

HOUSE STATE GOVERNMENT COMMITTEE
PUBLIC HEARING

Thursday, March 13, 2008
University of Pennsylvania
Irvine Auditorium
Philadelphia, Pennsylvania

COMMITTEE MEMBERS PRESENT:

REPRESENTATIVE BABETTE JOSEPHS, Chair
REPRESENTATIVE BARBARA McILVAINE SMITH
REPRESENTATIVE MICHAEL O'BRIEN
REPRESENTATIVE MIKE CARROLL
REPRESENTATIVE MARK COHEN
REPRESENTATIVE GLEN GRELL
REPRESENTATIVE KERRY BENNINGHOFF

OTHERS PRESENT:

RODNEY OLIVER, Majority Executive Director
SUSAN BOYLE, Minority Executive Director
SCOTT CASPER, Director, Office of
Demographic Analysis

REPORTED BY: SUSAN L. SINGLAR, Court
Reporter-Notary Public

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TESTIFIERS:

REPRESENTATIVE DAYLIN LEACH, 149th
Legislative District

REPRESENTATIVE STEVE SAMUELSON, 135th
Legislative District

REPRESENTATIVE MARK COHEN, 202nd
Legislative District

KENNETH MYERS, Vice President Jewish
Social Policy Action Network

SARA STEELMAN, Chair, Common Cause -
Philadelphia

ANDREA MULRINE, President, League of
Women Voters of Pennsylvania

DENNIS BAYLOR, Pennsylvania
Accountability Project

1 ---

2 (Whereupon, the hearing was
3 called to order at 10:08 a.m.)

4 ---

5 REPRESENTATIVE JOSEPHS: Welcome
6 everybody to this very important hearing. Before
7 we get started today, I want to thank the
8 University of Pennsylvania for their extraordinary
9 hospitality, the room, which is very unusual and
10 beautiful, really, and Ginny Davis, who is their
11 representative here, is not in the room at the
12 moment, for providing all of this hospitality,
13 which I very much appreciate.

14 I'm sort of known, among other
15 things, for making sure we keep to a time frame, so
16 I am sorry that we're starting a little bit late.
17 I am going to keep us to the schedule, as you see
18 on the agenda, just 15 minutes late, and I have to
19 beg the indulgence of my colleagues. I don't
20 hesitate when it's a witness that is not my
21 colleague to say: Sir or ma'am, you have exceeded
22 your time, but I don't seem to have that wait with
23 the other State reps, so I beg their indulgence to
24 be on time.

1 I want to start to my right and
2 introduce the members who are here, some are
3 members of this Committee, most are, but some are
4 not. It is my custom to invite any member who
5 comes to a committee meeting hearing to the table
6 because eventually we will all vote on the matters
7 that are being discussed. So I am very happy to
8 see some members here who are not members of the
9 Committee. Let us start at the right with one of
10 those outstanding individuals.

11 REPRESENTATIVE McILVAINE SMITH:
12 I'm Barbara McIlvaine Smith from Chester County. I
13 represent the 156th West Chester area.

14 REPRESENTATIVE JOSEPHS: Next is
15 Scott Casper, not a member, but here to be a
16 resource person. The person, at least on my side
17 of the aisle, who knows more about the
18 demographics, the numbers, the reapportionment, the
19 redistricting than any other person in the entire
20 State of Pennsylvania, Scott Casper, who is the
21 Director of the Office of Demographic Analysis.
22 He's been on the reapportionment staff in 1971,
23 1981, 1991 and in 2001, remarkably young looking
24 gentleman for all of that history. Thank you for

1 being with us.

2 Next?

3 REPRESENTATIVE O'BRIEN: I'm
4 Representative Michael O'Brien, 175th Legislative
5 District here in Philadelphia, which is just
6 directly east of the Chairman Josephs' district.

7 REPRESENTATIVE CARROLL: I'm
8 Representative Mike Carroll and I represent the
9 118th District, which is a portion of Luzerne and a
10 portion of Monroe Counties.

11 REPRESENTATIVE JOSEPHS: Babette
12 Josephs. Usually I hold these hearings in my
13 district, but I have to at this time welcome you to
14 Representative Jim Roebuck's district. My district
15 is immediately east or across the river. Thank
16 you all for being here.

17 MR. OLIVER: Good morning. My
18 name is Rodney Oliver. I'm the Executive Director
19 of the Committee on the Democratic side.

20 REPRESENTATIVE GRELL: Good
21 morning. I'm Representative Glen Grell. I'm a
22 representative and member of the State Government
23 Committee representing Cumberland County, and it
24 appears as though I'm the only Republican here

1 today.

2 REPRESENTATIVE JOSEPHS: I am
3 understanding that the Republican executive
4 director Mr. Oliver's counterpart, will join us
5 soon. Her name is Susan Boyle, very able. I'm
6 very happy to have her here. Welcome everybody. I
7 wanted to start immediately with Representative
8 Daylin Leach. To the extent I'd ask you to kindly
9 talk to us, rather than read.

10 REPRESENTATIVE LEACH: First of
11 all, I want to thank you for taking the time to
12 consider this important issue today. I have been
13 on that side of the table on many occasions and I
14 never once left a hearing thinking if only the
15 testimony was a little bit longer I would have
16 enjoyed it more. So I will do my best to be
17 extremely brief.

18 As you know, we are
19 constitutionally required to redraw the lines of
20 our State legislative congressional districts at
21 least once every ten years to reflect population
22 shifts, while at the same time ensuring that we
23 have the same number of people in every district.
24 As you know, we have two separate systems for doing

1 that in Pennsylvania, one for the congressional
2 districts and one for the State legislative
3 districts.

4 Now, just to give you an overview
5 of what I'm sure you know to be the problem, and
6 some of the audience may know, as well, the fact is
7 that politicians have always redrawn the lines to
8 benefit themselves. The term for that is
9 Gerrymandering, and the term comes from the
10 governor of Massachusetts in 1812, Elbridge Gerry,
11 approving a district that looked like a salamander
12 and they called it a Gerrymander and that stuck for
13 about 200 years now. So we have been doing this a
14 long time.

15 However, it's become an
16 increasingly pervasive problem in that we were
17 getting better and better on it. The use of
18 high-powered computer programs that can predict
19 voter party performance down to the block, and the
20 fact at that we are becoming more blatant about it
21 over the years in a variety of ways, including --
22 it used to be we would Gerrymander once every ten
23 years but then we'd leave it alone. Now, recently,
24 we've seen the development of the idea if you don't

1 pick up enough seats the first time, you can
2 Gerrymander a couple of years later and try again.

3 And so what this has resulted in
4 is that voters are no longer picking their
5 political leaders. Politicians are choosing their
6 voters when they draw the lines. And I want to
7 make this clear that this is not a partisan
8 problem. Where Republicans control redistricting
9 and reapportionment, they protect Republicans, such
10 as the Pennsylvania congressional district
11 reapportionment in 2000. Where Democrats control
12 reapportionment, they protect Democrats, such as in
13 California and Indiana and other places.

14 Where the parties share or split
15 the power to do reapportionment, they make a deal
16 and they trade precincts and they protect as many
17 incumbents as possible on either side. And in some
18 ways it's easier to Gerrymander if one party
19 controls everything -- I mean, if one party does
20 not control everything, because Democrats always
21 want more Democrats in their district and
22 Republicans always want more Republicans, and it's
23 easy for me to trade my Democrats for your
24 Republicans.

1 And in fact, just a brief
2 digression from my written notes, which is
3 basically everything I have said so far, that's
4 exactly what happened in my district. If you turn
5 to page three and four and five, you will see some
6 examples of Gerrymandering in Pennsylvania and it
7 gives you an idea.

8 The 149th District, which is what
9 I currently represent, is not one of the
10 strangest-shaped districts, it's a little odd, but
11 you will see the change in 2000. And the reason
12 was it had been a Republican district for about a
13 century and a half. A Democrat with a lot of
14 resources had unexpectedly won that seat and there
15 was a concern that there would be -- there was a
16 Republican in the next district and there was a
17 senate race coming up and the thought was the
18 Republican in the 148th District was going to win
19 the senate race so they wanted to protect the 148th
20 District.

21 So what they did was they cut
22 out -- where the big circle is on the left is the
23 most Republican part of that district. They cut
24 that out and gave it to the 148th. And at the

1 bottom right, the circle down there is a senior
2 citizen's center called the Green Hill, which is a
3 huge senior citizen's center, almost 1,000 votes,
4 performed reliably four or five to one Democratic.
5 So they gave that to the 149th and took away the
6 most Republican parts deliberately.

7 Now I, personally, couldn't have
8 been more tickled because that largely enabled me
9 to become elected in that district. But
10 nonetheless, I'm not sure it's good for democracy.
11 I mean the Gerrymandering, not me getting elected
12 to the district part.

13 If you then turn to page four you
14 will see some dramatic changes that occurred in the
15 2000 redistricting. All of them -- and page five,
16 as well. Some are congressional. Some are state
17 legislative. My personal favorite is the 122nd
18 District, which is truly a work of art. The
19 incumbent in that district had barely won
20 reelection in 2000 by about 80 votes, did not enjoy
21 that experience, got rid of almost his entire
22 district. He was in leadership so he was able to
23 do this; got rid of all of his entire district and
24 then drew this in order to make sure that he had a

1 much smoother ride going forward.

2 We've seen districts in
3 Pennsylvania moved 300 miles because leadership did
4 not like the member who was serving in that
5 district. If you move a district 300 miles, the
6 person can't run for re-election in that district,
7 so they're gone. So we've seen districts with
8 little fingers on the lines come up around
9 someone's house that someone considers to be a
10 challenger to their seat to make sure they're no
11 longer in the district.

12 We are playing games with the
13 voters of Pennsylvania for our own personal and our
14 own political, or our party's political benefit,
15 and I think that's wrong. The damage that the
16 Republicans -- I mean that the Republicans and
17 Democrats do when they do this to our democracy is
18 deep. First, obviously, voters are no longer
19 accountable, or the politicians are no longer
20 accountable to the voters. If I never lose, if I
21 can never lose a general election, I have very
22 little incentive to care that much what my
23 constituents think politically.

24 Second, it denies voters the

1 debate that they deserve. If I'm in a 70
2 percent -- the district that performs 70 percent
3 for me in a general election, my opponent is not
4 going to get any money because no one thinks he can
5 win, or she, my opponent is not going to get any
6 media attention because it's not a serious opponent
7 because they haven't raised any money and they're
8 not doing well in the polls. And I'm likely to
9 ignore that person and pretend they don't exist.
10 There probably won't be very many debates. There
11 probably won't be much going on. And it denies
12 people what I think is the promise of democracy,
13 which is a frank exchange of ideas in a clear
14 choice of political leaders.

15 What is perhaps the worst part of
16 Gerrymandering is that it is a self-perpetuating,
17 self-accelerating cycle. And what I mean by that
18 is this: Let's say if I'm a Democrat in a very
19 close district, very competitive district, I have
20 an incentive to reach across the aisle, work with
21 Republicans, impress Republican voters with my
22 moderation and my willingness to work across the
23 aisle. That's how I survive politically, and I
24 think that's good.

1 If I'm in a district that's so
2 Democratic, it could be Republican, if I'm a
3 Republican, that I'm never going to lose a general
4 election, I have no incentive to reach across the
5 aisle and work with others. In fact, that would be
6 to my detriment, because the only election I could
7 lose in such a Gerrymander district is a primary,
8 because you can't Gerrymander a primary, at least
9 on a partisan basis. So at least on -- you may be
10 able to do it city folk versus rural or something,
11 but on a partisan basis you can't. So my concern
12 is that I'm going to lose a primary.

13 Who votes in the primary? The
14 most ideological people in both parties, the most
15 liberal Democrats, the most conservative
16 Republicans. And so, those are the people I have
17 to appeal to. So my -- I don't want to commit the
18 heresy of reaching across the aisle. I want to
19 appeal to my base. And what that does is it
20 creates -- it reduces the number of moderate
21 politicians. It reduces the amount of bipartisan
22 cooperation. It increases the rigidity in the
23 political system, and ironically, it makes
24 Gerrymandering in the future easier because it

1 polarizes the voters and it's much easier to
2 predict how they will behave in that sort of
3 environment.

4 So as time goes by, if we don't
5 address this problem, I think that we will have a
6 serious -- well, we already have a very serious
7 difficulty in having competitive elections in
8 Pennsylvania. Let me just give you an example.
9 Last year -- 2006 was a tidal wave nationally. It
10 was -- there was a huge backlash in certain
11 districts about the pay raise and other issues.
12 You would expect a huge turnover, and in fact,
13 there was a lot of turnover. A lot of incumbents
14 lost in primaries.

15 In the general election, only ten
16 seats switched hands in a year which had two
17 separate tidal waves. Only ten seats switched
18 hands out of 203, which I'm not a math whiz, but I
19 think that's over 95 percent in a good year for
20 turnover. Most years, ten seats would be -- you
21 know, most years it's two or three seats. So we
22 see almost nothing in terms of turnover. In the
23 Senate, in a year of two tidal waves, out of the 25
24 seats that were up in November of 2006, zero

1 switched hands. So we have a very difficult
2 system.

3 Now, people ask me: What about
4 the congressional seats? There were four
5 congressional seats that turned over. And my
6 contention is that's not an argument that
7 Gerrymandering doesn't work; that's only an
8 argument that the folks who did the Gerrymandering,
9 in this case, for the Republicans on the
10 congressional level. And keep in mind, Republicans
11 controlled that because it was congressional.
12 There was no bipartisan. It was solely in their
13 control. I think they tried to slice the bologna
14 too thin, and that can happen. I think they got a
15 little greedy and tried to pick up five -- well,
16 what they hoped to do, in a state with about
17 600,000 vote Democratic registration advantage was
18 have a 14 to five congressional advantage and they
19 cut it a little too thin. If they were a little
20 more cautious, they could have saved, I think,
21 three of those seats that flipped last time. But
22 the point remains the same, that these lines are
23 drawn specifically to try to make sure that we know
24 who the winner is before the first vote is cast.

1 I have introduced House Bill 81
2 designed to eliminate -- to reduce but not
3 eliminate, for reasons I'll discuss, the influence
4 of politics in reapportionment. Very briefly, my
5 bill will do several things. It sets up a
6 bipartisan commission for both congressional and
7 state legislative reapportionment, four Democrats,
8 four Republicans selected by legislative leaders
9 and one independent selected by the other eight
10 commissioners. I will explain in a second about
11 the legislative leaders part.

12 I will require the Commission to
13 draft the redistricting plan, requiring a super
14 majority of seven yes votes to enact a plan. So in
15 other words, one party can't force its will on the
16 other.

17 It will require all discussions.
18 It will have Sunshine requirements. It will
19 require all discussions and deliberations of the
20 Committee to be in public at open hearings like
21 this and prohibit consideration of the advantage or
22 disadvantage to any incumbent, challenger, party or
23 individual in the new plan. So it's going to be
24 very difficult.

1 Again, human beings, being what
2 they are, you may always have someone trying to
3 whisper to someone else behind closed doors, but if
4 you've got to get seven votes, you're going to have
5 to whisper to a lot of people and the odds of you
6 getting caught would be high because someone's not
7 going to like your idea. So I think that would be
8 a good self policing. Again, perfection is hard to
9 achieve in legislation, but I think it will make
10 the situation better.

11 Once the plan is drafted, it will
12 be sent to the legislature for approval, but the
13 legislature may not amend it in any way. If you
14 have the legislature amend it, then, of course, the
15 deals start. If the first plan is rejected by the
16 legislature, the legislature may provide comments
17 or objections and the Commission will adopt a
18 second plan. If the second plan is rejected, the
19 Supreme Court, without changing the plans, will
20 pick one of the two plans. And, of course, that
21 will give the parties an incentive to be
22 reasonable, because, you know, if I don't like the
23 plan that's before us, the next plan may be worse
24 and I may be stuck with it.

1 And then the new districts will
2 be required to be shaped according to a
3 mathematical formula, whereby a circle is drawn
4 hitting the corners, the outside corners of the
5 district, and the district must fill in 15 percent
6 of that circle. My props to Mr. Casper for walking
7 me through that formula.

8 But it's -- the theory of that
9 is, again, it's not going to create -- you can't
10 have a situation where every district is like a
11 perfect square. But what it will do is it will
12 make illegal some of the most obscenely Gerrymander
13 districts, including the 172nd and including the
14 161st and including mine. Those districts should
15 not be allowable under these. So it will give a
16 little bit more of weight to the compact and
17 contiguous requirement that is in the Constitution
18 now but is a vague command, which the Supreme Court
19 has largely ignored.

20 This plan will accomplish several
21 things. The super majority, again, will prevent
22 one party from forcing its will on the other. It
23 will make it harder to make back-room deals, and it
24 will be compact and contiguous.

1 Now, the most controversial part
2 of the plan, there are probably several
3 controversial parts, but the most controversial
4 part is why would we have the political leaders
5 select the commissioners? And I have given this a
6 lot of thought and I have been involved in a lot of
7 debate with people about this. I have debated this
8 at a national conference recently of state
9 legislators. To quote Churchill, this is the worst
10 possible way of picking commissioners, except for
11 all the others. And I say that for this reason:
12 If you don't have the political leaders appoint
13 them, someone's got to appoint them. You could
14 elect them, but that would be bad because they'd be
15 making campaign promises. You don't want Narberth,
16 I will make sure you don't have Narberth. And
17 then, of course, the people with the most votes
18 would win and they may have specific sympathies.
19 You may have all kinds of communities not wanting
20 to be with other communities. That could be
21 divisive. I think that's a mistake.

22 You could have people sort of
23 randomly selected, but I think that's a bad idea.
24 Even if you accounted for party -- even if you

1 required them to be certain parties, there are
2 certain Democrats and certain Republicans who may
3 be registered that way but may not sympathize with
4 their party in a given year or may sympathize with
5 the other party.

6 We don't want to come up
7 inadvertently with a situation where you have a
8 super majority that's sympathetic to one party or
9 another, or one geographic area or another at the
10 expense of others. That could lead to one party
11 forcing its will on the others. It could lead to a
12 lot of bad things. And also, random people or even
13 random people in a defined set of people, like
14 civil servants or whatever, there's no evidence
15 that they'd have any skill or interest in doing
16 this.

