



**TESTIMONY  
OF THE  
NEW YORK PUBLIC INTEREST RESEARCH GROUP  
BEFORE THE  
NEW YORK STATE LEGISLATIVE TASK FORCE ON  
DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT  
December 16, 2010  
Albany, N.Y.**

Good morning. My name is Blair Horner and I am the Legislative Director of the New York Public Interest Research Group (NYPIRG). NYPIRG is a statewide, not-for-profit, nonpartisan research and advocacy organization. Since 1973, NYPIRG has been involved in a wide range of consumer protection, environmental preservation, higher education and government reform issues. For decades, NYPIRG has advocated changes to New York State's redistricting process – calling for establishment of an independent commission, fairer standards, greater openness and more public involvement.

NYPIRG thanks you for this opportunity to testify on this important topic. In particular, we thank the Co-Chair for his openness to our perspective on this issue.

It is a critical time to hold this hearing. As the latest census data becomes available, the once-in-a-decade process for redistricting begins. Given the public's disenchantment with the redistricting status quo, it is important that the public discussion begins early and that the dialogue continues all through the 2011-2012 session as the debate over district lines unfolds.

However, let me start with the most important component of any reform proposal – independent oversight. NYPIRG opposes the current state constitutional system of relying on legislators to set the boundaries of legislative and congressional districts. We recognize that changing the state constitution is not a practical option – there is simply no time to get an amendment passed if the goal is to affect the 2012 legislative line-drawing process.

Moreover, having witnessed the redistricting process in both 1992 and 2002, I know that amending the constitution to change the redistricting process has never been a practical legislative option. For years, the legislature has simply ignored reform measures. Unless the governor used his clout to block the way district lines were drawn, there was no hope of engaging in a serious reform debate.

Yet, even if the governor used his veto authority, there would be no time to amend the constitution. As a result, NYPIRG and our reform allies have focused on advancing a reform measure that could be achieved through statute.

Currently, the legislature creates its own commission to handle redistricting (LATFOR), the entity of which you are the co-chair. The membership of the commission includes four legislators and

two non-legislators (individuals who are typically hired and supervised by the legislative majorities). LATFOR conducts the public hearings, hires the staff and draws the lines for legislative consideration.

A statutory reform measure replaces LATFOR with an independent entity. The best model that we can find is the state of Iowa. In that state, independent, apolitical staff draws the districts lines using criteria that strictly limits political considerations and offer those maps to the Iowa legislature for approval. The legislature has two opportunities to approve or reject the commission's recommendations without amendment. If both efforts fail, the legislature is allowed to amend the proposal on the third try.

Given the constraints in New York, it is our view that the Iowa system is the approach to follow.

There can be no reform of redistricting without a change in the commission (and ultimately the state constitution needs to be changed to eliminate the legislature's role in redistricting altogether). The Iowa approach is reflected in Senator Valesky's legislation (S.1614).

### **S.1614 ESTABLISHING AN INDEPENDENT COMMISSION**

Under the legislation, there would be a **nominations committee** that would create a "pool" of potential redistricting commission members, with the nominations committee composed of eight members, with the Senate Majority Leader, the Speaker of the Assembly, the Senate Minority Leader, and the Assembly Minority Leader each choosing two.

No member of the nominations committee can:

- Hold or have held within the previous two years an elected government office or any other partisan appointed governmental or political party position;
- Be employed or have been employed within the previous two years in any other position by the US Congress, the State Legislature, or the Executive Chamber;
- Be or have been within the previous two years a registered lobbyist in NY; or
- Be a spouse of or related to any member of the US Congress, the State Legislature, or the Executive Chamber.

The committee then chooses members of a **nominations pool**, from which the members of the redistricting commission will be appointed. The **nominations committee** would establish, based on majority vote, a list of forty eligible persons for the **nominations pool**. The pool would represent the diversity of the state with regard to race, ethnicity, and gender; would include persons from each NY region (Long Island, New York City, Hudson Valley, Northern, Central, Southern Tier, and Western); and would include *fifteen* enrolled Democrats, *fifteen* enrolled Republicans, and *ten* persons not enrolled in either party.

