware of that, then clearly you were not apprized, or saying can you make suggestions it? It should be an inclusive process. Folks, the members of the Assembly and the Senate should be able to make recommendations and you all,

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representing your constituents and hearing from advocates and organizations such as ours can share our insights or comments or make suggestions and really make this a true democratic participatory process.

ASSEMBLY MEMBER EPSTEIN: So you're saying some kind of like public notice for, hey, this is a commission, we want applicants that express the diversity of New York and have a deadline for people to apply, to submit and then have a pool that they could go to.

MR. PEREZ: Right. That would be more akin to a true independent, citizen independent commission, much as California and some other states have adopted, where folks can apply publicly. But if it's going to be in the existing structure, again then our leaders I think need to hear from their constituents and their members.

ASSEMBLY MEMBER EPSTEIN: Right. Well, very helpful. Thank you for testifying and being here today.

MR. PEREZ: Good to see you again, my friend.

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ASSEMBLY MEMBER EPSTEIN: You too. Alright. Bye-bye.

SENATOR GIANARIS: Thank you. Next, we have Senator Gustavo Rivera.

SENATOR RIVERA: Thank you, senator. Let me turn on my video here. It's not allowing me to start the video but I'll I guess I'll speak until it does. You all can hear me, correct?

SENATOR GIANARIS: Yes.

SENATOR RIVERA: Good. All right. So this is actually to, there we go. This is to, I guess the CPC, Latino Justice and Brennan Center, I guess you can all chime in. You mentioned both we're talking about Latino, Latinx, Latino communities and AAIPI communities, but also some of their undercounts is obviously a concern that was shared by the first panel. And I certainly share it. In the communities that I represent, the undercounted is definitely, we're behind.

But can you say more how that may affect the existing districts in the future and also, so future ones that are drawn that retain kind of core of prior districts? Can you talk a little

bit about how that would break down. CPC maybe first?

MS. TORRES: Sure, I can go first. Thank you, Senator Rivera. So in our, testimony we pulled some analysis that the Asian American Federation had done, which was very helpful to our understanding of where counts are to date. And I mentioned some neighborhoods in Queens where the count is significantly behind the citywide self-response rate.

In that same area where we have a high and dense population of South Asians, Indian Americans and Indo Caribbean Americans is also a place where some of those, the core parts of those communities are actually split into four or five assembly districts. And so when we think about the potential for undercount, the existing core of -- the core of existing districts and understanding that some of the undercounted communities are on the margins of those districts, the undercount serves to further marginalize them so they continue that fracturing effect.

And so I don't have the analysis of what the full count of other communities is that district is in front of me right now. But I think our concern is that without a full public participation process where one, for those of us who are continuing to work on get out the count efforts to make sure that the same organizations remain at the table and those same community groups remain at the table so that when we talk about, line by line, where these communities live that there's a full public record that reflects.

And also we need to understand that many of these communities that are facing undercounts, it's also because of a lot of historic displacement that these communities have experienced but there's also going to be significant displacement as a fallout of the COVID-19 pandemic.

ASSEMBLY MEMBER RIVERA: Got you. Anybody else want to chime in? Obviously, you've covered it, you've covered it well, Ms. Torres. Thank you. And thank you all for being part of this process. Thank you, senator.

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SENATOR GIANARIS: Thank you, senator Rivera. In the absence of a member of the Assembly, we also have Senator Tom O'Mara.

SENATOR O'MARA: Thank you, Chairman. I just have a follow-up question for I think it was Jose, who was speaking regarding candidates that have been put forward for the two open commission spots and who was evaluating those. I'm not aware of any candidates that have been put forward by any of the groups that are testifying here today. But I guess I would ask if you know who those individuals are that have been submitted and who they've been submitted to.