17 So with political leaders -- if
18 we had the rest of the bill in place, with
19 political leaders at least you'd know you get four
20 people who are going to make sure the Democrats
21 don't get -- I'm looking for a synonym for screwed
22 here, but which are taken advantage of, and four
23 Republicans who will make sure the Republicans are
24 not taken advantage of, but you have to have the

1 super majority and people will be accountable for
2 their appointments and at least -- look, to the
3 extent that people have, subconsciously, political
4 agendas, at least we'll know that. They won't be
5 just random people that will be blank slates that
6 we have no idea what their agenda is.

7 But I am open to this. Look, I
8 have two final comments on this. Number one, this
9 is an approach. I'm not married to this approach
10 to the exclusion of other approaches. I want
11 something that works. And I have been working with
12 Representative Trancredi and others to try to come
13 up with some ideas on how we could come up with
14 something that will work. Mostly, I want more
15 competitive elections. You will never have 203
16 competitive elections, but you may have more than
17 four or five every year. If you get up to 20 or 30
18 or 40, you can still have some sort of play that
19 you don't have now.

20 The second thing is someone has
21 suggested, and this may not be a bad idea, this has
22 to pass, in order to be an appropriate
23 Constitutional amendment, by, I think, June 23rd.
24 And I know that date because that's my birthday.

1 But it has to be passed by that date this year. It
2 may be wise to say that this doesn't take effect
3 until the 2020 reapportionment, because that would
4 make legislators less fearful of supporting it
5 because, you know, now if we support it, we may
6 think: Oh, God. I'm going to be redistricted.
7 I'm going to have to go against another incumbent.
8 I'm in a terrible district. They feel that their
9 career is at stake, even subconsciously. Whereas,
10 if you do it in 2020, clearly, all of us will be
11 president of the United States by then and other
12 people will be affected by that and not us.

13 This is a long-term problem.
14 It's been 200 years in the making. If it takes ten
15 more years to solve it, I can live with that. But
16 I do think that we should address this now, even if
17 it's effective perspectively because this is really
18 becoming a huge problem in Pennsylvania and other
19 places, as well.

20 And so I thank you for taking the
21 time. I'd be happy to take any questions that you
22 had. I look forward to working with you.

23 REPRESENTATIVE JOSEPHS: Thank
24 you, Representative, and we did that in 20 minutes.

1 Any questions here?

2 Mr. Carroll?

3 REPRESENTATIVE CARROLL: The
4 first question is: Are they described formulas, as
5 you described in your notes?

6 REPRESENTATIVE LEACH: That's the
7 original.

8 REPRESENTATIVE JOSEPHS: I'm
9 going to allow Scott Casper to answer some of these
10 questions, because as I said in the introduction,
11 he really is our expert. So, Mr. Casper, if you
12 have an answer to that, we'd be happy to have it.

13 MR. CASPER: Representative Leach
14 is very close to being actually correct. However,
15 the first time an independent commission in
16 Arizona, Arizona has adopted a 17 percent
17 threshold. He have Representative Leach's
18 legislation has a 15 percent threshold. So they're
19 both very similar.

20 However, when Representative
21 Leach came up with that, he did that, of course, as
22 an original concept for Pennsylvania.

23 REPRESENTATIVE LEACH: I mean, I
24 assume that maybe Scott has some insight into how

1 it's worked in Arizona.

2 Have they done reapportionment
3 with that yet?

4 REPRESENTATIVE CARROLL: They
5 have, and the Arizona reapportionment, because the
6 commission declared the apportionment
7 unconstitutional in calendar -- still within the
8 calendar 2008 that was pending for six million
9 dollars to only 30. But that's a whole other
10 saga. They worked with the plan and had some
11 issues with that, but they resolved those issues.
12 They were tripped up on other issues.

13 REPRESENTATIVE CARROLL: My
14 second question is: Do you have any sense of how
15 many house, senate and congressional districts
16 would meet this 15 percent standard?

17 REPRESENTATIVE LEACH: I've only
18 looked at the house districts. I think about a
19 dozen would not, would not meet the standard.
20 Again, it's not an extreme standard. I'm not
21 trying to create a situation where every district
22 looks like this. That's difficult to do, and
23 probably not desirable.

24 What I'm trying to do -- if you

1 reign in the most extreme excesses that has a
2 ripple effect, since all districts are
3 geographically interlocking throughout the State,
4 and it would also, hopefully, have a salutary
5 effect on the commissioners who are drawing these
6 districts.

7 REPRESENTATIVE CARROLL: You
8 mentioned sometimes you pick up and move 300
9 miles. You know, of course, sometimes that's too
10 hard in order to be able to accommodate population
11 shifts.

12 REPRESENTATIVE LEACH: Scott --
13 by the way -- well, let me answer that question.
14 That is true. That is not the reason, I am told,
15 that the moving of 300 miles was done in the last
16 reapportionment. That was done for specific
17 reasons because specific leaders were angry at
18 specific members and did not want them in the
19 legislature anymore.

20 REPRESENTATIVE CARROLL: There's
21 a real need to have districts that may not be there
22 currently added.

23 REPRESENTATIVE LEACH: My bill
24 doesn't ban that. It just -- I only raise that to

1 show the mischief that can be done sometimes.

2 I think Mr. Casper has an example
3 of -- is that a district that does or does not
4 comply?

5 MR. CASPER: It doesn't. It was
6 selected as an example because of a similar
7 effect. This is a district of Representative
8 Leach's, one of his neighbors in eastern Montgomery
9 County. And this is the reason why Representative
10 Leach, after careful deliberation, came up with a
11 15 percent threshold. I can't point right now;
12 however, you can easily see that with the exception
13 of a small -- right here, that is one increasing
14 division in the City of Philadelphia, which is --
15 really came apart and bypassed and shuffled with
16 other areas, you're looking at a legislative
17 district that, aside from what may be added on or
18 added off as other districts shuffle and you have
19 an ongoing effect, you have Cheltenham Township,
20 Montgomery County, Springfield Township, Montgomery
21 County, and the Borough of Jenkintown. And these
22 have been a legislative district. So we have
23 long-standing.

24 Here you have the Philadelphia

1 county line. So what you have is with these three
2 scalloped, you have no municipal split, no county
3 splits. And when the circle test is applied, the
4 circle being the perfect shape for compactness,
5 because every piece of the perimeter is equal to
6 the center. A square is only 66 percent compact.
7 But we can't draw circular districts. But this is
8 a very good test. This is an 18.8 percent circle
9 test that sounds incredibly low. I have heard some
10 of the good people and some of the advocacy groups
11 say 15 percent is very low. Even 20 percent is
12 low.

13 But let's go to 20 percent. If
14 you did go to 20 percent, you'd have a problem
15 here. No municipal space, and by the way, almost
16 perfect population for a district coming out of the
17 year 2000 census and the 2001, 2002 reapportionment
18 cycle, so it's almost a perfect population, no
19 municipal split, no county splits, but what you do,
20 if it doesn't pass the compactness test that's
21 placed in the Constitution, that is redundant.
22 This is where Arizona had the problem on another
23 area of competitive districts under the
24 Constitution. They said: Well, we can't do all of

1 this compactness. So we're just going to give way
2 on the one criteria of competitive district. And
3 the court in Arizona said: You can't. You can't
4 say that this Constitutional criteria are going to
5 aggregate because you can't do it. You can't do
6 it. You have to do it, and that's the problem.

7 In any event, this is 18.8
8 percent. And the reason it is because people say:
9 Well, Cheltenham Township is a rectangle, an
10 extremely elongated rectangle, certainly not
11 compact. Springfield Township is almost a perfect
12 square, except for the panhandle that runs across
13 Roxborough down to the Schuylkill River so it
14 really is across between the State of Oklahoma and
15 Pinocchio. But this is what we have to work with.

16 If it's a 20 percent threshold,
17 instead of Representative Leach's 15 percent, we
18 can't do this, and we didn't create that. That
19 would be a new district, and that's a problem of
20 drawing compactness.

21 REPRESENTATIVE JOSEPHS: When you
22 refer to that, please say so because we have a
23 reporter.

24 MR. CASPER: I'm done now.

1 REPRESENTATIVE LEACH: And I
2 would just say that that's why we chose 15 percent
3 because we wanted to make it better, but not so
4 rigid that we can't actually draw districts.

5 REPRESENTATIVE JOSEPHS: Mr.
6 Grell?

7 REPRESENTATIVE GRELL: My
8 question was answered. Thank you.

9 REPRESENTATIVE O'BRIEN: Mr.
10 Casper has answered my questions, also.

11 REPRESENTATIVE JOSEPHS: Thank
12 you.

13 Anybody else?

14 REPRESENTATIVE LEACH: Thank you.

15 REPRESENTATIVE JOSEPHS: We
16 really appreciate it. I'm going to switch my seat
17 here a moment. While I'm doing this, I do not see
18 Representative Samuelson or Representative Cohen
19 with us, so I'm going to skip ahead.

20 MR. MYERS: I am Kenneth Myers,
21 Esquire. I am co-counsel to the law firm of Hise
22 Schwartz. And I am, as noted by the Chair, a
23 Vice-president of the Jewish Social Policy Action
24 Network, which we familiarly refer to as JSPAN.

1 Let me thank the Chair and the members of the
2 legislature who are here for allowing us to come
3 and present our views.

4 If I can, I would like to
5 convince you of two things and use your mind, not
6 your time. Number one, that there are at least
7 three disadvantages to incumbents from the
8 Gerrymander system and these are serious. It is to
9 your interests, as legislators, to consider a
10 better way. And the second point is I want to
11 convince you that the public cares. Although we
12 don't have a huge turnout here today on a workday
13 in West Philadelphia, nonetheless, the public
14 cares, and I will try to demonstrate that.

15 First of all, I should introduce
16 JSPAN. We are a nonprofit membership organization.
17 Our goal is to advance equality and opportunity for
18 all men and women in our pluralistic society. We
19 seek to protect civil rights. We inform and engage
20 our members in the Biblical mandate of Tikkun olam,
21 repair of the world. We are on the web at [www dot](http://www.JSPAN.org)
22 [JSPAN dot O-R-G](http://www.JSPAN.org). If you go to [JSPAN dot C-O-M](http://www.JSPAN.com), you
23 will discover the Japanese wrestling team. So
24 pleasing to [O-R-G](http://www.JSPAN.org).

1 We are interested in
2 redistricting and have been for some time. We held
3 a forum in 2006, in the spring, on the topic,
4 brought in a speaker from Washington who litigated
5 at least one redistricting case, and some other
6 local people who had done so, and we're pleased and
7 surprised to have almost 50 people show up for an
8 evening of that discussion.

9 In the fall of 2006 I wrote an
10 article for our newsletter, which appears in your
11 papers, if it's been handed out, as I hope it is.
12 In the summer of 2007 we held a CLE program with
13 the help of Professor Kane from Georgetown and
14 Representative Leach at the Villanova Conference
15 Center, and we had an even bigger turnout. We had
16 75 people show up for a CLE, continuing legal
17 education, including a number of people who were
18 not lawyers. So my intention is to convince you
19 that there are people out there who really, really
20 care.

21 Redistricting is central to
22 representative government. As an indication of
23 this, the founding fathers put their requirement of
24 a decennial true up in article one, section two of

1 a very long document called the Constitution. It
2 is very important.

3 The Pennsylvania Constitution, as
4 you know, uses a small commission of mainly
5 legislators to map the State. Our problem is
6 this: Redistricting places the legislators in one
7 of the most severe conflict of interest positions
8 that you ever occupy. Redistricting lines should
9 command the respect of the electorate. The lines
10 today are illogical, are clearly drawn and designed
11 to achieve a predetermined result in elections in
12 large segments of the Commonwealth and create safe
13 seats that deprives the public of their right to
14 choose.

15 The public perception of
16 Gerrymandering undermines respect for you, our
17 representatives. It is very similar to saying that
18 if I had won a match, ballgame or whatnot on drugs.
19 It takes away a big chunk of your achievement in
20 getting elected. It turns a lot of legislators
21 into party products.

22 Gerrymander districts discourage
23 voters from turning out to exercise their
24 franchise, and that is a serious disadvantage and

1 we worry about turnout, and yet, the Gerrymander is
2 a serious problem for a couple reasons. First of
3 all, representatives are forced to deal with odd
4 shaped, extended large tracts. To find their
5 constituents can become quite a challenge when you
6 are spread out.

7 Today, compact and continuous for
8 a person running for and elected office, I suspect,
9 since I have not run, but I have been told by those
10 who have, is a matter of looking at the media
11 contacts and how you reach your public. And when
12 you have odd shaped, long, extended districts, you
13 make it harder for yourself to stay in contact with
14 your constituency. And that, I would say, is the
15 second disadvantage to you of the Gerrymandering
16 system.

17 Election campaigns in sprawling
18 districts are very difficult to handle, difficult
19 to get your message across, obviously, difficult
20 for your opponent, but neither of you should have
21 that disadvantage. When turnout in an election is
22 lowered, it is a sign that your relationship to
23 your constituency is not what it's going to be.

24 One of the people who ran for

1 election last year said: You know, the sense of
2 community ought to be built by the electoral
3 process. The sense of community ought to be
4 enhanced. It is not when the community that you
5 are dealing with is one of those odd shaped spaces
6 on Representative Leach's map.

7 By shifting the selection to the
8 primaries and party caucuses, safe seats encourage
9 and extremist rather than centrist elements. The
10 legislative process, itself, becomes more
11 difficult. It makes many people happy, I have to
12 say, among the electorate to be confident that our
13 representatives will achieve snafu, but I doubt
14 that you might on either side of the aisle, and
15 that is really what is building to the present
16 system. And that is the third system. I think
17 you've made your jobs tougher when you go too far
18 down the road toward safe seats.

19 And I would add that candidates
20 for office and incumbents are forced to take
21 positions that they may not believe in because they
22 want to appeal to the primary vote. The effect of
23 that is when the center disappears, candidates who
24 try to move up in life, incumbents who move -- seek

1 to move to higher positions may find themselves
2 unhappy and embarrassed with their own voting
3 records and their own spoken records that is a
4 disadvantage if you were forcing yourselves to do
5 things that you probably don't really believe in.

6 The courts have backed away from
7 regulating this area, except in voting rights cases
8 where federal law requires their participation. In
9 1962 the era of judicial involvement opened with
10 the Baker versus Carr case in the U.S. Supreme
11 Court. It was a judicial reaction to a -- what
12 they perceived as a non-self correcting problem
13 that you could have districts that got out of
14 kilter and the out of kilterness (sic), there was
15 no political way to correct it because the majority
16 party in terms of districts retains control of the
17 districting process.

18 I recommend to you, if you're
19 interested in reading it, Professor Kane and et al,
20 Parties Line, Brookings Institute Press, 2005, a
21 very good book, unfortunately cut off at 2005. The
22 era of federal judicial involvement ended in 2004
23 and the book was probably already at the press and
24 it was too late to catch up on the Jubileer case

1 that came out of Pennsylvania's effort to
2 redistrict in which the Supreme Court, Scales and
3 the three justices, four out of nine, decided that
4 this was nonjusticial (sic). A fifth justice,
5 Kennedy, joined them, but only the outcome.
6 Kennedy holds out the hope that in a particular
7 case that he finds appropriate, the Federal courts
8 will engage in looking at the political aspects of
9 redistricting.

10 REPRESENTATIVE JOSEPHS: Mr.
11 Myers, for those people who are not attorneys,
12 would you just say what nonjusticial is, please?

13 MR. MYERS: Yes. It's often
14 referred to as saying the Supreme Court decided
15 this was a political question. And the court's
16 complaint, after 40 years of trying, and I can't
17 disagree entirely with Justice Scales was that it's
18 a difficult topic for a court to take up. We don't
19 have many simple legal statements of how a district
20 should be drawn. It gets complicated. They're
21 stuck with it in Voting Rights Acts and cases, but
22 they shunned it in everything else.

23 So let's go to our policy
24 recommendations to you. I don't particularly

1 intend to choose, among the three bills that are
2 before you, but I'd like to give you some thoughts
3 as to what we would like to say in JSPAN in
4 legislation. First of all, we do think there needs
5 to be an oversight committee. And in view of the
6 desire, not to politicize the courts further than
7 necessary, an independent commission is desirable.
8 That is we should be doing, through an independent
9 commission, what is now going to state court and
10 when the legislature can't agree on a plan, the
11 fallback is a court.

12 We think an advisory commission
13 is also a useful concept. We think that all, or at
14 least the majority in any commission should be
15 private citizens, not elected officials or
16 employees of the government. If there is a
17 separate decisional commission and an advisory
18 commission, the advisory commission should have
19 full access, and the public should, also, to all of
20 the proceedings of the decisional commission.

21 We think that the legislature can
22 take better use of blue ribbon citizens. The
23 Committee of Seventy, League of Women Voters, JSPAN
24 and other organizations could be given a role in

1 this process. It wouldn't necessarily mean that
2 you are abandoning, as part of your
3 responsibility. You're simply reaching out to
4 people, who are, by and large, not as heavily
5 politicized as you in many ways have to be.

6 And then, as to the specifics, we
7 think districts should be compact and contiguous.
8 And to the extent they can, they should follow
9 existing municipal boundaries; that the whole
10 process should be at least as simple as you can try
11 to make it because the public ought to be able to
12 understand it, the courts ought to be able to
13 understand it, and complexity is a danger. And not
14 only that, makes it harder to get things through
15 the Constitutional ratification process.

16 Some of the terms used in these
17 bills need definitions, but none of the three bills
18 have enough definitions to please me, legalistic
19 terms, and which I hate, are thrown out, like
20 aggrieved, and I'd like to say citizen, not
21 aggrieved person, because I think that any citizen
22 of the Commonwealth ought to have a right to
23 challenge what is being done here, not just
24 aggrieved. I don't know how aggrieved relates

1 because to me, it means citizen in this instance,
2 but that's just one example.

3 I think that the Pennsylvania
4 courts have to be encouraged to take a role because
5 whatever you do, there is always the question of
6 believability and confidence of the public, and for
7 that, there needs to be that other layer, even
8 though I'm not anxious to have a lot done in that
9 other layer. Recognizing the stumbling blocks we,
10 nonetheless, urge you to do a program on a time
11 line that is reasonable and not unduly protracted.

12 And I would close by saying
13 voting is the by in of the public in the working
14 process of the government. Sound policy and
15 process is a very important legislative goal and
16 requires reform of our redistricting methods.