The **redistricting commission** would then be established (called the "Apportionment Commission"), which would assist the legislature in the reapportionment of congressional, senate, and assembly districts based on the new census data. This Commission will be made up of *eleven* members chosen from the "nominations pool" (which as previously noted is balanced with regard to party and diversity), with *eight* appointed by the following: two each from the Senate Majority Leader, the Speaker of the Assembly, the Senate Minority Leader, and the Assembly Minority Leader. The *three* remaining Commission members will be appointed by the eight initially appointed members. No more than four members shall be enrolled in the same political party, and to the extent practicable would represent the diversity of the state with regard to race, ethnicity, gender and geographic residence.

## **S.1614 CRITERIA**

Under S.1614, there are four main requirements that must be followed in the drawing of lines, the first three of which are mirrored in federal law or case precedent:

- all congressional districts shall be as nearly equal in population as is practicable;
- each district shall consist of contiguous territory; no district shall consist of parts entirely separated by the territory of another district of the same body, whether such territory is land or water, populated or unpopulated. A populated census block shall not be divided by a district boundary, unless it can be determined that the populated part of such block is within a single district;
- senate, assembly, or congressional districts shall not be established that are intended to or result in a denial or abridgement of minority voting rights including the opportunity of minority voters to participate in the political process, and to elect the candidates of their choice. (this requirement includes language that is stronger than that provided by the federal Voting Rights Act); and
- senate, assembly, or congressional districts shall not be drawn with an intent to favor or oppose any political party, any incumbent federal or state legislator, or any previous or presumed candidate for office.

In addition to the required principles above, the criteria below would be followed in the creation of senate, assembly, and congressional districts *to the extent practicable*. Of those below, a principle with a lower number shall have precedence over a principle with a higher number.

- the most and least populous senate districts shall not exceed or be lower than the mean population of all senate districts by more than one percent, and the most and least populous assembly districts shall not exceed or be lower than the mean population of all assembly districts by more than one percent. In no event shall the commission advantage any region of the state over any other by creating multiple districts therein exceeding, or lower than, the mean population by more than one percent;
- counties shall not be divided in the formation of districts, except to create districts wholly within a county. Where such division of counties is unavoidable, more populous counties shall be divided in preference to the division of less populous counties;
- county subdivisions shall not be divided in the formation of districts, except to create districts wholly within a county subdivision. For the purposes of this article, a county subdivision shall be a city, except the city of New York, a town, or an Indian reservation whose territory is exclusive of the territory of any city or town. County subdivisions with larger populations shall be divided in preference to the division of those with smaller populations;
- incorporated villages shall not be divided in the formation of districts;
- the senate, assembly, and congressional districts shall be as compact in form as possible; and
- senate, assembly, or congressional districts shall unite communities defined by actual shared interests, taking account of geographic, social, economic, and other factors that indicate commonality of interest, and districts shall be formed so as to promote the orderly and efficient administration of elections.

In Hearing Topic #1, you ask specifically about the issue of the range in districts' population size as well as its impact.

NYPIRG supports a dramatic reduction in that allowance as found in S.1614 (2 percent). It is clear that the current allowance of 10 percent is used as a tool by each of the 2002 legislative majorities to enhance their power *vis-a-vis* the legislative minorities.

First, I'll discuss the range in the population disparities of Assembly and Senate districts. Our analysis of district populations created in the 2002 redistricting process found that State Assembly districts ranged in size from 121,111 people to 133,038 people, and State Senate districts ranged in size from 290,925 people to 320,851 people. The chart below illustrates the number of State Assembly and Senate districts that deviate from the ideal district size and by what percentages.