MR. PEREZ: Senator, Dominicanos USA, NALEAO Educational Fund and Latino Justice identified five. We issued a letter, I believe, in early June, again, critiquing the failure to have a Latino appointed to the commission. As part of that, it's a public press release. A letter was sent to both the Puerto Rican-Hispanic Task Force and the legislative leadership in both the Assembly and the Senate and the Governor as well.

And in part of that letter, we also identified five candidates that we had vetted and cleared. So when I say perhaps in terms of, I don't want to get into semantics but we identified or put together a short list that we had already identified and cleared five individuals who are independent, independent registered voters, non-Republican, non-Democratic, and identified these as potential candidates for consideration. And it is my understanding that the leadership has been, that those names have been shared and are considering them.

SENATOR O'MARA: You had --

MR. PEREZ: But that release, that letter, the list, that is public, so you should have. I'm happy to send it to you. It's publicized by all the organizations that I mentioned earlier.

SENATOR O'MARA: Okay. Do you think it would have been a good idea to perhaps have those candidates maybe testify at this hearing today?

MR. PEREZ: Possibly. Again, the

candidates themselves, and when I say -- and just to go back, when I say the leadership, it was sent to both the majority the minority leadership and we've had discussions with both the minority, the Republican leadership, as well as the senate and the Assembly Democratic leadership so it's both houses. This is not a one side, given that there's two final spots to be filled. Whether these candidates, given, if they are not being idea or doing that, would they share I think the outrage that I expressed earlier that not a Latino could do that, to convey that, if you need repetition, then that would clearly be helpful.

SENATOR O'MARA: Okay. Thank you very much. I'm set here.

SENATOR GIANARIS: Thank you, senator.

ASSEMBLY MEMBER ZEBROWSKI: All right, well, I want to thank the panel again for your testimony today. In the absence of any other senators or assembly members, Senator Gianaris, I'll kick it over to you for the third panel.

SENATOR GIANARIS: Thank you, assembly member. And for our third and final panel of the

day, we have Jeff Wice from New York Law School's Census and Redistricting Institute, Eddie Cuesta, from Dominicanos USA, Tom Speaker from Reinvent Albany and Rachel Bloom from the Citizens Union. We will begin with Jeff Wice.

MR. JEFF WICE, PROFESSOR, NEW YORK LAW SCHOOL CENSUS & REDISTRICTING INSTITUTE: Okay thought I was live on screen. Sorry. Thanks very much for this opportunity. Let me get my screen justice here adjusted here a bit. Well, it's a pleasure to be addressing you this morning on redistricting. Again my name is Jeff Wice. I am a senior fellow and adjunct professor at New York Law School, where I'm heading up a new institute on census and redistricting. We created a redistricting roundtable to engage the public, veterans, experts, and new organizations with everything redistricting, especially with education, training and involving the public.

It's been my privilege in the past to have worked for five assembly speakers and four democratic senate leaders, with the last four as a staff or counsel, and it's a pleasure to be

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providing information to you. I am not advocating or presenting a particular point of view, but want to suggest a few ideas in light of the COVID caused delay in the census delivery and the state constitution. I will submit a written statement, but I'll submit the National [unintelligible] [01:56:42] recently published redistricting red book, which I was a coauthor and coeditor. That's a [unintelligible] [01:56:51] and staff primer on redistricting and will answer many of the legal questions that came up earlier in this hearing.

And I'll also provide a copy of a recently published primer on the New York State redistricting process that New York Law School published last month that walks people through the current new constitutional scheme.

Since the pandemic hit and the Census Bureau has had to delay its census-taking process and the expected delay in providing redistricting data to the states, I've also been working with other states similarly situated including California, New Jersey, Virginia, which have much tighter time frames than New York.

I'm going to suggest that there are three different options that the legislature can consider. The first is to work with and urge the commission to move up deadlines without a constitutional amendment and to enact chapter laws that will accommodate the schedule. A second approach could be to develop basic constitutional amendment to deal with some of the calendar dates.