17 I would be very happy to answer
18 any questions you may have.

19 REPRESENTATIVE JOSEPHS: Before
20 we get to that, since you mentioned the name of one
21 of our important organizations here, the Committee
22 of Seventy, I just wanted to note for the record
23 that we invited, not only the Committee of Seventy
24 to testify, but also the Commonwealth Foundation.

1 Both of them declined. But I want to say for the
2 record that if they want to submit written
3 testimony, we would be happy to receive it from
4 both of those groups, and indeed, from any other
5 group or individual who wants to. The testimony
6 should be directed towards Mr. Oliver. My office
7 will make sure it's distributed to the members of
8 Committee and other interested members, and indeed,
9 perhaps to the entire House.

10 Mr. Grell, do you have a
11 question?

12 REPRESENTATIVE GRELL: Yes.
13 Thank you.

14 Did I hear you say that you don't
15 have a particular preference among the three bills
16 that are pending before the House?

17 MR. MYERS: Yes. I, frankly,
18 have not tried -- I am not as expert, as you may
19 be, in finding the best of the three and judging
20 the practicality. I think all of them have good
21 things to offer us.

22 REPRESENTATIVE GRELL: Under your
23 sort of vision of this, who would do the first
24 draft of a plan?

1 Would it be an independent board,
2 an advisory board, or would it be done by
3 professional staff within a General Assembly, such
4 as Mr. Casper and his counterpart, in terms of the
5 computer modeling and sort of the first cut at it?

6 MR. MYERS: I think that it would
7 be two elements to it. The commission, citizen
8 commission, advisory commission, decisional
9 commission, one or two of them would be doing the
10 first cut using software that I understand is now
11 suitable for almost everybody to utilize, although
12 I have not, myself, tried it.

13 With the great help from Mr.
14 Casper, because the input information has got to be
15 an important clue and the ability to have the
16 professional staff that answers questions about
17 doing calculations, like contiguity and so forth,
18 these are not things that I think most individuals
19 would want to try.

20 REPRESENTATIVE GRELL: Would it
21 be acceptable, in your view, to have a group of
22 volunteers but being supported by an existing staff
23 of the General Assembly?

24 MR. MYERS: Absolutely.

1 REPRESENTATIVE GRELL: It
2 wouldn't need be completely independent of the
3 General Assembly?

4 MR. MYERS: No. And my own
5 experience is primarily in the environmental
6 field. That's where I practice most of my law.
7 And we always have -- I would call it mirror
8 bodies. Whenever there's a decisional group, they
9 usually have a citizen's advisory group and they
10 both draw on staff support.

11 REPRESENTATIVE GRELL: Finally,
12 under your scenario, the courts would have no role,
13 whatsoever?

14 MR. MYERS: No. I suggest to you
15 that we must have a final appeal to court in order
16 to maintain that level of public trust that is
17 really needed here. It can't be a system that can
18 be totally derailed and taken off in a tangent.

19 REPRESENTATIVE GRELL: Then I
20 misunderstood. I thought the oversight body is
21 independent commission, you saw it as taking the
22 place of the court in resolving conflict.

23 MR. MYERS: I would hope they
24 would resolve conflict so the group has great trust

1 in them.

2 REPRESENTATIVE GRELL: But there
3 needs to be a review process beyond that?

4 MR. MYERS: Yes.

5 REPRESENTATIVE GRELL: Thank you
6 for your testimony.

7 REPRESENTATIVE JOSEPHS: Just to
8 clarify, when we're talking, making reference to
9 Mr. Casper, because he is here, I am assuming
10 without saying that we are talking about his
11 counterpart on the Republican side having the same
12 type of role, equal role as he does.

13 Mr. Carroll?

14 MR. MYERS: Absolutely.

15 REPRESENTATIVE CARROLL: Thank
16 you for your testimony.

17 Can you, for a moment, if you
18 can, describe the Iowa approach? You indicate in
19 your testimony that Iowa has a nonpartisan
20 legislative commission.

21 Can you spend a minute or two on
22 that?

23 MR. MYERS: Yes. I have studied
24 Iowa slightly. I have not had any involvement in

1 the way it works. Iowa is a wonderful place. They
2 have a reasonable balance of political force in the
3 commission method that goes about putting their
4 districts together. And I understand, by word of
5 mouth only, that it's very successful. Iowa may be
6 a less contentious place than Pennsylvania. Some
7 say we are a red state and a blue state all wrapped
8 into one. But their example is still inspiring to
9 me because they do have a blue ribbon commission
10 that goes out and does the job and secures a lot of
11 adherence and respect.

12 REPRESENTATIVE CARROLL: A
13 follow-up.

14 Did Iowa use the process during
15 the last review process?

16 MR. MYERS: I believe they have
17 done one redistricting for this new process.

18 Am I right about that, Mr.
19 Casper?

20 MR. CASPER: They have done more
21 than one, but yes.

22 REPRESENTATIVE JOSEPHS: Any
23 other questions from the panel?

24 Mr. Casper, before you get

1 started, Ms. Boyle, if you'd like to introduce
2 yourself, please do so. And we are being joined by
3 another State rep, who will introduce himself, as
4 well.

5 MS. BOYLE: Hello. I'm Susan
6 Boyle. I'm the Republican Director of the State
7 Government Committee.

8 REPRESENTATIVE: Good morning.
9 I'm State Representative Kerry Benninghoff of the
10 171st Legislative District.

11 REPRESENTATIVE JOSEPHS: Do we
12 have any more, Mr. Casper, comments?

13 MR. CASPER: Mr. Myers, you had
14 mentioned, I believe, that you favor the
15 independent commission?

16 MR. MYERS: Yes.

17 MR. CASPER: I believe you also
18 said that legislators should not vote on their own
19 districts.

20 MR. MYERS: No. I didn't
21 actually say that. I said that you face your worst
22 conflict of interest when you get to redistricting.
23 The three bills that I have looked at for today's
24 hearing each give the legislature a role. It is

1 never far away from the process, and I accept that
2 as a given.

3 MR. CASPER: Two of the three.

4 MR. MYERS: Well, Representative
5 Leach's bill does, too. There's still an
6 appointment process where the legislature appoints
7 a portion of the people who do it.

8 You're saying there is no final
9 vote in the legislature?

10 MR. CASPER: Correct.

11 MR. MYERS: I have no comment on
12 the difference between Representative Curry and
13 many of my neighbors, Representative Leach, in
14 this, except to say that I accept, as a citizen of
15 Pennsylvania, that the redistricting process is a
16 political process. I simply want to see it done in
17 a way that detracts from our confidence.

18 MR. CASPER: I'm sorry. I'm
19 still not clear. You said that it represents an
20 extreme conflict of interest. But the question
21 specifically I guess would be this concurrent.

22 Do you favor the entire General
23 Assembly voting on a plan then drafted by an
24 independent commission?

1 MR. MYERS: No. I really don't,
2 frankly, because it's hard to believe that the 200
3 members of the assembly are going to add a great
4 deal individually, except to go back to you, as
5 staff, and get your advice on how this plan looks
6 overall. And I think the commission can do that
7 about as well as all the members can do it.

8 REPRESENTATIVE JOSEPHS: Thank
9 you very much. And I think that we are very happy
10 with your testimony. Thank you for being here.

11 We have been joined by
12 Representative Samuelson, who is on the schedule,
13 but would like to testify at the end of the
14 hearing. So let us now ask our former colleague,
15 former representative Sara Steelman, who is the
16 Chair of Common Cause to come forward, and make
17 yourself comfortable. Welcome and start whenever
18 you are ready.

19 MS. STEELMAN: Good morning. I
20 am Sara Steelman, Chair of Common Cause
21 Pennsylvania and a former member of the
22 Pennsylvania House of Representatives. I
23 appreciate the opportunity to represent Common
24 Cause in this hearing. We are grateful for the

1 chance to share with the members of the House State
2 Government Committee some of our ideas on improving
3 the redistricting process in Pennsylvania, a long
4 overdue reform.

5 Pennsylvania is notable both for
6 the ingenuity devoted to the creation of painfully
7 convoluted legislative districts and for the
8 unwillingness of the Commonwealth's courts to
9 respond favorably to citizen's complaints about
10 obvious Gerrymandering. Since appeals to the court
11 system failed despite glaring violations in
12 existing Constitutional standards, it's become
13 clear that the most likely way redistricting will
14 change is through legislative action, and we
15 applaud the interest shown by this Committee in
16 considering such reforms.

17 Before considering the several
18 redistricting bills before the Committee, I'd like
19 to outline some general principles that Common
20 Cause thinks need to be reflected in any
21 redistricting bill in order for it to be considered
22 an improvement on the current process. These
23 principles concern both the procedures and the
24 standards for redistricting.

1 First, I want to consider
2 procedural elements of redistricting.
3 Redistricting should be carried out by an
4 independent body that would be responsible for both
5 state and federal legislative redistricting. The
6 importance of the adjective independent in this
7 context cannot be overstated. The current
8 processes of having state legislative redistricting
9 done by a commission composed mostly of legislative
10 leadership and having federal redistricting maps
11 directly voted upon by the legislature have
12 resulted in legislative districts that reflect the
13 desire to protect incumbents, and occasionally, as
14 previously noted in this hearing, the desire to
15 punish the leadership's enemies, such as by moving
16 a senatorial district from one end of the
17 Commonwealth to another more than any desire to
18 create districts that promote representative
19 democracy.

20 The redistricting process should
21 involve the public to the greatest extent possible
22 by, for example, making the information and
23 standards used in redistricting available to the
24 public, encouraging public input on that

1 information and those standards prior to the
2 publication of the draft redistricting map and
3 providing opportunities for public criticism of the
4 map when it is published. Iowa, it is worth
5 noticing, publishes a do-it-yourself redistricting
6 plan early in its process that permits citizens to
7 see what information and criteria a map is based
8 on. Given recent develops in imaging technology
9 and computer programs for developing maps, this
10 also enables interested parties to determine
11 whether the final map actually reflects those
12 standards.

13 Finally, the redistricting
14 process should be limited to occurring once each
15 decade, and there should be a time line for its
16 completion. In addition, there should be
17 procedures to be followed if the time line
18 standards are violated, as well as an appeals
19 procedure.

20 Second, I'd like to list some
21 desirable standards for redistricting, itself. Of
22 course, it's a given that any redistricting plan
23 must adhere to all Constitutional and Voting Rights
24 Acts requirements. Two of those requirements have

1 been particularly prominent in recent redistricting
2 battles: Equality of population between districts
3 and fair representation for minority populations.
4 Again, because of the advances in computer mapping,
5 creating districts that are equal in population, no
6 matter how bizarre their shapes are, is not
7 terribly difficult. Ensuring fair representation
8 for minorities is also not terribly difficult, but
9 that criterion may create limitations on the
10 applications of some other important standards.

11 One of those other standards, and
12 one which has been obviously and drastically
13 violated in Pennsylvania is respect for political
14 subdivisions. In a spirit of disclosure, I can
15 point out that I got interested in reapportionment
16 myself during the 1991-2 legislative session, when
17 the 62nd District, which I represented, suddenly
18 ceased to be an entirely Indiana County district,
19 as it had been historically, and oozed over the
20 county line into Cambria County in order to create
21 a space into which a district previously centered
22 in Armstrong County could move in order to
23 accommodate the legislator from Armstrong County.

24 People in Indiana County were in

1 indignant at losing their district, and as I began
2 to look at the process, I became indignant myself.
3 During the remainder of my time the House, I
4 repeatedly introduced legislation to change the
5 redistricting process, and I'm happy to note that
6 some of the current bills reflect those efforts.

7 Respect for county, township and
8 municipal boundaries should be a central feature of
9 any redistricting legislation. It's important
10 because, A, people need to know who their
11 legislator is, both in order to contact her or him
12 and to be motivated to vote, and uncertainty is
13 depressing both to citizen action and voter
14 turnout.

15 B, a legislator who only
16 represents a sliver of a borough, township or
17 county is necessarily going to pay less attention
18 to that area than to the larger parts of the
19 district.

20 And C, badly fractured districts
21 are more difficult for a challenger to campaign in,
22 both because of the physical effects and because
23 more media markets mean more expensive campaigns.
24 This reduces the competitiveness of the district,

1 which from the point of an incumbent legislator may
2 be good, but is not so good for the people.

3 The standard that compactness is
4 a valuable consideration in redistricting is
5 another one that is consistently violated in
6 Pennsylvania, as has been pointed out by previous
7 speakers, as well. In 2004 Don Buckwalter and
8 Robert Wilson, working at Indiana University of
9 Pennsylvania Spacial Sciences Research Center,
10 published an article in The Pennsylvania Geographer
11 utilizing two mathematical indexes of compactness
12 and demonstrating that both Pennsylvania House and
13 Senate districts have, on average, become steadily
14 less compact during the period between the 1960 and
15 2000 redistrictings.

16 As they pointed out in their
17 article, decreasing compactness tends to reflect
18 decreasing respect for municipal boundaries and has
19 the same negative effects. The more linear a
20 district is and the less it resembles either an
21 ideal circular or hexagonal shape, the harder it
22 becomes for people to know their representatives,
23 to feel themselves as a part of a community of
24 interest, to care about elections or to participate

1 themselves. The indexes they use, I will add
2 parenthetically, compare districts either to a
3 circle, which, of course, is a perfect shape, or to
4 a hexagon, which is the shape that gives you the
5 best map coverage.

6 It should go without saying that
7 all parts of a district must be contiguous, but
8 looking at some of the districts that have been
9 presented to us as part of Representative Leach's
10 testimony, especially the 172nd state House
11 district, that should probably be mentioned, too.

12 Finally, the data used in
13 redistricting must be limited to prohibit the use
14 of personal or political data in redrawing -- in
15 drawing the redistricting maps. Information as to
16 the home addresses of incumbents or likely
17 challengers, political affiliation of voters, or
18 voting performance should be explicitly banned from
19 consideration.

20 Turning to the specific bills
21 before the Committee, HB 84 has the distinct
22 advantage of explicitly putting the process of
23 redistricting for both congressional districts and
24 for the Pennsylvania House and Senate into the

1 hands of a redistricting bureau, whose members
2 would be selected and governed by the terms of
3 Pennsylvania's Civil Service Act.

4 I would like to remark that
5 Iowa's redistricting process, on which HB 84 is
6 largely modeled, charges the Iowa Legislative
7 Services Bureau with carrying out redistricting.
8 This would also certainly be a possibility for
9 Pennsylvania. In discussing this idea, I have had
10 people raise questions: Well, are the members --
11 are the employees of Iowa's Legislative Services
12 Bureau adequately free from political pressure in
13 drawing those maps? And I contacted the people who
14 worked on the last redistricting and their
15 experience has been that they have not faced
16 political pressure in drawing those lines.

17 And I think that given that it is
18 to the larger interest of the House and Senate in
19 Pennsylvania, that the Legislative Services Bureau,
20 which is now perceived as a nonpartisan service
21 entity, stay that way, that we could at least be
22 reasonably confident that political pressure would
23 not be brought to bear.

24 Another possibility might be to

1 have the redrawing of the district lines contracted
2 out. I mentioned the spacial services -- I guess
3 Spacial Research Center at IUP. Obviously I have a
4 particular interest in the situation at Indiana
5 University of Pennsylvania, but there are many good
6 geographers in Pennsylvania, and it would certainly
7 be possible to hire the services of people who are
8 skilled and disinterested, in the political sense,
9 to draw these maps.

10 We're not entirely sure that the
11 advisory commission outlined in HB 84 is, in fact,
12 necessary and would ask the Committee to consider
13 whether both preliminary hearings on redistricting
14 and the public response hearings could perhaps be
15 conducted either by the bureau or by the House and
16 Senate State Government committees.

17 The second critically important
18 improvement on the current process is that the
19 language of HB 84 includes an extensive section
20 laying out the guidelines to be followed by the
21 bureau in redrawing the district lines. The
22 current Constitution contains some language
23 indicating the standards legislative districts
24 should meet, compact and contiguous, equal in

1 population, and with no political unit subdivided,
2 quote, unless absolutely necessary, unquote.
3 However, given the history, it seems like a good
4 idea to be more explicit, including the prohibition
5 on the use of personal and political data that
6 appears in both HB 84 and HB 81.

7 HB 81 and HB 2047 have the most
8 complete time lines for redistricting. Our only
9 question would be whether this level of detail
10 needs to be addressed in a Constitutional
11 amendment. We also appreciate the fact that HB
12 2047, as well as HB 84, but not HB 81, call for
13 public hearings on the plan. We believe that other
14 forms of input are also potentially valuable and
15 would like to see an internet forum made available,
16 but public hearings should also be a part of the
17 process. HB 81 and HB 2047 appear to have good
18 procedures in case of failures either to meet the
19 process deadlines or for the legislature to accept
20 the final bill.

21 In closing, let me reiterate that
22 Common Cause believes that the bills before the
23 Committee have many good features and any one
24 could, with some revisions, be the vehicle of major

1 reform in Pennsylvania's electoral process. I
2 understand that another bill is to be introduced
3 shortly dealing with the issue of redistricting.
4 However, I must point out that time is of the
5 essence.

6 If the General Assembly is to
7 protect Pennsylvanians' interest in rationally and
8 ethnically sound legislative districts for the 2011
9 redistricting process, it must succeed in passing
10 the Constitutional amendment bill before the
11 General Assembly recesses for the summer.
12 Otherwise, Pennsylvania's constitutionally mandated
13 process for passing an effective redistricting
14 amendment will slip to an effective date of 2021.

15 Those of us who do not expect to
16 be president by that time, like one of the previous
17 speakers, feel that we have waited far too long for
18 this reform. Pennsylvanians deserve legislative
19 and congressional districts designed to promote
20 effective, accountable and responsive government,
21 rather than districts designed to perpetuate
22 incumbency.

23 I will be happy to respond to any
24 questions.

1 REPRESENTATIVE JOSEPHS: Before I
2 ask anybody, I just want to note briefly we were
3 joined by Representative Mark Cohen. He will
4 introduce himself when he testifies, which will be
5 next.

6 Any questions? We'll start with
7 Mr. O'Brien.

8 REPRESENTATIVE O'BRIEN: I have
9 been interested this morning to hear these
10 comments, and certainly, I think we can all agree
11 that during the reapportionment process in the
12 past, and certainly this year, that there's been
13 certain liberties that have jumped over to
14 abominations that have taken place, precincts split
15 in half for the purpose of reapportionment. But on
16 the other side, somehow strangely many times it
17 seems to work.