Population Deviation from the "Ideal" (Average) Size	Assembly	Senate
Zero to 1 percent	18	11
1 to 2 percent	33	28
2 to 3 percent	29	4
3 to 5 percent	70	19

As you will see in the maps highlighted on the last page of my testimony, the 2002 legislative majorities both used the allowance to achieve their partisan goals.

In the Democratically-controlled Assembly, mapmakers employed the opposite strategy. In the map on top of the page, the "lighter" the district, the fewer the number of people.

Assembly mapmakers' goal was to create the greatest number of districts in the New York City area. Thus, those districts had the smallest populations as compared to the upstate, Republican-dominated areas, which had the largest populations and the smallest number of districts.

In the Senate, Republican mapmakers used the wide variation in populations to "pack" as many Democrats into as few legislative districts as possible. In the Senate map on the bottom of the page, the "lighter" the map, the larger the population. As you can see, Senate Republican mapmakers wanted to have the largest population districts in the Democratic-party dominated New York City-area. Thus they could carve out as few Senate districts as possible.

In the areas with the greatest number of Republican voters, mapmakers created as many Senate districts as possible – with the smallest population.

As you can see, manipulation of the current 10 percent rule has allowed the legislative majorities to manipulate the redistricting process for their own partisan advantage.

NYPIRG urges you to focus your reform efforts on how best to advance the reforms contained in S.1614. We believe that it combines the best in independent oversight, fair criteria and public participation in the redistricting process – all while complying with the state's constitutional framework. Lastly, we do recognize that there are changes that are necessary in the state's constitution and we will continue to develop proposals for reforms in that area. However, the constitutional provisions should not be an excuse not to act to reform the redistricting process in advance of the 2012 deadline.

Thank you for the opportunity to testify.

Table 1. The impact of population differences in Assembly districts.

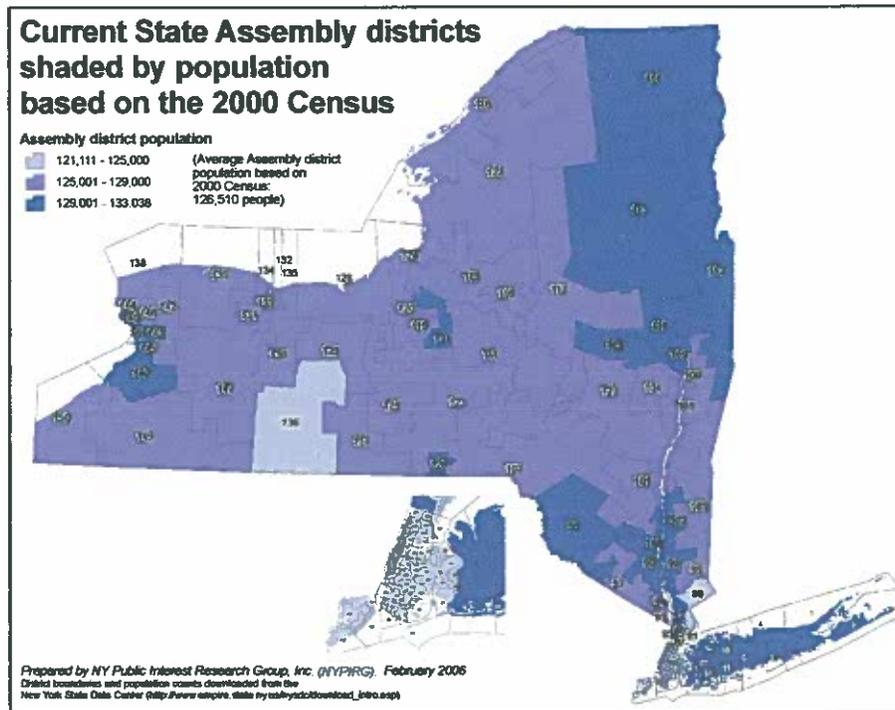


Table 2. The impact of population differences in Senate districts.