And then a third option would be a much more comprehensive approach to amend the constitution to change the 2022 dates involved, make other reforms that, as other before me mentioned could include creating a bipartisan commission with a final authority and a neutral high tiebreaker, similar to the New Jersey scheme, second, creating a commission with final authority and being fully independent of the legislature, similar to California. Other changes can include prioritizing the criteria used for redistricting, changing the commission's rules on voting, adding the prison reallocation law to the constitution, changing the standard of

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traditional review to make, verify the burdens of proof when challenging redistricting plans. And there are numerous other changes that could be made if the thought is to go beyond simply fixing the dates.

In light of the delay, the current plan will not provide the data to the state until sometime in June or July 2021. Under the current framework, this gives the commission only five months to submit its first set of plans, leaving the commission with only about 45 days to conclude its work or as soon as practicable thereafter, in the words of the constitution.

The commission can't expedite its work after the date arrives next summer, still meet deadlines in 2021, but make changes in the political calendar. My colleague and friend Todd Breitbart, a former state senate redistricting staffer, and I have looked at the calendar and would suggest that if the dates for the commission and the legislature can be moved up a bit, that a primary can still be held on June 28th with the first day to circulate petitions

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would be March 25th, the last date for filing petitions on April 19th, leaving a 25-day petition period, reducing the number of signatures required and having a primary on June 28th.

The congressional primary in 2012 was in the spring. This commission amendment was adopted in 2012 originally and approved 2014 with full knowledge that there was going to be a problem. So I think I've worked out a schedule that could accommodate this.

You can find a much more detailed analysis of all the suggestions others and I have made about constitutional amendments in a book chapter called "New York's Broken Constitution" from the 2016 SUNY press book, the title of our chapter was "These Seats Cannot be Saved". But we looked at the entire recent history of redistricting in New York and ways to make further changes.

Please don't hesitate to call me for further assistance as you develop either chapter amendments or revisions to the 2014 amendment and

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it's a pleasure seeing some of the old colleagues and friends again. Thank you.

SENATOR GIANARIS: Thank you, Jeff. It's great to have your experienced opinion on this matter. Eddie Cuesta from Dominicanos USA.

MR. EDDIE CUESTA, EXECUTIVE DIRECTOR, DOMINICANOS USA: Greetings. And thank you, Chair Gianaris, Rodrigeuz, Hoylman, Zebrowski, and fellow committee members for providing us with the opportunity to testify on this important issue. My name is Eddie Cuesta, executive director of Dominicanos USA, a nonpartisan in a nonpartisan organization committed to the civic, social and economic integration of the Dominican American into all facets of the American life.

DUSA advocates and strives to ensure to every U.S. citizen is able to freely and easily able to exercise their civic rights, realize their full potential and capitalize on the opportunities the U.S. has to offer. Our contribution to making this vision a reality begins with our direct and grass root work the in Dominican American community. Domincanos USA is

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here today because the New York State redistricting process is intimately tied to our representative democracy, which is essential to the progress of our growing important population. We make up a significant portion of New York's largest and diverse Latino population. According to the 2017 estimate from the Census Bureau, there are over 2 million Dominicans or people of Dominican descent living in the United States.

In New York State and New York City, the population estimates are 872,000 and 720,000 respectively. The 720,000 Dominicans in New York City accounts for more than one of every nine city residents, 12 percent, and they also account for 29 percent of the Latino in the city. The 355,000 Dominicans in the Bronx account for nearly one of every four, 24 percent can [unintelligible] [02:02:52] of 43 percent of the Latino borough residents, making the Bronx the U.S. county with by far the largest Dominican population.

Considering the magnitude of the Dominican population in New York and of the

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contribution Latinos as a whole to our great state, we are clearly dismayed to hear that not a single Latino was pointed to New York State during the [unintelligible] [02:03:11] redistricting commission, as has been said in this panel.