18 If you were to look at my
19 legislative district, the 175th Legislative
20 District here in Philadelphia, it would look like
21 it was drawn by a two year old in a temper tantrum.
22 It's a long district that runs along the Delaware
23 River that looks as though there's absolutely no
24 rhyme or reason to it. At first blush it looks

1 like my district was just a rampant attempt at
2 Gerrymandering to take whatever was there and put
3 it into some sort of electibility (phonetic) for
4 the incumbent at the time.

5 But there's a new answer.

6 There's a new answer. There's a new answer that
7 can't fit into circle, squares, rhombuses,
8 whatevers. There's nuances. There's nuances that
9 can't be picked up by independent -- by independent
10 authorities and councils. I'm proud to say that
11 the 175th Legislative District enfranchises Asian
12 population. It's probably one of the few
13 legislative districts in the Commonwealth of
14 Pennsylvania that is agreeing with the process;
15 enfranchises the Asian population.

16 Chinatown, which you can visit
17 here in Philadelphia, is in the district. Whether
18 it's the Vietnamese population in the northeast,
19 Chinatown in the center, a little bit to the south
20 is a Cambodian population and a Monk population,
21 the thread that runs through the tapestry of the
22 175th Legislative District.

23 Now, help me for one second.

24 Give my head around how that nuance of a district,

1 that tapestry of the district, how does that get
2 woven?

3 MS. STEELMAN: Arguably, it would
4 get woven in under the standard of respect for
5 minority population representation. It could also
6 be considered under a standard that I didn't talk
7 about explicitly because we have such a hard time
8 defining it. And by we, I mean all the people who
9 are discussing these issues, and that's the idea of
10 community of interest.

11 Now, in these discussions of
12 redistricting, it is very often suggested that part
13 of the reason to respect municipal boundaries is
14 because municipal boundaries also tend to define
15 perceived communities of interest. And communities
16 of interest seems to be one of those terms that,
17 although none of us can define it precisely, we
18 think we know it when we see it.

19 REPRESENTATIVE O'BRIEN: There's
20 26 legislative districts in Philadelphia.

21 MS. STEELMAN: So within that, I
22 assume that people would be looking more closely.

23 REPRESENTATIVE JOSEPHS: One at a
24 time, please.

1 REPRESENTATIVE O'BRIEN: Now,
2 under the Voting Right Acts there is no -- there is
3 no impetus, there is no elective to enfranchise
4 action voters in Pennsylvania.

5 So how is Allegheny County going
6 to be looking to take care of Asian voters in
7 Philadelphia?

8 How are you going to pick that
9 nuance up?

10 MS. STEELMAN: That would, again,
11 depend upon whether they're informed about that
12 information. That's not -- that would certainly
13 not be prohibited information. That, in fact,
14 could reasonably, it seems to me, and at this
15 point, we're getting into the realm of assuming
16 that a number of things have happened that haven't
17 even begun to happen yet. But I don't see any
18 reason that the legislator representing that
19 district at the time that the next reapportionment
20 is done couldn't present a statement to the body
21 drawing the map saying: This is why this district
22 should look the way it does. And that's something
23 that could, conceivably, be taken into
24 consideration.

1 It's also going to depend on how
2 stringent the standards are for compactness and
3 perhaps for continuity, although from what you say,
4 that district would not have contiguity problems.
5 I think -- well, as I have said a moment or two
6 ago, now we're talking about a district that might,
7 conceivably, be affected by legislation that hasn't
8 even come up for a vote before the State Government
9 Committee yet, let alone before the House as a
10 whole. So I think getting into the details is
11 probably going beyond what you might reasonably do
12 at this point.

13 I would also like to add that
14 this is one district out of 203 House districts.
15 And although it is inspiring to hear that this
16 district works, even if it appears to exist in
17 defiance of some generally accepted standards for
18 redistricting, that doesn't solve the problem of
19 all the other House districts, and it doesn't solve
20 the problem of the congressional districts. And it
21 seems to me that we need redistricting reform badly
22 enough to solve all of these other problems, that
23 we still need to consider -- I would still ask you
24 to consider moving the bill forward, moving some

1 bill forward that would correct the very wide range
2 of abuses of the process that can now be
3 documented.

4 REPRESENTATIVE O'BRIEN: Thank
5 you, Madam Chair. I have nothing further.

6 REPRESENTATIVE JOSEPHS: Mr.
7 Benninghoff?

8 REPRESENTATIVE BENNINGHOFF:
9 Thank you. Sara, very nice to see you again. I
10 see you're still on the cause here.

11 Madam Chair, I want to compliment
12 you for having the hearing and inviting us to your
13 city. I always enjoy touring it, even if it takes
14 me forever to get here. Two quick questions.

15 Do you think that if we were to
16 allow more flexibility in the population base that
17 we represent each district we would be better at
18 keeping municipalities and school districts
19 together? I mean, the House were relatively
20 restricted by 2,000 -- I don't remember the exact
21 number, but I think it's less than 3,000 vote
22 citizen difference in that district, so we're
23 bumping a little bit. And I use that as an
24 example. I happen to be a transfer district from

1 Philadelphia into Centre County because of the
2 population curve. My candidate to the right of me
3 has a few municipalities, one of which takes -- the
4 only municipality in Philadelphia School District,
5 it just seems odd for somebody that lives in a
6 neighboring county to be representing a school
7 district that he seldom ever gets to.

8 And I ask that question because
9 by sheer practicality, the majority of those people
10 who live in that municipality come to my office
11 anyhow. And that's not a slam to anyone. It's
12 just human nature. That to make ourselves so rigid
13 in thinking that we're trying to shoot for
14 perfection, I think in some ways is impractical.
15 And I'm just curious if you think giving
16 flexibility there would at least allow us to give
17 more consistency and would not chop up the
18 geography.

19 MS. STEELMAN: I think that's
20 probably true, and there are some variations in the
21 population limitations that are outlined in the
22 various bills before the Committee. Obviously,
23 there's got -- there needs to be some discussion of
24 what does constitute an appropriate versus an

1 inappropriate variance, how far do you go before
2 you start violating the principle of one person,
3 one vote. I think it's a discussion worth having.

4 REPRESENTATIVE BENNINGHOFF: My
5 last question has to do with assigning a panel or
6 commission, whatever you want to label it. My
7 personal feelings are is it cannot be made up of
8 legislators and legislative leaders and benefactors
9 of the ultimate outcome. It just inherently makes
10 it super political. That's my own personal
11 belief. That's why I tend to favor Tancredi, or
12 parts of that proposal, more.

13 Do you have any other suggestions
14 of how -- in addition to your suggestion to use
15 IUP, I suspect that's because you can get us a
16 discount, but I always have to lobby on behalf of
17 Penn State to do the same. But to me, in a society
18 today, I can make a purchase in New Zealand and be
19 very adequately billed in Belfont, Pennsylvania
20 within 30 days or less with interest that we can't
21 use today's technology in some kind of objective
22 and impartial nonpartisan manner to come up with a
23 map. Maybe I'm trying to simplify it, but it just
24 seems that you don't need 15, 20 people sitting

1 around a room trying to strain their brains and
2 show off their intelligence that there's probably
3 got to be mechanicals and formularies through
4 computerization that should be able to do this.

5 MS. STEELMAN: I agree with you,
6 and Common Cause agrees with you, absolutely, that
7 we should try to get legislative leaders out of the
8 position of controlling the process to the greatest
9 extent possible. And it's not that I or Common
10 Cause are particularly promoting having the
11 redistricting done by IUP's Spacial Sciences
12 Center, but that we should have redistricting done
13 by people whose primary interest is in doing a
14 professional job to the standards that are defined
15 as appropriate for that job.

16 And I would like -- well, I would
17 like to ensure that it's done by Pennsylvanians,
18 but not by members of the legislature, and I would
19 like to ensure that it is done with the greatest
20 possible input from the public and the greatest
21 possible opportunity for the public to evaluate the
22 outcomes.

23 REPRESENTATIVE BENNINGHOFF:
24 Thank you.

1 Thank you, Madam Chairwoman.

2 REPRESENTATIVE JOSEPHS:

3 Representative Cohen?

4 REPRESENTATIVE COHEN: Has Common

5 Cause taken any position on lawyers should not be

6 on a disciplinary board, doctors should not be

7 involved in medical discipline, lawyers should not

8 be involved in deciding who is allowed to be a

9 member of the Bar, doctors should not be allowed to

10 decide who should practice medicine?

11 Is there any instance on record

12 Common Cause has taken such a position?

13 MS. STEELMAN: I will be happy to

14 answer that question, if you will explain to me

15 what professional bar politicians have to pass in

16 order to become politicians. The two professions

17 that you're talking about are differently

18 structured than elected officials.

19 REPRESENTATIVE COHEN: You don't

20 have to pass an exam to get elected to office. You

21 do have to get your word to the voters. We could

22 go on and ask what the business is -- the business

23 in sign and sale territory, should hire outside

24 experts, determine who gets what sales territory,

1 and apparently, the answer is basically no.

2 Let's say a county loses 60,000
3 people or 62,000 people, which is currently the
4 number of people being in the city.

5 Is it Common Cause's position
6 that therefore the county won't lose a legislator?

7 MS. STEELMAN: That's going to
8 depend on what is happening on all the other
9 counties and districts. Again --

10 REPRESENTATIVE COHEN: We assume
11 that the county line should not be split. And one
12 would assume the county loses a considerable number
13 of people.

14 Would it lose one or more
15 legislators?

16 MS. STEELMAN: As I say, that's
17 going to depend on what is happening in other
18 counties, as well, if we're trying not to split
19 county lines.

20 REPRESENTATIVE COHEN: Suppose
21 the neutral commission comes up with a plan that
22 puts a considerable number of -- (inaudible) -- in
23 Iowa what they do -- Iowa does not have a
24 requirement for the legislation. So somebody who

1 moved into a new district -- many people in Iowa
2 every ten years move into new districts. The head
3 of Common Cause, the member of Congress moved into
4 a new Jim Leach, the national chair of Common
5 Caution, moved into a new district after his
6 residence was moved after his congressional
7 district. Now, under the way we normally process
8 it, people cannot move into a new district because
9 the time is too late to do so.

10 Would you favor getting rid of a
11 residency requirement for State legislators?

12 MS. STEELMAN: No.

13 REPRESENTATIVE COHEN: Or
14 shortening the residency requirement for State
15 legislators so that people can move into new
16 districts if their house is taken out of the
17 district by a commission that is not allowed to
18 consider where they live?

19 MS. STEELMAN: That's not
20 something that Common Cause has a position on at
21 this point. We haven't gotten that far.

22 REPRESENTATIVE COHEN: Does
23 Common Cause have a position on whether it's
24 desirable to put legislators in the same district

1 so that we'd have new blood in the legislature?

2 Would Common Cause step forward
3 if, like, 50 or 7,500 legislators are placed in
4 contest with other common legislators?

5 MS. STEELMAN: Our position is
6 that redistricting should create compact districts
7 that reflect communities of interest and respect
8 municipal boundaries to the greatest extent
9 possible while maintaining a reasonable equality of
10 population. And if incumbent legislators wind up
11 in the same district, that would be what would
12 happen. But that's not -- we're not -- we're not
13 interested in making that happen. We're not
14 opposed to making that happen. We're interested in
15 getting a better balanced redistricting process for
16 Pennsylvania.

17 REPRESENTATIVE COHEN: One final
18 question.

19 If it does happen, are you not a
20 wee bit suspicious that legislators who wind up in
21 the same districts might be those who are opposed
22 to bipartisan leadership?

23 Do you think that could possibly
24 happen, legislators who leaders don't like just

1 magically happen and wind up in districts with
2 other legislators?

3 MS. STEELMAN: If we actually
4 have an independent body doing redistricting and we
5 have adequate transparency that would permit
6 citizens to take a look at how the maps turn out,
7 that should show up. I mean, it's not magic. It's
8 not even rocket science these days. It maybe used
9 to be rocket science, but now -- I wouldn't say
10 it's quite within the capacity of the average 12
11 year old child, although some of those gamers could
12 prove me wrong.

13 But to check on the structure of
14 districts is not -- would not necessarily be an
15 overwhelmingly difficult task. And if you see what
16 looked like strange fingerprints on the district,
17 then that would be a reason to reject those
18 districts.

19 REPRESENTATIVE COHEN: Thank you,
20 Madam Chair.

21 REPRESENTATIVE JOSEPHS: I'm
22 going call on Mr. Carroll next. But I think that
23 Representative Cohen has brought up an interesting
24 question of residency, and with respect to Iowa,

1 and for the groups that are here, and for you
2 particularly, Ms. Steelman, I would really
3 appreciate some discussion among the groups about
4 the residency requirement. I know I belong to
5 advocacy groups, myself, particularly before I was
6 elected. I know how long it takes to come to a
7 conclusion. But I really would appreciate, among
8 the advocates, some discussion of this, because I
9 think that it's integral to what we are discussing.

10 And if there's some -- if we know
11 the lines along which you are discussing, that
12 would be very helpful, even if we don't have the
13 benefit of conclusions from any of the
14 organizations that are here.

15 Mr. Carroll?

16 REPRESENTATIVE CARROLL: Thank
17 you.

18 I think I heard, in your
19 testimony, the phrase independent commission a
20 number of times and a desire to exclude the
21 legislative process.

22 Would you say that is an accurate
23 assessment?

24 MS. STEELMAN: What I was trying

1 to say usually was independent body because
2 commission, in most of these bills, is an appointed
3 group of people and were actually kind of trying to
4 get away from that.

5 REPRESENTATIVE CARROLL: At the
6 same time, the Iowa model is the preferred model.

7 MS. STEELMAN: Right.

8 REPRESENTATIVE CARROLL: But the
9 Iowa model allows for the demands (phonetic) to be
10 appointed from the members of the commission by the
11 four caucus leaders.

12 MS. STEELMAN: But the commission
13 in Iowa is advisory. They don't actually vote on
14 the plan. They are responsible -- they amount to
15 -- they have amounted to the public face of the
16 plan. They hold hearings. They answer questions.
17 They are empowered to advise the people who
18 actually do the redistricting, the professional
19 staff. If there's a question that doesn't seem to
20 be adequately covered in the governing legislation,
21 for example, the question that Representative
22 O'Brien raised, okay, what are we supposed to do
23 about this district that doesn't look quite right
24 but it has a rationale for existing? The Advisory

1 Committee is supposed to, as I understand the Iowa
2 process, put its heads together and come back
3 saying: Well, okay. We think this is important
4 enough to look at or alternatively.

5 So there is a rule, and in Iowa,
6 the legislature gets to vote on the final plan.
7 And I don't see -- I mean, Common Cause doesn't see
8 a problem with that, as long as the plan is
9 nonamendable and if the legislature, as some of
10 these bills suggest, if the legislature can't agree
11 on a plan, it moves to the Supreme Court, which has
12 to choose one of the existing plans.

13 REPRESENTATIVE CARROLL: But the
14 Iowa vote -- the plan, as I understand it, plan one
15 and two are not amendable.

16 MS. STEELMAN: Correct.

17 REPRESENTATIVE CARROLL: So
18 legislature can amend the plan as a result of the
19 committee --

20 MS. STEELMAN: No. No, not
21 amendable.

22 REPRESENTATIVE CARROLL: Right.

23 And so, then, therefore, the
24 legislature's role is simply an up-or-down vote

1 without any ability to read party lines.

2 MS. STEELMAN: That's the idea.

3 REPRESENTATIVE JOSEPHS: Ms.
4 Boyle?

5 MS. BOYLE: Thank you.

6 It's my understanding, and you
7 can correct me if I'm wrong, that in Iowa that
8 there is a requirement that the districts, or a
9 preference for districts being a polygon.

10 MS. STEELMAN: Correct.

11 MS. BOYLE: And I understand that
12 in Iowa maybe the governmental units are more
13 uniform and in a grid-like pattern.

14 So just to clarify with you, when
15 you talk about compactness, are you speaking about
16 that type of shape that may not conform to the
17 geography of Pennsylvania, or are you suggesting a
18 compactness that acknowledges that we have ridges
19 and mountains and rivers and streams and bridges
20 and roads that do not connect in certain areas?

21 MS. STEELMAN: The latter. I
22 really appreciated Scott Casper bringing the visual
23 aid to show us the 154th District and how it is --
24 although it is not wonderfully compacted, it's not

1 ideally compact, nevertheless, it reflects real
2 municipal boundaries. I'm willing to accept,
3 without going into sociological study of the
4 district, that it reflects a real community of
5 interest; that that district makes sense.

6 And indeed, long, long ago, when
7 I introduced my first redistricting bill, I did
8 lift it, pretty much, and I did have that
9 requirement in the bill that districts in
10 Pennsylvania must approach the polygonal shape as
11 closely as possible. And in discussions with my
12 colleagues,, I was convinced that that probably
13 wasn't a really great idea.

14 So I think we need to -- we need
15 to keep trying to get better, but we also need to
16 accept the real geography of Pennsylvania, both
17 physical and political.

18 MS. BOYLE: Thank you.

19 REPRESENTATIVE JOSEPHS: Thank
20 you. I have a question myself, Ms. Steelman.

21 The way it works in Iowa, and
22 perhaps in other states, the legislature is
23 severely, or to some degree, at any rate,
24 restricted in what it can do once it is given a

1 plan, what it can't do. And if the legislative
2 process goes to a dead end, the Supreme Court is
3 the next place the plan goes. I'm very interested
4 in this State, where we elect our Supreme Court
5 justices, there's a certain political element on
6 our Supreme Court.

7 Do you know how the -- and I'm
8 not saying that having a governor pick the justices
9 is any more or less political than having them
10 elected, wealth, indeed, partake of some of the
11 political process. And I use the word political
12 perhaps in quotes to mean what we mean partisan and
13 -- partisan.

14 Do you know how the Supreme Court
15 in Iowa is selected, and do you know how any of the
16 other Supreme Courts that we were talking about are
17 selected?

18 And if not, would you supply that
19 to us at a later date?

20 MS. STEELMAN: I would be happy
21 to supply it to you. But let me also say that I
22 think that this is -- this is a problem that we
23 can't get around, unless -- davis ex pocima
24 (phonetic) is supposed to descend from the higher

1 realms and make the decision on the redistricting
2 plan, if both the legislature and the Supreme Court
3 can't deal with it. Redistricting is going to
4 remain a somewhat political process.

5 What we're trying -- what we hope
6 to do, what I think the State Government Committee
7 hopes to do is to make it the fairest political
8 process for all concerned that we can approach.

9 REPRESENTATIVE JOSEPHS: I agree,
10 and I did not ask you the question to trap you, or
11 the Common Cause, or any of these advocacy groups
12 in any way. I think it's a piece of information
13 that would be useful for us to have, for the rest
14 of the General Assembly to have, and for the
15 public, in general, to have as we evaluate these
16 plans.

17 MS. STEELMAN: Yes. And I think
18 to expand on that we should also take a look at
19 what these various Supreme Courts in other states
20 have done, for example, in Arizona, and how that
21 might affect our deliberations.

22 REPRESENTATIVE JOSEPHS: I agree.

23 REPRESENTATIVE BENNINGHOFF:
24 Madam Chairman?

1 REPRESENTATIVE JOSEPHS: Mr.
2 Benninghoff?

3 REPRESENTATIVE BENNINGHOFF: I
4 want to ask you, Sara, a question just because you
5 had been a former member.

6 Do you think this discussion can
7 happen independently, or is there any need to be
8 discussing length of terms? And the reason I throw
9 that out there is, obviously, at least I hear from
10 my constituents an awful lot, this is kind of
11 crazy. Those of us that are on the inside know
12 that after the first eight months in a new session
13 here, at least leadership, generally goes into what
14 I call re-election paranoia, which really
15 constrains the framework of what the agenda is.
16 And I think that's probably just as paramount and
17 paralyzing to the process overall as redistricting.

18 Do you think that they can be
19 discussed independently, or do you think it should
20 be part of the bigger discussion?

21 MS. STEELMAN: I think they can
22 be discussed independently.

23 REPRESENTATIVE JOSEPHS:
24 Representative McIlvaine Smith?

1 REPRESENTATIVE McILVAINE SMITH:

2 I have a question, Ms. Steelman. I thought about
3 this, about increasing the size of the legislative
4 districts just by a little bit, trying to use the
5 size of the legislature.

6 And is there any thought to
7 increasing the, say, 75,000 up from the 62,000?

8 Do you think that's possible, or
9 has there been any discussion by the Common Cause?

10 MS. STEELMAN: I have to say that
11 we haven't discussed that. We have pretty much
12 stuck to considering redistricting as a separate
13 issue.

14 REPRESENTATIVE McILVAINE SMITH:

15 Thank you.

16 REPRESENTATIVE JOSEPHS:

17 Representative Cohen?

18 Thank you very much, Ms.
19 Steelman. You came from some distance, and I
20 appreciate you being here.

21 MS. STEELMAN: Thank you very
22 much for inviting us.

23 REPRESENTATIVE JOSEPHS: We have
24 been joined by the government relations person from

1 the University of Pennsylvania, Mr. Paul Cremins.
2 Thank you very much for your hospitality and for
3 giving us this beautiful, exotic, maybe even
4 strange little room.

5 Representative Cohen, when you
6 are ready.

7 REPRESENTATIVE COHEN: Thank you.

8 Madam Chairman, fellow members of
9 the State Government Committee, staff, members of
10 the public --

11 REPRESENTATIVE JOSEPHS: One of
12 the things about this room is it echoes strangely,
13 so we have to keep our voices down.

14 Mr. Cohen.

15 REPRESENTATIVE COHEN: Shortly
16 after Pennsylvania was founded on the basis of
17 religious freedom, William Penn was asked by a
18 fellow Quaker in the days in which religious
19 freedom was a relatively new and relatively
20 innovative concept why he stood for religious
21 freedom for all people, instead of just religious
22 freedom for Quakers. And William Penn explained to
23 his friend that if the principle of religious
24 freedom was going to be limited to Quakers, only

1 Quakers would have a stake in it. And Quakers were
2 already just the minority of Pennsylvania and
3 likely would be a smaller minority in the future.
4 So William Penn said: If we're going to protect
5 the rights of Quakers for the long haul, we have to
6 protect the rights of everybody.

7 I believe the same principle
8 should be applied to redistricting.

9 Do we have to talk about the
10 rights of all people and not just arbitrary
11 concepts, no matter how sincerely felt about
12 geography?

13 I think we can be sure that if --
14 if legislative seats are going to be eliminated,
15 the legislative seats that will be eliminated will
16 disproportionately be the seats of dissident
17 legislators. If we wanted to protect the rights of
18 dissident legislators to be dissident legislators,
19 we have to protect the rights of all people.

20 In the -- I have had experience
21 with legislative redistricting. In 1971, when I
22 was a citizen who protested the redistricting plan;
23 in 1981, as an incumbent legislator, when I was one
24 of those who filed a suit in the Supreme Court of

1 Pennsylvania against the redistricting plan; in
2 1991, when I basically agreed with the plan; and in
3 2001, when I was given the task of designing
4 redistricting, at least initially, for the City of
5 Philadelphia, the Democratic districts for the City
6 of Philadelphia.

7 I am against radical changes in
8 the current system. The current system was sold as
9 a reform at the 1967/1968 convention. It was
10 widely considered reform then, and I think it
11 should be considered a reform now. It should not
12 be replaced by a blind redistricting system. It is
13 extraordinarily rare, when we are told that
14 better -- the decisions better when people with
15 less knowledge make those decisions. The fact that
16 we're holding a public hearing is an effort to gain
17 greater knowledge.

18 The legislative process is about
19 governing responsibly. Governing responsibly
20 means dealing with underlying problems. Proposals
21 to have a redistricting in which decision makers
22 are precluded from making decisions using relevant
23 information will only further increase the cynicism
24 and anger the public if it is inaccurate.

1 We are not generally told, as I
2 said before, that lack of information should be a
3 quality of good decision making and it is not a
4 good idea in redistricting. The legislature should
5 only delegate its decision making power when one of
6 two conditions is met or both of these conditions
7 are met. The conditions are the new decision maker
8 has more expertise than the legislature, or two,
9 the new decision maker has more accountability than
10 the legislature. Delegating to people who have no
11 expertise and no accountability is not in the
12 public interest. It is a formula that will only
13 increase public anger and disillusionment.

14 I would like to address several
15 misconceptions about the redistricting process.
16 First, redistricting does not guarantee safe seats.
17 The performance of incumbent legislators may
18 guarantee safe seats, but the redistricting
19 process, in itself, does not guarantee safe seats.
20 Just yesterday Senator Vincent, who is probably the
21 most active member of the legislature in the
22 redistricting, being an extremely thorough person,
23 interested in the Senate redistricting and House
24 redistricting announced his withdraw as a candidate

1 for re-election.

2 In Illinois, on Saturday, the
3 seat of Speaker of the House, Dennis Hasker, who
4 designed the Illinois congressional redistricting
5 plan, when his seat -- he's, of course, a
6 Republican -- went to the Democratic party for the
7 first time in many years. A Democrat also took the
8 seat in 2006 of Congressman Tom Boulet, who was
9 extremely well involved in the Republican
10 congressional districts drawing in Texas.

11 Getting back to Pennsylvania,
12 three of the most active legislative redistrictors
13 were Senate President Bob Jublier, Senate Majority
14 Leader Chip Brightbill and Democratic Whip Mike
15 Vernon. All were defeated in 2006 due to
16 complaints about their performance. People vote
17 for legislators based on the perceptions of their
18 performance. They vote for parties based on the
19 perception of performance. It is not the lines of
20 the district that determine whether incumbents stay
21 in or go out. Districts can be drawn to defeat
22 incumbents by sticking them all together in the
23 same district, but districts that allow incumbents
24 to run without having their seat eliminated do not

1 guarantee that they will stay in office.

2 Second, the redistricting process
3 does not maintain party control. It is interesting
4 that there have been four election cycles under the
5 current system. In the 1971/1981 cycle, by cycle I
6 mean the ten-year period from the time the
7 redistricting starts to the time the next
8 redistricting takes effect. In the 1971/1981
9 cycle, a Democrat majority in the House shifted to
10 a Republican majority in the House. In the
11 1981/1991 cycle, a Republican majority shifted to a
12 Democratic majority. In the 1991/2001 cycle, a
13 Democratic majority shifted to a Republican
14 majority. From 2001 to 2008 the Republican
15 majority has shifted to a Democratic majority.

16 In every cycle, in every ten-year
17 cycle, or including our current cycle, which is now
18 only seven years, the party that started the cycle
19 in the majority has lost the majority by the end of
20 the cycle. This is not an example of how parties
21 manipulate this to serve their own interest.

22 Third, the public is not
23 demanding it be represented by legislators it does
24 not want. The goal of making districts more

1 competitive is, in most cases, very, very difficult
2 to achieve. But putting aside the reality that's
3 an extremely difficult goal to achieve, the public
4 does not want a situation where every legislator
5 wins but with 51 percent of the votes or less. The
6 public does not want that because that -- such a
7 situation, if it could be achieved, would mean that
8 over 49 percent of the population would be
9 aggrieved by the choice of the legislator.

10 The public wants legislators it
11 has confidence in, not legislators where they don't
12 have confidence. The public is not demanding a
13 50/50 chance to have a legislator they do not want.
14 This fundamental fact that the goal of many of the
15 reformers, if it could be achieved by a change in
16 our districting, is opposed by the public helps
17 explain why a redistricting reform was defeated
18 overwhelmingly by the voters in both California and
19 Ohio.

20 Now, the political contexts were
21 different in California and Ohio. In California,
22 the Democratic party controlled the redistricting
23 process and the Republican party felt they had
24 nothing to lose by having a nonpartisan commission,

1 which it had no influencing. But when the voters
2 had a chance to vote on it, the Republicans found
3 that the yes votes for the Constitutional change
4 were far below Republican strength. All Democrats
5 tended to vote against it, as did many Republicans.

6 In Ohio, the political situation
7 was reversed. The Republicans controlled
8 redistricting and the Democrats felt they had
9 nothing to lose by getting this on the ballot for
10 the voters to decide. In Ohio, the Democrats found
11 that the yes votes for redistricting were far below
12 Democratic strength. This goal is not a goal
13 supported by the general public.

14 Fourth, what is labeled incumbent
15 protection is merely, in reality, seeing that
16 incumbents are not placed in the same district.
17 The way you protect dissident voices in the
18 legislature is you protect all voices in the
19 legislature. To create a situation, whereby some
20 districts just magically get merged with others and
21 some incumbents were faced with moving into a new
22 district if you allow it by changing the residency
23 requirements to our Constitution, as well, or if we
24 don't allow it just, throw up their hands and

1 say: Well, that's the way it goes. The
2 Legislative Reapportionment Commission said I have
3 to run in the district in which the other guy, who
4 has been representing 95 percent of it for the last
5 ten years or so, so everybody knows who he is,
6 nobody knows who I am, I'm going to give up and go
7 do something else. Giving that power to a
8 commission is not in the public interest and it is
9 not in the interest of allowing a full discussion
10 and full expressions of opinion by members of the
11 General Assembly.

12 Now, beyond this, there has to be
13 consideration of what -- of whether or not people
14 should be allowed to consider life experience of
15 legislators and the relevance to various
16 constituencies.

17 Is it wrong for a legislator who
18 is a lawyer or a doctor or other professional to be
19 assigned the district largely composed of
20 professionals with whom he or she might have a
21 degree of empathy?

22 Is it wrong to have somebody
23 whose experience is teaching in an inner city
24 school district, or operating inner city health

1 clinic, representing an inner city district? It
2 happens -- I have been cautioned not to name names,
3 but I will do it anyway because it's so obvious,
4 Greg Vitali and Louise Bishop both live very close
5 to each other geographically. And it is eminently
6 possible to draw a district in which Louise would
7 represent Greg Vitali's district, which is
8 upwardly, mobile suburbanites, and Greg Vitali
9 could be assigned to represent an overwhelmingly
10 black, moderate-income district.

11 Is it wrong to consider who Greg
12 Vitali who, who Louis Bishop is?

13 And is it -- does it make sense
14 to assign Greg Vitali to represent Louise's
15 district and Louise to represent Greg's so they can
16 both have primary fights in which they both will be
17 attacked for not being representative of the
18 district? I don't really think it does.

19 Fifth, a blind redistricting
20 system undermines collegiality and trust in the
21 legislature because it grades a situation in which
22 any of us can be running -- can be forced to run
23 against somebody else. Right now there is a
24 certain amount of cooperation in the legislature,

1 despite all the divisions that occur on issues.
2 There is a certain amount of collegiality.
3 Collegiality was raised as a major issue in the
4 case of the State Supreme Court during the
5 impeachment of Rolf Hartson, who it was revealed to
6 the members of the Supreme Court they hate each
7 other, never talk to each other, refuse to engage
8 in conversation with each other, only corresponded
9 very tersely by memos.

10 A collegial institution is an
11 institution that is going to be much more effective
12 and get many more things done. The collegiality is
13 going to be undermined if people start fearing, gee
14 God knows what's going to happen in the next
15 redistricting, you know, I may have to run against
16 this guy. So, therefore, I have to be very
17 critical of his proposals. I have to do everything
18 I can to discredit him so if I'm placed in the same
19 district with him people will agree that I'm better
20 than he is.

21 Who gets elected in the
22 legislature is important only to the extent that
23 the legislature is important. Already this year
24 two of our freshmen members have declined to seek

1 re-election saying they couldn't get enough done to
2 justify their presence here. This comes in a year
3 in which we put in a lot of procedural safeguards
4 to make it more difficult to pass legislation in
5 order to stop any bad legislation from being
6 passed.

7 Creating a legislature in which
8 members are totally uncertain about how long they
9 can stay here if they do a good job, totally
10 uncertain by what standard they will be judged on,
11 totally uncertain about who they will be running
12 against in the future is hardly the way to get
13 people focused on doing the job at hand of serving
14 the public.

15 For all of these reasons and
16 more, I strongly urge that extensive further
17 hearings be held on this subject before any action
18 is taken. There are no geography-based groups
19 assigned to speak today. And these districts are
20 geography-based districts. We need to hear from
21 geography-based groups, neighborhood associations,
22 local political associations and the like to find
23 out what they look for in a representative, and to
24 what degree their elected representatives have

1 their confidence in making redistricting decisions,
2 and to what degree they feel their interests would
3 be better served if their elected representatives
4 were deprived the right to have input in this
5 process.

6 Everything that exists in
7 Pennsylvania is not wrong. The fact that something
8 exists does not mean that there's an illegitimate
9 cabal that has put it in office, that has put it in
10 practice and that it must be changed. The current
11 system works to see that people, people, not
12 triangles, not squares, not hexagons, but people
13 are represented. The purpose of redistricting
14 under federal law and State law is to equalize
15 population. That is the preeminent Constitutional
16 function of redistricting. If we change it to meet
17 other criteria, we are undermining its preeminent
18 function.

19 Shortly after I was first sworn
20 in as a member of the House, June of 1974,
21 Representative Peck Foster of York County, who is
22 currently the York County Republican chair and long
23 retired from the straight legislature, gave me some
24 sage political advice about serving in the

1 legislature. There never was a horse that couldn't
2 be rode, Peck Foster said, and there never was a
3 ride that couldn't be thrown. It is time for us to
4 base that reality and keep the system we have in
5 place in the interest of a more responsive, more
6 competent and more collegial legislature.

7 Thank you, Madam Chairman, for
8 the opportunity to testify.

9 REPRESENTATIVE JOSEPHS: Thank
10 you, Representative Cohen. I have a request of you
11 that if you can reduce your testimony to writing, I
12 would be very happy to distribute it to the
13 Committee and beyond.

14 REPRESENTATIVE COHEN: Thank you.

15 REPRESENTATIVE JOSEPHS: I think
16 it's valuable always to have the dissident's voice,
17 as we have been saying here over and over again,
18 and I agree with that.

19 I also take very seriously your
20 request to invite geographic-based groups to
21 testify. I do not know whether we can have another
22 hearing in the time constraints, but I certainly
23 will explore with you and other people groups that
24 might submit other kinds of testimony.

1 And I now ask the general
2 population up here, starting from my left, whether
3 there are any questions.

4 Mr. Benninghoff?

5 REPRESENTATIVE BENNINGHOFF: Not
6 to disappoint you, Madam Chair, but our speaker
7 has, probably, some of the best history amongst us.
8 I appreciate his testimony. I don't necessarily
9 agree with every fact and you don't always agree
10 with me, but I think your history is very
11 valuable.

12 I think to just blankly say:
13 Don't change what we're doing is kind of digging in
14 the heels. One, because things do change. Life
15 changes. A lot has gone on, even since '74, when
16 you came to the legislature, much less the
17 redistricting process has changed. Sadly, I think
18 it is somewhat presumptuous on our part to think
19 that all the public is sitting around thinking
20 about redistricting.

21 But what they do do is they live
22 with the consequences of the process they don't
23 totally understand and some of the shortfalls of
24 that. And I think we have to be cognizant, even

1 though they aren't sitting around thinking about
2 redistricting, they are frustrated that, as
3 Daylin's presentation, ultimately, there's time
4 where they are not picking the representatives, the
5 representatives are picking at them. And I share
6 that to try to express that there is not currently
7 situations where these Gerrymandering is going on.
8 It's just not accurate.

9 I would have to ask: How do you
10 explain to me, maybe I'm just naive, but in the
11 last redistricting process I see no fairness, no
12 rationale, or any wisdom behind the drawing up of
13 the former Maranack seat. Representative
14 Maranack's seat, by my understanding, own hometown
15 was cut up so bad that it alone sat in five
16 legislative districts. Now, I suspect that was not
17 because we had a marksman who was drawing the
18 lines, but it was because he didn't always vote
19 party lines and it was a way to politically make
20 him disappear.

21 REPRESENTATIVE COHEN: And that
22 is the kind of thing that I actively opposed in the
23 Philadelphia area, and I never supported it. And
24 if I had my way, I don't see that we would

1 guarantee that this would pass. But if I had my
2 way, I would have a Constitutional amendment, bang,
3 guaranteeing that every legislator shall be placed
4 in a district without any other legislator and that
5 would prevent that.