It is essential that this commission is as diverse as practically possible as stated in its legal guidelines because representation without such an essential democracy process will help produce political maps which provide Latinos a fair opportunity to elect the candidates of their choice, both for candidates that look like them and candidates that share their experiences.

In an attempt to remedy this oversight well join, as was mentioned in this panel, and the previous panel, with our partners at the NALEAO Educational Fund and Latino Justice PRLDEF, at the request of the Puerto Rican and Hispanic Task Force to find and recommend eminently qualified Latinos, candidates to fill the remaining two seats open on the commission.

After an intense two months of scouring

the entire state, we found five wonderful candidates and have shared with both minority and majority leaders in both legislative houses, as has been mentioned previously. This process was not easy and we believe that the current legal structure disproportionately limits the appointment and participation of Latinos to this commission.

Dominicanos USA believes that the application and selection process for members of the redistricting commission, as noted in the body of law that form the IRC, ones we saw in the commission will reflect the geography, racial, ethics, gender and national diversity of the political jurisdiction.

The current qualification makes it nearly impossible for Dominicans to participate directly in this process. While we firmly state by the importance of appointing candidates that have no conflict of interest, we do find they should some exceptions to this rule. Thus we urge the first eight commissioners to select qualified Latinos for the remaining seats.

Lastly, considering the current state of our public health and the COVID-19 pandemic, it is important that the commission make the 12 hearings it is mandated to hold accessible to all communities. We hope that this can be done virtually in order to mitigate the spread of the COVID-19 virus if in-person hearings are not possible in the future.

Historically, as you may know, the redistricting process have been intentionally utilized to suppress the electoral power of communities of interest, like Dominicans. We have an opportunity to help ensure fair redistricting process by appointing more Latinos to the commission and by making the process as accessible as possible to all communities in New York State.

We have been at the ground to make sure that the Dominican communities involved in our nation's democracy process and look forward to doing the same for redistricting. Thank you again for this opportunity to testify. We know you share our goals of a fair redistricting process

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to allow all New Yorkers a meaningful opportunity to participate as a result of maps that provide underrepresented New Yorkers an opportunity to elect the candidates their choice. We look forward to working with you to achieve this important goal. Thank you again.

SENATOR GIANARIS: Thank you, Eddie. Next, we have Tom Speaker from Reinvent Albany.

MR. TOM SPEAKER, POLICY ANALYST, REINVENT ALBANY: Good morning. My name is Tom Speaker and I'm a policy analyst for Reinvent Albany. Reinvent Albany advocates for open and accountable government in New York State. We thank the Senate and Assembly for holdings this hearing today on redistricting, the first hearing on this topic for the 2022 cycle and for all the hearings we'll be holdings over the coming week.

So today we call on the legislature to focus their efforts on helping the redistricting commission function properly, rather than making major structural changes to the redistricting process. While we recognize that the redistricting process needs improvement, the

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earliest constitutional changes would take effect after voter approval in November 2021, which we believe to be too far along in the process of drawing district lines.

The first passage of a constitutional amendment would need to be done by the legislature in the next couple weeks. While the public discussion around redistricting has only started in earnest with this hearing today major changes to redistricting policy should only be made after the public has had sufficient time to weigh in. The constitutional amendment passed in 2014 is not perfect, but it was approved by the voters and is the only feasible framework for drawing lines for 2022, given the current time limitations.

That said, we believe that statutory changes could and should be made to the redistricting commission's timeframes to address the consolidated June primary date and delays in census collection data related to COVID-19. These ministerial changes can be made via statute and would provide the commission guidance on how to

proceed during the cycle while ensuring adequate time for public hearings and review.

We also support the League of Women Voters of New York State's request to ensure that the commission is fully equipped with both funding and staff and that the funding that was made available is released as soon as possible. There should also be a greater clarity around the application of the open meetings law and the freedom of information law to the commission.

Lastly, the commission must work to appoint its final two non-affiliated commissioners so that planning can finally begin. It is important for public trust as the commission begin its work soon and lay out an open roadmap for how this redistricting cycle will unfold.

So while discussion of changes is warranted, we believe that these issues should be considered when there is more time for thoughtful public discussion and review. Changing redistricting midstream would be disruptive and potentially damage public confidence in the

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process. Consideration of larger structural changes should only be made with more time for public input. That's all we have, so thank you for the opportunity to speak today.

SENATOR GIANARIS: Thank you, Tom. And last but certainly not least, Rachel Bloom from Citizens Union.

MS. RACHEL BLOOM, DIRECTOR OF PUBLIC POLICY, CITIZENS UNION: Hello. Thank you for having me. I know that you've heard a lot of people already today, and I'm going to try and not be as repetitive. So I am representing Citizens Union, and we are very excited to be here talking about, for the first time in this cycle, about redistricting with you, but I'm sure there are many more to come. Particularly right now with so much that's going on, we are thankful for you for having this hearing and shining a light on it.

So eight years ago, when lawmakers placed on the ballot the biggest reform to redistricting in decades, received the decisive support of New Yorkers, and it created a more

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fair and open redistricting process. Having said all of that, the amendment also called for extensive public hearings and the release of maps and other data which would allow the members of the public to draw their own maps, thus fostering public participation. As we head into this process for the first time, it's exciting but there are also challenges we face, and I'm going to try and run through these.

First, as we obviously all know, it's a new and yet untested process. We have to establish the commission, including staffing. We are excited that the legislature allocated $750,000 for the budget, and urge them to get going with the creation and staffing and appointing an executive director.

We call on the commissioners to reach an agreement on their picks as soon as possible, and as they consider filling the two remaining vacancies, we note that according to the constitution, the commission should reflect the diversity of the residents of the state. And with that, we amplify those who spoke before us,

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noting that there's only one woman on the commission and no Latinx commissioners, which does not as at the moment seem reflective of New York State.

Next, I'm actually going to skip ahead to something and go back to this if I have time. Our third, what was originally our most important point is that we oppose any process which seeks to amend the state constitution to address the 2022 redistricting cycle. The 2014 revision was a result of a long process of deliberation, public input and media coverage.

Changing the constitution without public notice during a last minute session would be counter to the objective of an open and fair redistricting process, especially since timeline problems we believe can be solved through legislative action and do not need to happen merely through constitutional amendment. The current redistricting process is not perfect. There are things that we had hoped the 2014 amendment would have included, more improvements to the process. But we very much supported the

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final version as an important opportunity to fix a rigged system.

We believe the public, which strongly supported the 2014 amendment, should be given the chance to see those amendments implemented for the first time. A thoughtful debate on the merits and drawbacks of the process should follow ahead of next redistricting process.

Changes should not be made during a redistricting process in the current highly rushed timeline. We are especially concerned by any attempts to eliminate the bipartisan nature of the current redistricting process, either by changing the special voting rules on the commission or the needed majority in legislature in case of one-party control. That would contradict the intent of 2014 amendment.

We have advocated for fair redistricting for many decades, during which time we have watched as one party or the other sought to reduce by gerrymander the voting rights of supporters of the opposing party. The goal of fair redistricting for every person's vote to

have equal value, regardless of party affiliation. We are concerned that any process which seeks to amend the constitution at this moment would create confusion, limit public input and will not influence the timeline.

The earliest that an amendment can take affect is January 1, 2022, well past the when commission is set to require its preliminary plan for public comment and on the same day when it is supposed to present its first plan to the legislature. The commission must be able to operate with full knowledge of what criteria it needs to follow.

If amendments are placed on ballot, the commission will not know until November which constitutional provisions would be in effect. If there is a change in January, the commission would have to operate would have to operate with different criteria and possibly produce new maps.