6 And I think if we allow this to
7 pass, the Maranack example, which would also affect
8 Ralph Kaiser, instead of having two examples in a
9 203 member legislature, I think we have 25, 50, 75
10 examples of districts being carved to make it
11 extremely easy to get rid of people. And I, you
12 know, I cannot say the system is perfect, but I
13 believe it is far better than an alternative in
14 which legislative careers are ended willy-nilly by
15 people who allegedly will be independent and
16 unbiased. I think it is a rather naive belief that
17 the people will be unbiased. It shows a
18 considerable amount of trust in the leadership, at
19 the same time that the leadership is blasted by the
20 same organizations on some of the other issues.

21 REPRESENTATIVE BENNINGHOFF: I
22 wholeheartedly support that. And I do believe you
23 may be somewhat unique. The fact the voters have
24 removed some of those same leaders that were

1 participants in that same process, I think, speaks
2 volumes.

3 In addition to that, you talked
4 bought collegiality. I have got to believe in my
5 heart, and I think we see it within the General
6 Assembly, at least in my mind appears that for the
7 most part most of us get elected because we are
8 reflective of our districts. And those who choose
9 by choice or by force within a term or two to be
10 removed historically is because they don't
11 represent the districts. For whatever reason, they
12 say: Wow, this is not what I thought it was. But
13 I can think of some members who lost a term later.
14 And when I reflect back on that, I think: Well,
15 you know, they either didn't do their job, but
16 ultimately, they were not reflective of the
17 district.

18 So in your earlier example,
19 Representative Vitali and Representative Bishop, I
20 think that would be far and few between and
21 probably no more likely than what the direct
22 manipulative manner that occurs from a leadership's
23 ability to false, I'll just say a political
24 process, to do the same very thing. And in the few

1 examples that that would happen, such as you made,
2 I have got to believe in my heart that the public
3 or the voters would ultimately elect the one that
4 they feel best reflects the district. To me,
5 that's the Democratic process.

6 REPRESENTATIVE COHEN: That would
7 mean, for instance, you could get rid of both
8 Representative Vitali and Representative Bishop by
9 assigning them each other's district, and I think
10 that would be a mistake.

11 REPRESENTATIVE BENNINGHOFF: I
12 don't want to belabor that, but I would say it's
13 still got to be a far better Democratic process if
14 that is done by chance through some type of
15 objective entity and/or some mathematic formulary
16 through a computer than by the direct intention of
17 colleagues. I don't expect a reply. It's just
18 different opinions.

19 I will close with: With that
20 information, I think the goal by those who buy into
21 this, and I have got to tell you, this is an
22 evolutionary thing, not something I really thought
23 about when I first got elected, but the more I'm
24 around it, the more I've seen some internal

1 shenanigans, or whatever you want to call it,
2 occurring, the more I believe in adjusting, at
3 least, at minimal, the current process.

4 Do you feel that some type of
5 redistricting reform, hypothetically, give me a
6 little latitude, could improve the fact that
7 historically we see 25 to 30 percent voter turnout
8 and sadly, 25 to 30 percent is not 25 or 30 percent
9 with representation of our communities because we
10 know not everyone is represented by registered to
11 vote?

12 REPRESENTATIVE COHEN: I think
13 the way to increase voter turnout is to start
14 increasing more districts. That is involved with
15 greater politics. I, personally, would be happy to
16 have Republican opponents. They would choose to
17 run against me. Redistricting added Republicans to
18 my district. It went up 14 percent to all of 23
19 percent as a result of the last redistricting. But
20 basically, we have a bipartisan, community-wide
21 consensus that incumbents will not be seriously
22 contested, unless there is a reason to believe that
23 they will be defeated. And that is part of the
24 Pennsylvania culture, and the fact that that is

1 part of the Pennsylvania culture reduces turnout.

2 I do not believe that -- I think
3 that Foster's collegiality, the fact that I know
4 that I probably won't have a serious opponent,
5 Republicans near me know they won't have serious
6 opponents. It means our competing punches are not
7 particularly salient on a day-to-day basis. But I
8 think that's why the turnout is low, because
9 there's a fundamental decision being made. The
10 fact that there's so many people interested in
11 Common Cause and not participating in direct
12 politics. The fact people want to be umpires more
13 than they want to be active political participants
14 limits participation. And also, is the decline of
15 patronage to the unionization, so they're far less
16 stakes in elections. It used to be that anybody
17 who ran for office was almost guaranteed a
18 patronage job if he lost. That doesn't exist
19 anymore.

20 The U.S. Supreme Court has said
21 an employee once hired, except in very rare
22 circumstances, cannot be fired for political
23 reasons, such as a new party has taken power. So
24 that reduces the stakes. There are various good

1 government reforms, as well as a general
2 disinclination of people to be partisan and to be
3 competitive and to be abrasive and confrontational,
4 which serves to reduce political choices and
5 political interest.

6 But I do not think that we can
7 structure something that will -- through historic
8 competitiveness. I think whether people are going
9 to be competitive is a decision voters and
10 organizations have to decide for themselves.

11 REPRESENTATIVE BENNINGHOFF: I
12 appreciate your answer, and I'm going to very
13 quickly close on that. I completely disagree, no
14 offense, but people often joke with me. They say:
15 Why did you go into legislature? I said: Well, my
16 real love in life is baseball. But I really came
17 to the conclusion I'm too short for basketball and
18 I'm getting too old for baseball, so I might as
19 well get paid to do what I do best, and that is
20 talk, and Madam Chairman might agree with me.

21 But I think that we have to be
22 serious with ourselves to think that we're just
23 going to arbitrarily have 203 competitive races
24 just because we all say we're going to have

1 competitive races. But an open seat is now
2 running, on average, 400, \$500,000 per candidate is
3 ludicrous to think that the average citizen has any
4 opportunity or any potential. So to design
5 districts that are 75 percent one party over the
6 other just inherently makes it uncompetitive. And
7 I think that, alone, tells the voters why bother to
8 come out in this primary, I can't win, anyway.

9 Madam Chair, thank you. And Mark
10 Cohen, thank you for your esteemed testimony.

11 REPRESENTATIVE O'BRIEN: Correct
12 me if I'm wrong, Philadelphia is represented in
13 part by seven State senators, as I recall?

14 REPRESENTATIVE COHEN: That's
15 correct, yes.

16 REPRESENTATIVE CARROLL:
17 Allegheny County is represented by six State
18 senators, and those would be conclusions that
19 almost anyone would make considering those are the
20 two largest counties in the Commonwealth. The
21 amazing part in the current process is that we have
22 a county in this Commonwealth with 160,000 people,
23 Monroe County; that is, represented by the same
24 number of State senators as Allegheny County, six.

1 So that's the product of our
2 current system. And the people of Monroe County
3 that I represent a portion of, in many cases do not
4 have a direct connection with their member of the
5 State Senate. And that's the system that we have
6 today creates a scenario where people are -- they
7 feel that there's an absence of representation, in
8 some cases. So I would point out to you that that
9 example begs for some change, maybe not the
10 wide-sweeping change suggested by some, but that
11 the current system that produced a product like
12 that is faulted. Thank you.

13 REPRESENTATIVE JOSEPHS: Ms.
14 McIlvaine?

15 REPRESENTATIVE McILVAINE SMITH:
16 Thank you, Miss Chairman. I wanted to make a
17 statement, actually. My district is the most
18 compact, most contiguous House district in the
19 entire General Assembly. And I won by a mere 49.54
20 percent. So I don't think that our districts are
21 actually being represented by who represents or who
22 reflects the district so much then the other; that
23 it is -- well, I won't go into why I believe it.

24 But I don't think there is any

1 perfect system. But I really, truly believe that
2 the likes of these sort of Swiss cheesy things are
3 just absolutely wrong, and it doesn't have anything
4 to do, in my humble opinion, about protecting
5 seats, or trying to get people reelected, or
6 whatever. It really, for me, is about that sense
7 of community that Ms. Steelman referred to.

8 And I am very fortunate because
9 my district does have that sense of community.
10 We're all a part of West Chester school system. As
11 I said, this is what my district looks like. It
12 looks like a little square. But I believe that we
13 have an opportunity, and unfortunately, we have a
14 very short window of opportunity to make this
15 change.

16 And I respectfully disagree with
17 you, Representative Cohen. I just believe that we
18 have to consider this opportunity now, that we need
19 to make this change. And justice is blind. And we
20 do need people who are out there, sort of a
21 champion for change. That's how I got politically
22 active. And I think that, really, one of the great
23 things we should look into is perhaps changing how
24 long our terms are, making them -- changing them

1 from a two-year term to a four-year term and then
2 have term limits. That's my personal opinion.

3 I believe, and you're correct
4 that how much of the district -- the House district
5 raised cost. Mine cost \$350,000 before we went
6 into count and recount. So it was over a half a
7 million dollars, and I don't know how much over.
8 There were other people who helped pay for that.

9 But we need to do this to keep
10 our democracy alive and thriving. Thank you.

11 REPRESENTATIVE COHEN: Could I
12 just respond?

13 REPRESENTATIVE JOSEPHS: If you
14 can do this briefly.

15 REPRESENTATIVE COHEN: Briefly.

16 REPRESENTATIVE JOSEPHS: I said
17 before, I can't really cut off my colleagues for
18 the sake of collegiality.

19 REPRESENTATIVE COHEN: For the
20 sake of collegiality I will be brief.

21 Representative McIlvaine Smith,
22 you know, your district was held by one of the
23 Republican leaders in the House of Representatives
24 in the last redistricting cycle. And the fact that

1 you, as a Democrat, won the seat I think is -- I
2 think is an example of how the redistricting --

3 REPRESENTATIVE McILVAINE SMITH:
4 But I was a lifelong Republican and I was very
5 active in my community, and had been since I was 13
6 years old. And I believe that had a lot to do with
7 it, too. Thank you.

8 REPRESENTATIVE COHEN: Thank you.

9 REPRESENTATIVE JOSEPHS: Can we
10 move ahead? I want to thank Mr. Cohen for being
11 here and giving his testimony.

12 REPRESENTATIVE COHEN: Thank you.

13 REPRESENTATIVE JOSEPHS: Ms.
14 Mulrine?

15 MS. MULRINE: Good afternoon.
16 I'm Andrea Mulrine, President of the League of
17 Women Voters of Pennsylvania and I'm joined by Lora
18 Lavin, who is our Vice-president for issues and
19 action. Thank you for this opportunity to come in
20 on proposed legislation to reform Pennsylvania's
21 redistricting process.

22 The League believes that the
23 right of all citizens to vote should be protected,
24 and yet, few citizens appreciate how redistricting

1 affects their right to vote for a candidate of
2 their choice. Therefore, this is an issue that
3 does not get much public attention, and the result
4 is that the legislature often ignores reform until
5 it's too late to do anything.

6 With the 2010 census and the
7 subsequent redistricting upon us, the League has
8 put redistricting reform at the top of our
9 legislative agenda. In Pennsylvania, as you know,
10 reform requires amending the Pennsylvania
11 Constitution. And to complete this process in time
12 for a Constitutional amendment to take affect for
13 redistricting after the 2010 census, legislation
14 must pass in the current General Assembly no later
15 than late June of this year.

16 The League believes that
17 redistricting should advance --

18 REPRESENTATIVE JOSEPHS: Ms.
19 Mulrine, I really would appreciate if you would not
20 read every word. We do have this.

21 Can you just talk us to, please?

22 MS. MULRINE: Well, I would like
23 to address the issues of the bills that are pending
24 at this point. We have talked about 81, 84 and

1 2047 previously in other testimony, and the League
2 does believe that the bills do have good features.
3 But I would like to go through the part of my
4 testimony that discusses the issues that we have
5 with some of the bills that are out there.

6 Sara Steelman did address the
7 procedures and the standards that were come to an
8 agreement in an Airlie, Virginia conference that
9 was held in 2005. I believe the League of Women
10 Voters was one of the participants. There were 27
11 other organizations at that conference. And they
12 set forth a set of procedures and standards that
13 redistricting should adhere to, and Sara Steelman
14 did cover that in her testimony, as well.

15 What we believe is that House
16 Bill 84 comes closest to meeting the Airlie
17 conference criteria. It is based, as we said, on
18 the Iowa plan, which is often cited as a model of
19 fairness. It places the job of redrawing
20 congressional and legislative district lines in the
21 hands of the bureau consisting of employees covered
22 by the Civil Service Act, and we've talked about
23 that. And we have talked about how you could
24 submit one plan, it would have to be voted up or

1 down, and then a second plan could be submitted.
2 And a third plan is -- if it comes to having a
3 third plan, then the General Assembly would be able
4 to amend that.

5 The comments that we have on
6 House Bill 84 are that this bill, in particular,
7 fails the test of redistricting by independent
8 commission. Final authority over approval of any
9 plan rests with the General Assembly, which can
10 reject every plan submitted by the bureau and write
11 its own plan. The bill does not specify which
12 government body will create the redistricting
13 bureau.

14 The bill gives too much
15 discretion to the commission regarding public
16 information and input into the process. It fails
17 to provide for any meaningful public input until
18 the bureau submits a plan to the legislature. We
19 believe that public input should begin at the start
20 of the process when stakeholders can alert the
21 redistricting body to their various concerns,
22 including communities of interest that should be
23 considered in preparing a plan.

24 In the public comment period

1 following submission of a plan prepared by the
2 bureau, interested groups and individuals should
3 also be able to submit alternate plans for
4 consideration by the commission. The bill
5 prohibits drawing districts for the purpose of
6 favoring a political party, incumbent legislator,
7 or member of Congress, or other person or group.
8 Precluding favoring a group could run counter to
9 the Voting Rights Acts and respect for communities
10 of interest.

11 The bill prohibits the bureau
12 from using such information as addresses of
13 incumbents or party registration in various
14 geographic areas. We believe that this is
15 impractical because this information is readily
16 available. Transparency in the process will reveal
17 if such information is inappropriately used to
18 favor or disfavor one group over another. And we
19 also believe that the amendment should clearly
20 state that it is the intent of the General Assembly
21 that redistricting will take place only once per
22 decade.

23 So having said that there are
24 some issues with House Bill 84, we started with --

1 starting with that as our beginning point, we
2 developed a concept for a redistricting process
3 that we believe will satisfy the Airlie criteria
4 and work for Pennsylvania. The process is designed
5 to provide for widespread public input, which I
6 think addresses some of the issues that have been
7 brought up during the question period of other
8 testimony today.

9 Under our plan, the redistricting
10 process would be assigned to the Pennsylvania
11 Legislative Reference Bureau. The Bureau has a
12 reputation for professionalism and fairness and
13 this is our closest equivalent to the Bureau used
14 in the Iowa plan. All external communications to
15 and from the Bureau are to be in written form and
16 part of the public record. Any data collected by
17 the Bureau that will be used to draw district
18 boundaries is to be posted on the internet and
19 otherwise made available for public inspection as
20 soon as it is compiled.

21 Even before census data is
22 available, the Bureau is to hold preliminary
23 different hearings at five different regions of the
24 State to get public input on their expectations

1 relevant to redistricting. The Bureau will have a
2 defined period of time after population data is
3 available to release a preliminary redistricting
4 plan, along with information on how the plan
5 satisfies various criteria, including those
6 designed to prevent Gerrymandering.

7 The preliminary plan will go to
8 the citizens first for public comment. Hearings
9 are to be held in five different regions of the
10 State. The public incumbent legislators and
11 members of Congress can submit written testimony
12 and even alternate plans they believe better
13 satisfy the redistricting criteria.

14 Within 30 days after the end of
15 public comment period the Bureau is to make public
16 and deliver a revised plan to the General Assembly.
17 The General Assembly will hold hearings and
18 otherwise receive public comment on the proposal.
19 No less than 21 days, but no later than 30 days
20 after receipt of the revised plan, the General
21 Assembly is to vote the plan up or down without
22 amendment.

23 If the General Assembly fails to
24 meet the deadline for accepting or rejecting the

1 revised plan, then it becomes the adopted
2 redistricting plan. If either or both Houses
3 reject the plan, it is to be sent back to the
4 Bureau, along with the reasons why it was rejected.

5 After a specified period for
6 additional public comment, the Bureau will have 21
7 days to prepare and deliver a final plan to the
8 General Assembly, which is to be publicized, as
9 before. If the General Assembly fails to approve
10 the final plan by a certain deadline, the final
11 plan will then become the adopted plan. If either
12 House rejects the plan, then the revised and final
13 plan will be delivered to the Secretary of State,
14 who will select one of them by lot to be the
15 adopted redistricting plan. Unless otherwise
16 directed by Court Order, congressional and
17 legislator redistricting is to take place only once
18 per decade following the federal census and appeals
19 will go to the Pennsylvania Supreme Court.

20 Our proposal also sets forth
21 criteria to limit Gerrymandering for partisan and
22 incumbent advantage as follows: To the extent
23 consistent with the one-person-one-vote
24 requirements, district boundaries are to coincide

1 with the boundaries and political subdivisions,
2 including voting precincts and school districts.
3 With regard to a congressional, senatorial or
4 representative district plan, under no
5 circumstances shall a municipality be divided more
6 than once until all larger municipalities have been
7 divided an equal number of times.

8 If a division is necessary, the
9 Bureau must file said findings as an addendum to
10 whichever plan it goes along with. A district
11 shall be composed of convenient, contiguous
12 territory and areas which meet only at the points
13 of adjoining corners are not contiguous.

14 Districts should preserve
15 communities of interest and shall be compact in
16 form to the extent possible with meeting population
17 and Voting Rights Act requirements and preserving
18 political subdivisions and respecting communities
19 of interest.

20 No district shall be drawn for
21 the purpose of favoring a political party,
22 incumbent legislator, or member of Congress, or
23 other person. Our proposal does not include the
24 involvement of any kind of commission in the

1 redistricting process.

2 In House Bill 84, the commission
3 would be merely advisory. Under House Bill 81 and
4 87, the commission would be responsible for
5 developing the plan. In all cases, the commission
6 would be appointed by the legislative leadership
7 and be equally composed of Republicans and
8 Democrats or their appointees. However, they would
9 all face a common problem - the selection of a
10 chair that would be a fair and impartial arbitrator
11 and have the powerful role of tiebreaker.

12 A common feature of House Bills
13 84, 81 and 2047 is that they all require that any
14 plan be put to vote by the General Assembly. This
15 is desirable because each incumbent legislator is
16 made publicly accountable for their approval or
17 disapproval of the plan. This being the case, the
18 commission serves no useful function. Eliminating
19 a commission puts all the people's representatives
20 on an equal footing regarding input into the
21 development of a redistricting plan.