The tight timing would greatly limit, if not exclude public input on revised plans. And if there are pending amendments, we doubt members of the public would be able to provide meaningful

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input to the process. This may also compound the risk of lawsuits, both during and after the process. We fear this will delay the process rather than expedite it.

And with that I will be submitting my written testimony which has more in it, which cannot be contained in these five minutes. And I just end it by urging the legislature to keep the redistricting process set forth in the 2014 amendment intact for the upcoming redistricting cycle. Thank you.

SENATOR GIANARIS: Thank you. And before I go to questions, let me just point out the irony for those who say that the current process was subject to great public input and no vote. Anything that would happen now would also be subject to the exact same process. It would be at least a year plus before the public would get to opine on it and it would be the same vote that would be known in November of '21, even if it would take effect in January, so the commission would have full knowledge for two months about what the changes would be. With that Senator

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Gustavo Rivera is first on this.

SENATOR RIVERA: Thank you, sir. All right, thank you all for being here. Jeff, it is good to see you and I've worked with this gentleman before, and obviously good to see the rest of the panelists, Eddie, good to you as well. But Jeff, I wanted for you to -- you took some time during your testimony to talk about the timeline that, because obviously we are under constraints as far as what the timeline would be, and I want to go a little bit deeper into that. Because obviously our choices are limited because of when the primary is set and what the amendment says. I voted against it. That's neither here nor there. It is reality. So tell us a little bit more about the timeline that you think could potentially work, as far as how it would breakdown.

MR. WICE: That's a great question. Without going to the constitutional amendment issue, I think the simplest way of approaching things is to first persuade the commission, once it's up and running, to work as expeditiously as

possible, to have everything it can possibly do ready to go at the time the state receives the census data, where if Congress approves, will be mow later than July 30th of 2021 and possibly or probably earlier in July, if not late June. The Census Bureau is still working out that schedule.

Having said that, if the data comes, you know, as the late case scenario, on July 30th, the commission needs to upload and analyze the data, it needs to work out the kinks. It takes a few weeks to do that. To look at the mal-apportionment of current districts and the new populations, determine where districts are over or under the ideal population size. Then it's, the commission is required to hold a series of 12 hearings throughout the state. I looked back at recent schedules --

ASSEMBLY MEMBER RIVERA: Sorry to interrupt. So that 12 hearings, that is a requirement that exists in law or in the --

MR. WICE: In the constitution. The actual cities and counties are listed in the constitution and it's similar to the hearings

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that were held ten years ago and 20 years ago, when each series of hearings went for about two and a half weeks. Although, to be more expedited in 2021, I calendared out if hearings can start in September, late September, that you can hold 12 hearings and you can do Manhattan, Bronx, Staten Island five days in a row, you can do every other day or Rochester, Syracuse, Buffalo, Albany in four days straight. That's how it's been done in the past.

So you can work with a month and get, develop public input, develop plans. And drawing plans is not that difficult, given the software that's out there. It's just a matter of applying the public input and weighing, I think, the tremendous amount of greater public involvement that we'll see in 2021. But to develop the first iteration draft plan at some point by November, December of next year, and then send the plan to the legislature if the commission can agree on a plan, and even have a second plan. Let's say if the first plan can be done in November and if the legislature can meet, either adopt and it send it

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to the governor or if it's rejected by either the legislature or the governor, then go back in December and try it again. But at some point to have a plan in place, signed by the governor, that would allow -- this would be for really, I guess February final enactment, so that then boards of elections can redraw the election districts to comport with the new assembly districts, and then begin a primary process for June 28th primary date beginning on March 25th.

You need at least about a month for the boards of elections to administer the process. I went back and looked at the 1982 process, when both petitions and dates were collapsed. I look back at the 2020 schedule. So it's fast-tracked, but as many of the speakers talked about, the more that's done at the frontend to gain input, to reach out to people, to get the sense of what various communities are looking at, this could be done rather quickly.

ASSEMBLY MEMBER RIVERA: I want to make sure, we only have 20 seconds so I wanted to just say, I wanted to make sure that we get all of

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that on the record, since it is clear that we're going to have a very compressed timeline and we want to make sure that we move it expeditiously, so that we can do all these things, that it is possible to do it. It is tight, but it is possible to do. So in your expert opinion that is the case?

MR. WICE: And I don't think the constitution could be amended to impact the 2021 dates since any amendment couldn't go into effect until January 1, 2022.

ASSEMBLY MEMBER RIVERA: Okay. Thank you, Jeff.

MR. WICE: You're welcome.

SENATOR GIANARIS: Okay. Member Zebrowski, do you have any members of the assembly?

ASSEMBLY MEMBER ZEBROWSKI: Not at t point.

SENATOR GIANARIS: Okay. We have senator Tom O'Mara.

SENATOR O'MARA: Thank you, Chairman. That was Mr. Wice that was just answering

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questions at the end there, correct?

MR. WICE: That's correct.

SENATOR O'MARA: Can you, for the public's benefit, you mentioned the redistricting software and capabilities that are out there today and that it can be done quickly. Can you just generally explain to myself and to the public just exactly how this software works and how quickly these lines can actually be drawn now.

MR. WICE: Well, sure. There are three major commercial vendors that have developed redistricting software, and when I say software, you get the census data from the Census Bureau. It's called the PL94171 file. It basically provides all of the racial and age data for every election district in the state. You upload that data into the software. And the software enables to you look at the current districts to see all of the racial and ethnic numbers that comport with each district, each election district, senate district or assembly district, and then allows you, using geographic information

assistance, GIS science, to move populations around so that you're changing district populations, and as you do that, you get to see the racial, ethnic and age differences as you change them, so that you draw districts that comport with one person, one vote, that all districts be equal in size roughly, the Voting Rights Act, so that you know what the racial composition of districts look like. You also get a sense to see the other kinds of factors that you can add to the software.

An experienced line drawer, of which there are very few, can draw a map in a matter of days. It's just a matter of how much advanced work has gone into the process, how much politics and policy making goes into what the line drawer is being told to weigh. But it's not a process that takes a month to draw a map, a relatively short period of time.

But again, it depends on the circumstances of what is going on then, what needs to be done, whether there are policy or political differences that need to be worked out.

But I am talking about doing that on a fast track.

SENATOR O'MARA: Right. Now, you didn't mention the criteria or the data point of party affiliation. Does that not go into that system?

MR. WICE: You look at party affiliation when you do racial voting analysis to determine whether you need to comport with the Voting Rights Act to maintain or draw districts that are required based on racially polarized voting patterns. So you need to look ac back at ten years of primaries and general elections, so the partisan data there does play in. It's not prohibited to use partisan data. It's not prohibited to use any kind of data. That's up to the policy making body as to what data it wants to consider.

However, all data that goes into the redistricting machinery should be made public and divulged so that the public knows what factors went into the line drawing. If you're hiding some kind of a data, then you're making some kind of a mistake.

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SENATOR O'MARA: Thank you. At the first panel I asked a question about the money not being released that's been appropriated for this. Would you agree that the sooner that money gets released to set up the commission and that staff and executive directors get hired, that these final two commissioners get chosen, and that they begin their work is imperative?

MR. WICE: It's imperative from an objective point of view that things get moving along, because we say that the longer you take to wait, the harder it is to catch up. But again I just want to reiterate that I'm not making recommendations to the legislature. I'm just giving you examples based on my experience that early planning leads to a better result.

SENATOR O'MARA: Okay. Now, that $750,000 for this commission was appropriated in this year's budget that was passed in the first week of April. That money's been appropriated, and it's up to the majorities of each house of the legislature to get that money released. That has not been done. Do you think the later we go

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on this, we might potentially need more resources for the need to hire more staff to do more work in less time?