22 We believe this proposal is the
23 one that puts the interests of the voters first,
24 and also, that good government cannot wait until

1 the year 2020.

2 Thank you for this opportunity to
3 address you.

4 REPRESENTATIVE JOSEPHS: I thank
5 you for your valuable testimony. I do want to say,
6 to clear any conflict of interest here, I am a
7 member of the League of Women Voters. I was an
8 active member at one point. And it's an
9 organization that I belonged to the longest in my
10 adult life.

11 I forget which end I started at
12 here.

13 Ms. McIlvaine, do you have a
14 question?

15 REPRESENTATIVE McILVAINE SMITH:
16 I was just waving that I'm also a League of Women
17 Voters' member.

18 MS. MULRINE: Thank you, both.

19 REPRESENTATIVE JOSEPHS: Ms.
20 Boyle?

21 REPRESENTATIVE GRELL: I just
22 have two quick questions.

23 First, under your suggested plan,
24 who would have standing to appeal to the Supreme

1 Court?

2 Would it have to be somebody who
3 is aggrieved by the plan or would it be any citizen
4 of the Commonwealth?

5 MS. MULRINE: I don't know that
6 we identified that, but I think that could be
7 certainly worked out.

8 REPRESENTATIVE GRELL: The second
9 is not so much a question, but if, in fact, you're
10 pushing to have something adopted by the end of
11 June, you need to get beyond concept and into words
12 and into bill form so we can look at it.

13 MS. MULRINE: Thank you. We
14 understand that.

15 REPRESENTATIVE GRELL: I'm sure
16 you did, but there's a lot that's good in your
17 suggestion, and I'd like to have an opportunity to
18 vote on it at some point.

19 MS. MULRINE: Thank you.

20 REPRESENTATIVE JOSEPHS: Mr.
21 Cohen?

22 REPRESENTATIVE COHEN: Thank
23 you.

24 Have you ever met any members of

1 the Legislative Reference Bureau?

2 MS. MULRINE: I have not,
3 personally.

4 Have you, Lora?

5 MS. LAVIN: No.

6 REPRESENTATIVE COHEN: Are you
7 aware that they all have to be attorneys?

8 MS. LAVIN: I wasn't aware of
9 that. Even though it would go to the Legislative
10 Reference Bureau, it's probably unlikely that the
11 Reference Bureau has in-house existing the
12 expertise necessary to do the plan. They probably
13 would have to either contract it out or hire
14 temporary staff.

15 REPRESENTATIVE COHEN: So you do
16 not encourage the Legislative Reference Bureau be
17 active in drawing the plan?

18 MS. MULRINE: Oh, active,
19 certainly, but not as being the only people who
20 would have any hand in it. I mean, they would have
21 to hire consultants, obviously, to do it.

22 REPRESENTATIVE COHEN: They hire
23 consultants.

24 And how do they process the

1 consultant's recommendations?

2 Do all the attorneys in the
3 Legislative Reference Bureau get a vote on it?

4 MS. MULRINE: Well, I think it's
5 up to the Legislative Reference Bureau to produce a
6 plan that meets the needs of the public that has
7 come forth and spoken at public hearings and
8 brought forth their own plans.

9 REPRESENTATIVE COHEN: Again, I
10 understand the point. I'm just concerned about the
11 mechanics of it. There's roughly seven or nine
12 attorneys.

13 Do they all vote on it equally?

14 MS. MULRINE: I think they all
15 have to have consensus on it, sure.

16 REPRESENTATIVE COHEN: The
17 salaries are set by the boss, as opposed to the
18 boss said: This is the one I favor, and he's in
19 charge of pay raises, promotional opportunities, he
20 approves a leave of absence, vacations, you know,
21 is it possible that a member of the Legislative
22 Reference Bureau wants a longer vacation or pay
23 raise might be under the influence?

24 MS. MULRINE: Well, I think that

1 from our research and what we have been exposed to
2 with the Legislative Reference Bureau is that they
3 are a standard for fair and impartial work, and
4 that they have worked well in the Pennsylvania
5 government in this capacity. And that, therefore,
6 they were the best commission, if you would, the
7 best bureau within State government to take on this
8 particular issue.

9 I don't think that any -- I don't
10 think that any system is perfect. I don't think
11 that anyone here in this room would agree that any
12 system is perfect. But I do believe that change is
13 necessary. And I do also believe -- and we had
14 many discussions about it, that we don't want to
15 take everything completely out of the hands of the
16 legislature, which is the reason why it comes back
17 to the legislature for your vote, because you are
18 representing all of us in the State. And your
19 record on how you feel about that needs to be part
20 of the public record, as well. So it comes back to
21 you, the legislature, in the end. And you have as
22 much right to produce testimony for input into the
23 bill, as I do in my area.

24 REPRESENTATIVE COHEN: Do I have

1 the right to say: I live at 16th Division?

2 Do I have a right to give that
3 information to the Legislative Reference Bureau?

4 MS. MULRINE: I think we're
5 getting into real details here that probably go
6 beyond the scope of this hearing.

7 REPRESENTATIVE COHEN: It's the
8 single most important detail.

9 REPRESENTATIVE JOSEPHS: We can
10 all not speak at once. It's very difficult for the
11 Reporter. And let's try to do this a little bit.

12 Mr. Cohen, are you finished?

13 REPRESENTATIVE COHEN: I'd like
14 to hear the answer.

15 Who is going to accept my
16 answer?

17 MS. LAVIN: Under our plan, there
18 is no preclusion of that knowledge. We have
19 already said in our testimony that it's completely
20 impractical to try to prevent the Bureau from
21 knowing that information.

22 REPRESENTATIVE COHEN: I, as a
23 State legislator, have worked with members of the
24 Legislative Reference Bureau on drawing legislation

1 many times. And when I ask them to draw up
2 legislation, I say: I want a bill that will
3 include the following ten things. And the
4 professional ethics -- I say: I want a bill that
5 will do the following ten things, they produce a
6 bill that does the following ten things, and they
7 personally agree with it or not. But they are not
8 really making a decision. They're just executing
9 the order that I give them.

10 Their reputation and
11 professionalism is professionalism based on the
12 fact when people give them orders, they take the
13 orders, whether they agree with them or not. They
14 do not have a reputation in professional decision
15 making because they are not decision makers.

16 Beyond that, many of us know
17 members of the Legislative Reference Bureau. We
18 work with them everyday, some of them work with us
19 more than others. I question why we can assume
20 that they are going to be impartial, they won't
21 have legislators they know. They have no
22 experience in making decisions. They have
23 experience taking orders. And if you say: Okay.
24 You now have decision making power, it is of

1 extreme importance to the leaders of the
2 legislators -- I really don't understand how you
3 could be so confident these people, you've never
4 met any of them, are going to be so neutral and
5 objective.

6 MS. MULRINE: Representative
7 Cohen, I would respectfully submit that it is not
8 our intention to consider the careers of any
9 legislators in this process. What we're concerned
10 about is the most fair and impartial system that we
11 can have to represent the interests of the voting
12 public and the residents of the Commonwealth of
13 Pennsylvania. And I would say that what we're
14 saying is that the position -- the process would be
15 transparent and that everyone would have an
16 opportunity to give their input into the process
17 and then the legislature would be able to vote it
18 up or down.

19 REPRESENTATIVE COHEN: You were
20 confident, although you've never met any members.

21 REPRESENTATIVE JOSEPHS: Mr.
22 Cohen, I think the question was answered. I think
23 if you have another question, I would appreciate if
24 you would go on.

1 REPRESENTATIVE COHEN: Okay.

2 What point, if any, should a
3 member of the Legislative Reference Bureau
4 disqualify himself or herself from participating in
5 this process?

6 Is there any point, even though
7 some members of the Legislative Reference Bureau
8 have various relationships with members of the
9 legislature?

10 Some taught in college, if they
11 have taught -- a legislature in college, should
12 they be disqualified from making judgment on that
13 legislative district?

14 MS. MULRINE: I don't understand
15 why that's relevant, sir.

16 REPRESENTATIVE COHEN: So you
17 think they should not be?

18 MS. MULRINE: I'm not going to
19 say yes or no to that at this point. I'm just
20 going to say I don't understand what the relevance
21 of whether someone had taught someone else, whether
22 or not that was a relevant issue to have someone
23 disqualified.

24 REPRESENTATIVE COHEN: I have

1 long-term personal relationships between the
2 members of the legislature and the legislative
3 reference board.

4 If a member of the legislature
5 dated a member of the Legislative Reference Bureau
6 staff, should that be a disqualifying factor?

7 Should they engage in any
8 recreational activities together, would that be a
9 disqualifying factor? I think you give people who
10 do professional, competent decision taking orders,
11 sudden decision-making authority, I think there are
12 all sorts of things that have to be worked out as
13 to how they should make decisions, who is
14 disqualified, who is not disqualified, and what
15 pressure should be placed on them.

16 The head of the Legislative
17 Reference Bureau makes recommendations first and
18 have the people -- should the head of the
19 legislative Reference Bureau have the same hours of
20 the staff of the Legislative Reference Bureau
21 totally, or is there any undue influence on them in
22 making decisions? I think there are a whole lot
23 of issues that have to be worked out.

24 REPRESENTATIVE JOSEPHS: Mr.

1 Grell?

2 REPRESENTATIVE GRELL: I'd just
3 like to follow up on the briefly. Maybe I
4 misunderstood, but I didn't hear you saying that
5 the individuals of the Legislative Reference Bureau
6 would be the ones who would be doing this work.
7 And I think I harken back to the debate we had over
8 open records where there's a question of whether
9 this function should be housed at the Ethics
10 Commission, or at the Department of State, or DCD,
11 and there were pros and cons of each of those, and
12 I don't think we were particularly looking to the
13 expertise of the individuals to work there,
14 thinking that if a new function is assigned to that
15 entity, they would have to staff up to meet that
16 function.

17 Is that the same thing you
18 envision?

19 MS. MULRINE: Yes. Exactly.
20 Thank you.

21 MS. LAVIN: I'd just like to add
22 one other thing, and that is that under this
23 concept, the -- there would be a preliminary plan,
24 which would go out for widespread public hearing.

1 And so, it would be at that point, I would think,
2 after the preliminary plan had gone out for public
3 hearing, that the staff assigned to that job would
4 then take those -- that input into consideration in
5 developing a revised plan.

6 Now, I think that I also would
7 like to say that I think that Representative Cohen
8 has brought up some very interesting points, both
9 in his testimony and in his questioning of us as to
10 some of the issues and the nuances that are
11 involved in this redistricting process. And I'd
12 just like to say that I think it's wonderful that
13 we have finally had a really good hearing on this
14 issue because it is a complex issue.

15 No one in the country, as far as
16 I know of, has been able to come up with the ideal
17 process. So every state is going to have to take a
18 look at this and come up with a process that the
19 state thinks is going to work for them. Because as
20 one pointed out, the political structure in the
21 state is different. The Supreme Court may be -- if
22 it's involved is selected in different ways.
23 People have different perceptions of -- whether the
24 Supreme Court is political or not political. All

1 of these things we need to take into consideration
2 in developing a plan.

3 We put this out as a matter of
4 conversation. We're expect that it will be
5 translated, you know, this concept will be
6 translated into a specific bill.

7 REPRESENTATIVE JOSEPHS: Thank
8 you. I wanted to note for the record, however, my
9 fellow League of Women Voters, on page four, where
10 you say House Bills 84, 81 and 2047, they all
11 require to both by the General Assembly, my
12 recollection, the last time I looked at House Bill
13 2047 I think is not. So you might want to look for
14 the record and make that correction.

15 MS. MULRINE: Thank you.

16 REPRESENTATIVE JOSEPHS: I don't
17 hold it against anybody. I understand the League
18 of Women Voters is mostly volunteer. There's not
19 much staff, and I am very grateful. I am grateful
20 for and appreciate the time and energy that
21 volunteers, who have all kinds of other
22 obligations, have put into this thoughtful
23 testimony before us.

24 And I will ask one more time if

1 there are questions?

2 Ms. Boyle?

3 MS. BOYLE: Thank you.

4 I did read some of the -- and
5 probably most of the Airlie report. And they
6 discerned in the report between an independent
7 commission versus an apolitical process. And it
8 sounds like you support the Iowa model with all of
9 the suggestions you made. Some other states have
10 commissions, and I don't know enough whether
11 they're independent or not. I haven't researched
12 that enough.

13 But do you envision any other --
14 if you don't support it, I suppose you don't
15 envision it, but would there be another alternative
16 structure that the League has discussed or is aware
17 of that might create an independent body, other
18 than the Iowa type of plan?

19 MS. MULRINE: I think that that
20 one issue, in particular, was the most difficult
21 thing in terms of our conversation and the one
22 thing that everybody went around and around on. I
23 wouldn't say that we're not open to other
24 suggestions, but I think at this point this was the

1 best plan that we could put forward, and, Lora,
2 I'll let you address that if I haven't addressed it
3 appropriately.

4 MS. LAVIN: The League of Women
5 Voters of California is supporting a -- an
6 initiative, a citizen's initiative in California
7 that would set up a system for creating a
8 commission that would take -- it's kind of unique
9 in that the legislative leadership would have a
10 role in selecting that commission, but that their
11 role would be to veto a member of the commission,
12 rather than to appoint. That would be their sole
13 role. They could veto a member but not appoint a
14 member.

15 It's a rather complicated process
16 and I can't describe it thoroughly. But basically,
17 the members of the commission would be self
18 selected, and then their qualifications to serve on
19 the commission would be vetted by a panel of
20 auditors. And the auditors would be -- it would be
21 three auditors. One would be a registered
22 Democrat, one a registered Republican, and one
23 other, and they would have had to have been in that
24 position for at least five years.

1 It's kind of an interesting
2 concept for developing an independent commission
3 that attempts to remove that perceived, at least,
4 conflict of interest that exists when we have the
5 legislative leadership either being the commission
6 or appointing a commission. It's certainly
7 something worth looking at. Whether it's something
8 that would work in Pennsylvania, I don't know. And
9 whether it will even pass in California, I don't
10 know.

11 The thing in California is
12 that -- and states that have the citizen's
13 initiative is that they don't have to go to the
14 legislature for approval of a Constitutional
15 amendment. Here we're looking at trying to develop
16 something that we hope the legislature can pass.

17 REPRESENTATIVE JOSEPHS: Thank
18 you. If we can conclude with this for the moment,
19 I do want to give our reporter a ten-minute break.
20 I wanted to also encourage all the members of the
21 panel to stay. We do only have two more witnesses,
22 although the agenda has three, because Professor
23 Persily had a grave health emergency in his family,
24 just recently came up and he is not here. We're

1 going to ask him to submit his testimony in
2 writing.

3 So if it's all right with the
4 panel, we will have a ten minute -- I really mean a
5 ten-minute break. Thank you very much.

6 ---

7 (Whereupon, a recess was taken at
8 1:00 p.m.)

9 ---

10 (Whereupon, testimony resumed at
11 1:11 p.m.)

12 ---

13 REPRESENTATIVE JOSEPHS: We'd
14 like to resume, please.

15 We're hearing now from Dennis
16 Baylor. As you know, we are behind time. If it is
17 possible at all for you to speak to us, not to
18 repeat other testimony. As you can see from the
19 number of people who have just rescheduled this
20 afternoon their appointments and come from very
21 far, there is great legislative interest in this,
22 and I can guarantee you that we will be reading
23 whatever you submit. So I suggest that you
24 certainly do that and that you speak to us, rather

1 than read to us, if that's possible.

2 Mr. Baylor, please proceed when
3 you're ready.

4 MR. BAYLOR: Fine. My name is
5 Dennis Baylor. This is my piece of work. I have
6 pictures in my piece of work so I don't have to
7 read quite as much as it would be distracting on
8 the citizens.

9 I got interested in this issue of
10 redistricting in 1996 when I ran for a House seat
11 in the 124th Legislative District, which appears on
12 the cover. And I call that the Keystone
13 Gerrymander. And I, of course, didn't win the
14 124th seat. But it looks so much like an
15 Pinsdale's cartoon that when I appeared in the
16 public hearings I made a big poster of it and I
17 used it as a theme, pretty much. And when I
18 appeared at the Supreme Court, because in my mind,
19 once you live someplace that is literally the
20 caricature of the problem, you can't ignore the
21 fact that the problem exists.

22 And after I lost the race in
23 1996, the next redistricting cycle I was surprised
24 to find out that the legislator that I ran against,

1 and it was somewhat not a contested race, didn't
2 want me anymore. The guy didn't want me in his
3 district anymore, so he traded districts of
4 political subdivisions of equal size so that I
5 ended up in the 125th District, where I live now.

6 And Representative Leach made
7 reference to this concept of government getting to
8 pick you before you get to pick them, and that
9 really bugged the hell out of me at that time. I
10 looked at redistricting that way ever since, and I
11 see the impact that that has in a lot of ways that
12 I probably never would have appreciated had I not
13 run for office.

14 When I ran for office I thought:
15 My representative lives just over the county line
16 from me and that this was going to be an easy
17 matter of well, you contact a couple newspapers,
18 you've got to run some ads and so forth. And it
19 turned out in the 124th District to be -- said to
20 be 200 miles long and one Republican wide. It had
21 six media markets. I couldn't find all the media.
22 Through the course of the election, I was only at
23 the very end of catching up to what TV stations
24 covered parts of the 124th. And it made me realize

1 that that really helped that incumbent stay in
2 office for a long time because my local paper
3 didn't cover the vast sums of money that he was
4 investing in his base of support in that community.

5 You know, our needs in the part
6 of the district I work in, we're totally ignored.
7 And we had some serious needs. We had traffic
8 lights we needed up on very busy highways where
9 people were routinely killed. This representative
10 wouldn't show up to community meetings about this
11 because he didn't have to. The newspaper wasn't
12 going to cover the fact that he wasn't there, and
13 the community, a lot of people didn't know who he
14 was.

15 I should also add that I voted
16 all my life, and every ten-year cycle I have gotten
17 a new representative. I started out 187th District
18 with Paul Semnol, who's no longer among you, but
19 then I was moved to the 124th and 125th. Every ten
20 years I get a new district. And on the Senate side
21 it isn't a whole lot different. I used to be in
22 District 48 and now I'm in the 29th District.