MR. WICE: That's hard to say because the money that was appropriated goes through April 1st of next year. There needs to be an entirely new appropriation for the fiscal year beginning 2021-22. The unknown factor that none of us anticipated at all prior to mid-March, was the possible need to work remotely. We have no idea what the future holds and whether we'll be back at our offices next year. That would add up costs in terms of more hearings like this. Then again, it can save costs by not having to travel to travel 12 cities, but that's a factor to be thinking about. But it might also cost that each staff person, each legislator have his or her own commuter and software and each software license can cost about $1,000 each. So there are factors that hadn't been planned for. We don't know yet.

SENATOR O'MARA: Well, right now the commission isn't staffed, doesn't have resources, so they can't even make a choice of which

software to purchase to use. And I would just note that I think it's imperative that this money get released and the commission get on with its work. But I thank you for testifying here today, Mr. Wice and the rest of the panelists here. Thank you very much, Chairman.

SENATOR GIANARIS: Thank you, Senator O'Mara. Let me point out to you that I believe the trigger for the hirings and the rest of the work the commission needs to do is the establishment of the commission. And until the final two members are selected, I'm not sure that that can proceed regardless, but do I share your view that the commission needs to start moving expeditiously, given the tight time frame we all have.

I believe that wraps up the hearing. Let me thank all our panelists, all my colleagues, my co-chairs, Assembly Member Zebrowski, Assembly Member Rodriguez, Senator Hoylman. This is certainly something we're going to be talking a lot more about as the weeks and months unfold and we'll have the opportunity for even more input.

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With that, I would like to ask my Senate Co-Chair Senator Hoylman to give some closing remarks and then we'll pass it over to Assembly Member Zebrowski.

SENATOR HOYLMAN: Thank you, Senator Gianaris. This is an unprecedented time for us, but it's also unprecedented in that the Senate has never actually had hearings leading up to a redistricting in this manner previous. So I'm very proud of our participation today, Senator Gianaris and looking forward to putting deed behind the words of so many of our panelists today who gave us an expert insight into one of the most fundamental issues involving our democracy, whether every person's vote counts equally. Thank you very much, Senator Gianaris.

ASSEMBLY MEMBER ZEBROWSKI: Thank you, Senator Gianaris and Senator Hoylman. I'd like to give my co-chair for this hearing, Assembly Member Robert Rodriguez, who chairs the task force on demographic research and reapportionment, an opportunity for a statement.

ASSEMBLY MEMBER RODRIGUEZ: Thank you,

Assembly Member Zebrowski and thank you to my senate colleagues for the opportunity to have this very important discussion about redistricting and the process. And certainly the comments that were made about diversity are important I think both to the Senate majority as well as the Assembly majority and certainly something that we are committed to enacting throughout this process. And endeavor to meet and respond to the comments that were made through actions and hopefully to the final appointments.

But more importantly, we would be remiss if we didn't look at the inputs to the process that we are evaluating now. The census and our ability to respond and get good data will inform our ability to make good decisions with respect to redistricting that actually reflect one person, one vote.

And as we talk about the efforts around census, we have to recognize that we are still below the national average in terms of response, and still have appropriations outstanding to help us to achieve those numbers. So I think it's

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important that we recognize there's $30 million that needs to get utilized to ensure that the census numbers are meaningful. And I think it's important that that information come into play so that we are able to have a successful outcome that we all hope for in this process. Thank you.

SENATOR GIANARIS: Thank you, Assembly Member Rodriguez, and that concludes this joint public hearing. I want to thank everybody that participated, all of my colleagues, everyone that testified and all those out there that are listening and engaging in this process. I also want to thank both the Senate and Assembly staff who worked very hard on put this on and I hope everyone has a wonderful day. Thank you.

(The public hearing concluded at 12:30 p.m.)

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of the Online Public Hearing on Evaluating Constitutional Provisions Impacting Redistricting on July 15, 2020 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

Date: July 28, 2020

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