23 I should say, by way of
24 disclosure, I'm not running for the 29th Senate

1 seat. And the 29th Senate seat, when that was --
2 the last redistricting cycle, the 29th Senate seat
3 was in three counties. Now it's in six counties.
4 And because of the advances in technology and
5 everything, you can Google your opponent to try to
6 narrow down what his media market is. I'm down to
7 the 12 dailies that cover my opponent that I have
8 been able to identify so far. Everyday I do a
9 Google search and see where he pops up. I don't
10 know how many television stations or weeklies cover
11 that district, but it's absurd.

12 And one of the problems -- on the
13 inside I have some wonderful cover illustrations.
14 But the one that shows the district map for the 7th
15 District kind of illustrates what's happened over
16 time and why redistricting is the problem it is
17 today. It's very fine, but if you look at
18 Schuylkill County, the population in Schuylkill
19 County at the turn of the century was 170,000
20 people. Today it's 150,000. But they still have
21 the same representation, basically, that they had
22 at the turn of the century. They have three
23 representatives.

24 But a lot of people moved out of

1 that area and the representative's districts moved
2 with them. It's kind of like a reward for failure
3 in a way, that you have failed policies and people
4 won't vote with their feet. It doesn't change your
5 district at all.

6 But moving on, the other thing I
7 have in my testimony that I think is of interest
8 and requires some discussion is I was a plaintiff
9 in the 2001 suit against Pennsylvania
10 Reapportionment Commission, mostly over how
11 fragmented northern Berks County is. Northern
12 Berks County has four split seats. Two of those
13 splits occur with Schuylkill County and two of
14 those occur with Lehigh County.

15 So if you look at the
16 Constitutional requirement that political
17 subdivisions be respected unless absolutely
18 necessary, it is simply absurd to say: You've got
19 to come into Berks County for population, two seats
20 from Schuylkill and you've got to come into Berks
21 County for two seats from Lehigh, when all three
22 counties are contiguous and there's no split
23 between Schuylkill and Lehigh. If there was a
24 split between them, you could have one split

1 district, rather than four split districts.

2 But if you look at the bottom of
3 the page where you get into -- I'm sorry. My copy
4 is different from yours, but if you look at county
5 splits in 1966 before we had the methodology that's
6 being employed now, before the '67/'68 change to
7 our Constitution that added the reapportionment
8 commission, you will notice that the county splits
9 in the Senate were 13 and county splits followed by
10 House seats were 21.

11 Once we got into this methodology
12 that we employ now, they almost immediately double,
13 and we have a fairly flat population growth in
14 Pennsylvania, so that that trend continued. One of
15 the causes of that was we tried to preserve
16 everybody's original seat. When we engaged in the
17 process after we had the Reapportionment Commission
18 we just figured well, this is where the guy's seat
19 used to be, now how much population do we have to
20 glue onto that or take away from that to come up
21 with the required population equality.

22 And I think concerning
23 Representative Benninghoff's remarks earlier,
24 population equality is not all it's cracked up to

1 be. The springboard, when it looked at some of the
2 real early apportionment decisions, one of the
3 Supreme Court justices said something that always
4 stuck in my mind. He said: It is foolish to
5 believe equality can be achieved through the
6 ruthless application of sixth grade math. And he's
7 right, because the numbers don't mean what the
8 numbers would seem to mean.

9 The district adjacent to mine,
10 the 123rd, has three prisons in it. Those people
11 show up at the census. They get justification for
12 the size of that district, but that's 10 percent of
13 the population of a normal House seat and those
14 people can't vote. Our larger prisons, the places
15 where there would be a lot of transients have the
16 same kind of impact on voting and how we apportion
17 in Pennsylvania. I really think that is unfair.
18 Like, the people that have Graterford in their
19 House seat, those people have a greater political
20 voice than the people who don't have a prison. In
21 the 125th we have one small county prison up in
22 Pottsville.

23 But I think this ruthless
24 application of numbers is something that has to be

1 looked at. If you look at the deviation, the
2 official reproduced record of the 2001
3 Reapportionment Commission, the deviation from the
4 largest to the smallest House seat, the overall
5 deviation is just slightly greater than five
6 percent. If you look at Supreme Court cases
7 leading up to the modern apportionment methods used
8 throughout the United States, the Supreme Court
9 more or less winks shy of 10 percent. Ten percent
10 seems to be another way you get into some
11 difficulty.

12 But probably Pennsylvania, in
13 terms of the House and Senate, I'm speaking
14 strictly legislative redistricting, that that
15 redistricting probably is a bit more precise than
16 it need be at the cost of blurring these municipal
17 lines and fragmenting media markets. And all those
18 things really do a disservice to the voter. They
19 all cause representatives and representative
20 government to be less accountable.

21 And to me, my tax dollar is going
22 for a legislator. A representative who doesn't
23 care what I have to say and the senator doesn't
24 care what I have to say is a waste of my money.

1 And this is something that really has to be changed
2 and should be changed before the next election
3 cycle because, I hate to say this and I don't mean
4 this in a contentious way, but you folks are
5 expensive. The legislature is about a third of a
6 billion dollars a year right now. I'm not talking
7 about lambs or anything. So if do you this for
8 another ten year reapportionment cycle, you just
9 wasted, in my mind, four billion dollars. You just
10 lost that because I don't have representative
11 government.

12 Another way that this impacts
13 people, if you're in -- there's a heavy Republican
14 majority in both the House and Senate districts
15 where I live. If you're a Democrat, why vote, you
16 know? It disenfranchises a whole lot of people.
17 It turns a whole lot of people off to the system,
18 too, because the election looks like it's not a
19 contest at all but it's a blowout, so why bother
20 voting. And that's really tragic. We should have
21 more people participating in government, not fewer.

22 In the text of my remarks I made
23 a couple suggestions about what I thought could be
24 done fairly simply to improve things. One of the

1 things that I was asked was how the Supreme Court
2 dealt with proposals that were better than the
3 Reapportionment Commission's proposal. The Supreme
4 Court simply didn't want to hear about those things
5 because the Supreme Court was under the belief that
6 the existence of a better plan was not
7 ambidextrally (sic) at all. They don't treat that
8 as evidence. If you have a vastly improved plan,
9 that's not evidence in their mind.

10 Another problem I have was with
11 compactness. And in preparing my brief for the
12 Supreme Court I came up with what I felt was the
13 definition of compactness, in my mind is how much
14 -- a ratio of how much perimeter is required to
15 close how much area. And, of course, the circle is
16 the perfect object, as a perfect efficiency. But I
17 did a reapportionment plan that targeted the
18 regular perimeters of the district to the area, and
19 the Supreme Court did not want to hear about a
20 compactness standing.

21 And when you think about it,
22 compactness is the end of Gerrymandering. They
23 don't seem like they're related words at all but
24 one seems the exact opposite of the other. So

1 compactness, I think, is an extremely important
2 goal in straightening out the problem.

3 Another thing that would be
4 helpful, and people talk a lot about the Iowa plan,
5 but thing people generally -- well, there are two
6 things they don't generally know. One is that
7 those states were surveyed in the master surveys
8 conducted as part of the Louisiana Purchase, so
9 they have precise, exact 36 square mile townships.
10 The building blocks they have are very, very
11 regular building blocks. And if you look at the
12 regular configurations of our counties, we have a
13 jigsaw puzzle and we have building blocks.

14 But what people fail to mention
15 about the Iowa plan is that Iowa has an even,
16 rationale ratio between the number of Senate
17 members and House members, and the districts are
18 extensive. You really have to think about it a
19 whole lot, but that has a tremendous impact on
20 Gerrymandering. It's a tremendous disincentive to
21 attempt to Gerrymander because you can't
22 Gerrymander simultaneously in two spaces. What you
23 would gain in Gerrymandering on the House side you
24 would lose on the Senate side, if you follow me.

1 And Pennsylvania could go to that
2 form of government pretty easily by current
3 membership levels of just eliminating three House
4 seats and have 200 House seats and each four of
5 those would fit exactly within a Senatorial
6 district. Although, I'm of the belief, personally,
7 that after Baker versus Carr there's no reason for
8 Pennsylvania to have a Senate at all. And I'm more
9 of the mind of eliminating Senate, and I won't even
10 talk about that. This is a House committee.

11 The final idea, though, that I'd
12 like to impress upon everyone is maybe we should
13 rethink -- the Supreme Court -- federal Supreme
14 Court has approved alternate population counting
15 methods. For example, the State of Hawaii, their
16 apportionment is based on registered voters,
17 instead of just an empty count of heads. I think
18 probably it would behoove Pennsylvania to think
19 about doing that.

20 I think we haven't had the issue
21 of illegal immigration interjected into this, but
22 there are a lot of enclaves of people who can't
23 participate in our process but are a factor in how
24 we allocate political power. I think that's

1 becoming more and more of a problem. I know that
2 there was a whole big Dole campaign, and that's
3 good. Those people really appreciate that. But at
4 the same time it gives them more of a political
5 voice than they should have.

6 I entertain any questions.

7 REPRESENTATIVE JOSEPHS: Thank
8 you for your testimony.

9 Are there any questions? Thank
10 you.

11 REPRESENTATIVE BENNINGHOFF: Do
12 we have a contact, if we want to talk to you later
13 sometime?

14 REPRESENTATIVE JOSEPHS: On the
15 back of what Mr. Baylor distributed is his phone
16 number and his E-mail.

17 REPRESENTATIVE BENNINGHOFF:
18 Thank you. I appreciate that.

19 MR. BAYLOR: Let me just say one
20 thing. I remember a conversation I had with you
21 after the Speaker Reform Commission meeting, and
22 Representative Benninghoff was -- my wife and I
23 reapportioned a State of Pennsylvania using my PC
24 on the weekends and he was curious how we did it.

1 And what we did was we used school districts for
2 building lots. And school districts are kind of
3 forgotten in community interest in all of these
4 discussions. You hear people talk about splitting
5 municipalities and splitting counties, but you
6 don't hear about people talking about splitting
7 school districts.

8 We picked school districts
9 because as historic and financial matters, school
10 districts want impact because of bussing students
11 and everything like that. When the Georgia system
12 came into existence, they cut and tried until they
13 got a fairly compact thing. And generally, school
14 districts do not violate other municipal
15 boundaries. They generally don't go over county
16 lines. They generally don't fragment a community.

17 REPRESENTATIVE JOSEPHS: Thank
18 you, Mr. Baylor.

19 Representative Samuelson?

20 REPRESENTATIVE SAMUELSON: Thank
21 you, Chairperson Josephs. My testimony will be
22 very brief. I have been working with
23 Representative Tom King to sponsor House Bill 84,
24 and we have been working with the League of Women

1 Voters and Common Cause, and we're in the process
2 of developing a revised bill in very short order to
3 try to incorporate some of the changes that the
4 League and the Common Cause have suggested. So I
5 do not have draft language for you today, but I
6 will very shortly and hope to get a memo to all of
7 the House members next week.

8 We're looking to try to develop
9 the strongest possible bill and make some
10 improvements on House Bill 84, which actually has a
11 very good track record over the years, as
12 Representative Steelman first introduced it. I
13 know were trying to make some suggestions to try to
14 change the current system, because as you have
15 heard in the testimony today, there are so many
16 examples where the current system has not worked.

17 And I would -- I would come up
18 with many examples, what Representative Carroll
19 said about having Monroe County having six
20 different senators. That's one example. You have
21 a township just outside of Reading that has three
22 different members of Congress. That's a township
23 of just over 20,000 people that has three different
24 members in Congress.

1 In the Lehigh Valley we have part
2 of the 44th Senate District. It's a district that
3 encompasses Lansdale, Quakertown, Emmaus and
4 Easton. And if you had asked the question: What
5 do those four communities have in common, I guess
6 the punch line would be a state senator, because
7 it's district that stretches out over 40 or 50
8 miles, and the state Senate district is the thing
9 that puts those communities together, whereas
10 they're four different counties.

11 Other testimony talked about some
12 of the shifts that you have seen in the
13 redistricting. In the Lehigh Valley we have two
14 Senate districts that used to be -- one is
15 predominantly Lehigh County, one is predominantly
16 Northampton County. That goes back 30 years. Each
17 ten years it changes a little bit, so now you have
18 both Senate districts encompassing Lehigh and
19 Northampton and even parts of Monroe.

20 If you compare the map of 2000
21 versus the map of 1970, you lose the compactness
22 that existed 30 years ago. So we're trying to work
23 on a revised bill that would make the process more
24 open, that would lead to elections that are more

1 competitive and have districts that are more
2 reflective of the communities, the communities
3 that's we all serve.

4 Now, one question you may have
5 is: Can something like this pass? I know there's
6 many folks who would not want to see a change in
7 the current system, but I would get a couple of
8 different things. One is the strength that we gain
9 with Sara Steelman's bill. Back in 2002, that was
10 introduced with 25 sponsors. Representative
11 Tancredi introduced that again in 2006, same
12 language, based on the Iowa system, and we were up
13 to 38 sponsors. The current bill, House Bill 84,
14 now has 56 sponsors, so twice as many as when we
15 first started six years ago with the original
16 Steelman bill.

17 And if you had asked me the
18 question three years ago: Can some of the House
19 rules change, I introduced proposals to change the
20 House rules, such as getting rid of the ghost
21 voting, and people asked me years ago: What are
22 the prospects of that? Well, now, as you know, one
23 year ago today we adopted new House rules that had
24 some dramatic changes, I believe, in our

1 legislative process and increasing the openness of
2 our legislative process and eliminating things like
3 eliminating ghost voting and the midnight session.

4 So I think change is possible. I
5 think is this is a long-term reform that would lead
6 to fair and open redistricting for years to come.
7 And I know the League of Women Voters had an
8 article that they had three years ago talked about
9 what was needed around the country to make efforts
10 like this pass, and it really is very similar to
11 what is in our Constitution. All powers inherent
12 in the people, in our State Constitution. Success
13 depends very much on the level of sustained
14 interest and engagement by citizens across the
15 country.

16 I believe that citizens are
17 interested in us remaking reforms to our
18 redistricting process, and I think in the next few
19 months we have that opportunity.

20 REPRESENTATIVE JOSEPHS: Thank
21 you. I, for one, just say I'm looking forward to
22 your language. And I don't have any other
23 questions.

24 REPRESENTATIVE CARROLL: That is

1 the most important part, considering the schedule
2 that we're on and the deadlines for the current
3 census that's on the horizon. The challenge will
4 be significant for the House and Senate to get
5 something done. So time is of the essence.

6 REPRESENTATIVE SAMUELSON: We're
7 using House Bill 84 as the template, but
8 incorporating some of these changes suggested by
9 the League and Common Cause. As the League has
10 said, they incorporated some improvements to House
11 Bill 84. They have taken some elements regarding
12 timelines out of the Leach bill and trying to look
13 for the best possible solution.

14 So the one change, the Iowa
15 system and the original House Bill 84 talks about a
16 reapportionment bureau, and the new proposal talks
17 about putting that in the hands of the Legislative
18 Reference Bureau, which has a reputation, as we all
19 know, for being truly nonpartisan. And that would
20 be one of those changes.

21 REPRESENTATIVE JOSEPHS: Mr.
22 Benninghoff?

23 REPRESENTATIVE BENNINGHOFF:
24 Your's is going to be a hybrid somewhat of Leach,

1 Tancredi, and as we stated, on some of the other
2 committees. Two things to keep in mind, I agree
3 with you, a lot of changes have occurred. We also
4 have to keep in mind, I think, some of the
5 willingness is going to change. We have got 75 new
6 members within the last legislative cycle. So if
7 you add last year's retirements, you have a
8 completely different mindset.

9 I just threw something out to our
10 executive director for you to think about. It may
11 sound bizarre, but maybe when we erase the chalk
12 board, when this is done, and nobody has a
13 legislative district number and then wait until
14 it's ratified, and that number is ceased, in case
15 there's any concern that maybe there's friendship
16 in the Legislative Bureau. I have to say in my own
17 district most of my neighbors don't know the
18 district number, but that might be the appearance
19 of objectivity, if it's just the Pennsylvania map.
20 Number them at the end of the process.

21 REPRESENTATIVE SAMUELSON: I
22 appreciate that suggestion. Although, I think that
23 the districts would be -- would be known whether
24 they're numbered or lettered. Or if you're talking

1 about a district in one particular --

2 REPRESENTATIVE BENNINGHOFF: I'm
3 just speaking of a district in relationship to who
4 represents it. I apologize. Some they're going to
5 know my geography. If you live in Centre County,
6 I'm probably the center district. But there are
7 three around there that we refer to each other as
8 the 74th District, 71st District. I happen to be
9 the only three digit district in my area because
10 I'm a transplant in 1980. But if the Bureau, and I
11 do like that concept better, were to just design
12 the districts and not until it's ratified and
13 approved by the legislature do they then get
14 renumbered, it may take away from some of the
15 possibilities that the identity of them are matched
16 by the member.

17 REPRESENTATIVE JOSEPHS: Any
18 other comments?

19 REPRESENTATIVE McILVAINE SMITH:
20 I have a quick question. I was wondering if the
21 mathematical formula in yours is going to reflect
22 what Representative Leach had, the 15 percent of
23 that circle would constitute Philly?

24 REPRESENTATIVE SAMUELSON: I

1 believe that's a good proposal in the Leach bill.
2 As I said, I haven't had the staff put that
3 together, but that formula would preclude a
4 district that stretched out like the infamous I-95
5 district in North Carolina or many districts in
6 Pennsylvania.

7 REPRESENTATIVE McILVAINE SMITH:

8 Which shall remain nameless. Thank you.

9 REPRESENTATIVE JOSEPHS: Thank

10 you, everybody. I very much regret this ran long,
11 but I think that that was an indication of the
12 interest that the legislators have and that the
13 public has. And I thank everybody for their
14 interest and for being here. And the hearing is
15 adjourned.

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(Whereupon, the hearing was

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adjourned at 1:41 p.m.)

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C E R T I F I C A T E

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2 STATE OF PENNSYLVANIA

3 COUNTY OF BUCKS

4

5 I, SUSAN L. SINGLAR, a Court

6 Reporter and Notary Public in and for the State of

7 Pennsylvania, do hereby certify that the foregoing

8 transcript of the House State Government Committee

9 Public Hearing, taken on Thursday, March 13, 2008

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11 skill and ability.

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